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Attorneys for Plaintiff KEITH O'SHEA, on behalf of himself,
all others similarly situated, and on behalf of the general public

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

KEITH O'SHEA on behalf of himself, all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

v.

VECTOR LABORATORIES, INC.; and
DOES 1-100,

Defendants.

Case No. 23CV035196

*[Assigned for All Purposes to the
Honorable Michael Markman; Dept. 23]*

**DECLARATION OF DAVID MARA,
ESQ., IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION,
APPROVAL OF CLASS NOTICE,
SETTING OF FINAL APPROVAL
HEARING DATE**

Date: October 14, 2025
Time: 10:00 a.m.
Reservation ID: 229874284439

Complaint Filed: June 6, 2023
Trial Date: None Set

1 I, DAVID MARA, declare as follows:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for Plaintiffs and the Class in
3 this matter. I am duly admitted to practice before all the courts of the state of California.
4 The following facts are within my personal knowledge and, if called to testify, I could and
5 would competently testify thereto.
- 6 2. I graduated from California Western School of Law and was admitted to practice law in
7 California in May 2004.
- 8 3. I extensively handle employment cases which involve violations of the California Labor Code
9 and Industrial Welfare Commission Wage Orders, such as wage and hour class actions and
10 cases alleging violations of the Private Attorneys General Act of 2004 (“PAGA”). I have
11 litigated over three hundred and fifty (350) class action and PAGA lawsuits over the course
12 of approximately 20 years.
- 13 4. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County
14 Superior Court, Case No. GIC834348) which was the underlying case in the California
15 Supreme Court’s landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012)
16 53 Cal.4th 1004, in which the California Supreme Court delineated the scope of employer
17 obligations to provide, and employee rights to receive, meal and rest periods under
18 California law.
- 19 5. I am frequently called upon to author Amicus Curiae briefs on behalf of Consumer
20 Attorneys of California (“CAOC”). For example, I authored the Amicus Curiae briefs on
21 behalf of CAOC in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, (The
22 California Supreme Court ruling that, like meal periods, employers must relieve employees
23 of all duty and relinquish all control to satisfactorily discharge its obligation to authorize
24 and permit rest periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The California
25 Supreme Court ruling that the time spent on the employer’s premises waiting for, and
26 undergoing, required exit searches of packages, bags, or personal technology devices
27 voluntarily brought to work is compensable hours worked within the meaning of the Wage
28 Orders.); *Oliver v. Superior Court* (2021) California Court of Appeal Case No. H049185

(A brief asking the California Court of Appeal for the Sixth Appellate District to determine whether mandatory drive time of personal vehicles should be considered hours worked within the meaning of the Wage Orders' suffered or permitted test.). *Davidson v. O'Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No. 18-56188)(a brief seeking Review *En Banc* of an order denying class certification in a wage and hour matter).

6. I am also a member of CAOC's Amicus Committee that determines the cases in which the organization will agree to provide amicus support.

7. I have also lectured as a panelist for California Employment Lawyers Association regarding a host of wage and hour issues.

8. I have been named as class counsel in the following certified cases as a result of the court granting a motion for class certification: *Mario Norona v. B&G Delivery System, Inc.* (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald Schroeder v. YRC, Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH); *John Martin v. Sysco Corporation, et al.* (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB); *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.* (District of Nebraska, Case No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San Diego County Superior Court, Case No. 37-2014-00016621-CU-OE-CTL); *Denson Sales, et al. v. United Road Services, Inc. et al* (Northern District of California, Case No. 19-cv-08404-JST), *Eric Mendez v. M&N Consulting, Inc. dba A-Line Messenger Service* (San Bernardino County Superior Court, Case No. CIVDS1923624); *Denson Sales v. Professional Auto Transport, Inc. et al.* (San Bernardino County Superior Court, Case No. CIVDS2010153); *Bobby Williams v. Mohsen Transport, Inc.* (San Diego County Superior Court, Case No. 37-2019-00063361-CU-OE-CTL); and *Ashton Harden v. Mushiana Transport Inc.* (Sacramento County Superior Court, Case No. 34-2021-00301950-CU-OE-GDS).

9. I have also been named as class counsel in numerous cases during the settlement process. Here is a non-exhaustive list of cases where I have been named as class counsel in cases during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior

1 Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern
2 County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage*
3 *Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Jaime Ruiz v. Altura*
4 *Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577); *George*
5 *Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court, Case No.
6 RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin County
7 Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria Healthcare*
8 *Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-
9 CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District of
10 California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.*
11 (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass*
12 *Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy*
13 *Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case
14 No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County Superior
15 Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San Mateo
16 County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron, LLC; et*
17 *al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v.*
18 *California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No.
19 CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino
20 County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v.*
21 *Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No.
22 CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside County
23 Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI*
24 *Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO); *Larry*
25 *Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-
26 2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino
27 County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries,*
28 *Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); *Joshua*

Rael v. Intercontinental Hotels Group Resources, Inc. (Los Angeles County Superior Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

10. A class action complaint was filed by Plaintiff on June 6, 2023, in Alameda County Superior Court (Case No. 23CV035196). The complaint alleges the following causes of action against Defendant: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay Overtime; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy; (6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; (7) Failure to Pay all Wages Due at the Time of Termination; (8) Failure to Reimburse/Illegal Deductions; and (9) Violation of Unfair Competition Law.

11. On June 6, 2023, Plaintiff provided notice to the Labor and Workforce Development Agency (“LWDA”). Plaintiff’s PAGA Notice is attached hereto as **Exhibit 2**.

12. Plaintiff filed a PAGA action on October 30, 2023, in Alameda County Superior Court (Case No. 23CV049223). Plaintiff’s PAGA action alleges the same underlying violations as Plaintiff’s class action.

13. On or about January 10, 2024, the class and PAGA actions were related by the Court.

14. The Parties engaged in both informal and formal discovery. The Parties attended a private mediation on May 28, 2024. Prior to mediation, the Parties engaged in informal discovery and an informal exchange of documents and data.

15. Post-mediation, on May 29, 2024, Plaintiff propounded one set of special interrogatories and one set of requests for production of documents on Defendant. Defendant provided responses to this discovery on or about August 9, 2024. Thereafter, Plaintiff sent Defendant a meet and confer letter on or about September 5, 2024, outlining the deficiencies in Defendant’s discovery responses. On or about December 16, 2024, Defendant responded to Plaintiff’s initial meet and confer letter and expressed its desire for a protective order before providing this discovery. On or about December 20, 2024, the Parties entered into a stipulated protective order. On or about December 24, 2024, the Court entered the

1 stipulated protected order.

2 16. On July 25, 2024, Vector served special interrogatories, Form Interrogatories—General,
3 Form Interrogatories—Employment, and requests for production of documents on
4 Plaintiff. Plaintiff responded to this discovery on December 5, 2024. On December 31,
5 2024, Vector sent Plaintiff's counsel a meet and confer letter regarding Plaintiff's
6 responses.

7 17. The Parties continued to extensively meet and confer over both Parties' discovery
8 including through numerous video conferences. These meet and confer efforts culminated
9 in both Parties setting IDCs with the Court on April 15, 2025.

10 18. During the discovery process, Defendant informed Plaintiff that it intends on serving a
11 subpoena on serving to Kaiser Permanente Medical Center-CVA/Custodian of Records
12 seeking Plaintiff's medical records and a subpoena to MetroPCS for Plaintiff's phone
13 records. The Parties met and conferred regarding these subpoenas. The Parties agreed to a
14 first-look agreement for any records produced in response to Defendant's subpoena to
15 Metro PCS. Under this agreement, Plaintiff will receive the records produced in response
16 to Defendant's subpoena in the first instance. The Parties also agreed to set up an IDC with
17 the Court regarding Defendant's subpoena to Kaiser Permanente. Defendant agreed not to
18 serve the subpoena prior to the IDC with the Court. An IDC was held on April 29, 2025.

19 19. As a result of the Parties' discovery efforts, Defendant produced hundreds of pages of
20 documents, including employee handbooks in place during the class period and Plaintiff's
21 personnel file. Defendant also produced Excel files that contained time and pay records for
22 all Class Members. Plaintiff had an expert conduct an analysis of these records.

23 20. In addition, Plaintiff produced almost a hundred documents including wage statements, test
24 messages and emails he received during his employment, and his bank records for the
25 period of time he worked for Defendant in redacted format.

26 21. Further, on March 28, 2025, Defendant took Plaintiff's deposition.

27 22. The Parties attended an all-day mediation presided over by wage and hour mediator Kelly

28 A. Knight on May 28, 2024. This mediation was unsuccessful. On or about April 7, 2025,

1 Mr. Knight reengaged the Parties in settlement negotiations. By the end of May of 2025,
2 the Parties reached a settlement-in-principle. The Parties then met and conferred over all
3 the terms of the settlement and finalized their settlement in the Parties' Agreement. The
4 Parties' Agreement is attached hereto as **Exhibit 1**.

5 23. Plaintiff alleges that Defendant's wage statements fail to list the name of the legal entity
6 that is the employer and the full address of the legal entity that is the employer in violation
7 of California Labor Code § 226. Plaintiff contends that the legal name of the employer is
8 not provided, and no city, state, or zip code is provided with the employer's address.

9 24. Defendant contends that it provided employees with lawful wage statements that complied
10 with California Labor Code § 226. Defendant contends that to the extent its wage
11 statements did not accurately list the employer information, this was an isolated incident
12 that did not occur during the entire Class Period. Further, Defendant asserts that any
13 violation of California Labor Code § 226 was not "knowing and intentional." *See* Cal. Lab.
14 Code § 226(e) ("An employee suffering injury as a result of a **knowing and intentional**
15 failure by an employer" may recover damages") (emphasis added); *Amaral v. Cintas Corp.*
16 *No. 2* (2008) 163 Cal.App.4th 1157, 1195 ("Some statutory penalties are imposed only if
17 an employers' violation was 'willful' or 'knowing.' . . . [S]ection 226, subdivision (e)
18 penalizes an employer's 'knowing and intentional' failure to provide itemized wage
19 statements under section 226, subdivision (a)[.]"). Defendant further contends that
20 employees cannot show that they have suffered an injury because of any potential violation
21 of California Labor Code § 226. Defendant contends that employees knew to talk to their
22 supervisor if they had any questions or concerns with their wage statements. As such,
23 disputes exist as to whether Defendant's wage statements violated California Labor Code
24 § 226(a), whether any such violation was knowing and intentional, and whether employees
25 suffered an injury.

26 25. The statute of limitations for Plaintiff's wage statement claim is one year. If Plaintiff were
27 to prevail on this claim, the potential damages would be approximately \$112,000 (28
28 employees x \$4,000 maximum penalty = \$112,000).

1 26. Plaintiff contends that Defendant does not provide employees with meal periods that
2 conform with California law. Employers have an obligation under California law to provide
3 employees with thirty (30) minute meal periods. Under California Labor Code section
4 512(a), “[a]n employer may not employ an employee for a work period of more than five
5 hours per day without providing the employee with a meal period of not less than 30
6 minutes” Cal. Lab. Code § 512(a). An employer “satisfies this obligation [to provide
7 meal periods] if it relieves its employees of all duty, relinquishes control over their
8 activities and permits them a reasonable opportunity to take an uninterrupted 30-minute
9 break, and does not impede or discourage them from doing so.” *Brinker Restaurant Corp.*
10 *v. Superior Court* (2012) 53 Cal.4th 1004, 1040. Here, Plaintiff contends that Defendant’s
11 time records show non-compliant meal periods.

12 27. In *Donohue v. AMN Services, LLC*, the California Supreme Court issued a decision,
13 wherein it ruled that time records showing late, short, or missed meal periods raises a
14 rebuttable presumption that the meal periods were not provided: “If time records show
15 missed, short, or delayed meal periods with no indication of proper compensation, then a
16 rebuttable presumption arises” that the meal periods were not provided in accordance with
17 California law. *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 74. Plaintiff contends
18 that, here, the time records show non-compliant meal periods. In these shifts, under
19 *Donohue*, Plaintiff contends that it is presumed that meal period violations occurred.

20 28. Defendant counters that it would be able to rebut this presumption because its meal period
21 policy is lawful. Further, Defendant alleges that if litigation continues it would be able to
22 show that it advised employees of the right to take a meal period in compliance with
23 California law. Defendant contends that employees either took a lawful meal period or
24 knowingly and voluntarily decided to skip the meal period or take a late or short meal
25 period. Defendant asserts that in rebutting the presumption, the Court or fact finder would
26 have to ask each employee why their time records show a non-compliant meal period. To
27 make this determination, Defendant contends the Court or fact finder would have to ask
28 each employee about each instance which would defeat certification as individual issues

1 would predominate. Defendant also asserts that the evidence in this case shows that it paid
2 meal period premiums in shifts in which employees were not provided with compliant meal
3 periods. Thus, Defendant contends that to the extent an employee was not provided the
4 opportunity to take a legally compliant meal period, they were provided a meal premium.

5 29. Defendant's time records show meal period violations in approximately 29% of shifts. If
6 Plaintiff were to prevail on this claim, the potential damages would be approximately
7 \$180,300 (5,529 shifts x \$32.61 = \$180,300.69).

8 30. Plaintiff alleges that employees are not provided with lawful rest periods. Employers have
9 an obligation to provide employees with ten (10) minute rest periods. An employer's
10 obligation to provide its employees with rest periods arises under the Industrial Welfare
11 Commission Wage Orders. Wage Order 4-2001, Section 12(A) states, "[e]very employer
12 shall authorize and permit all employees to take rest periods, which insofar as practicable
13 shall be in the middle of each work period. The authorized rest period time shall be based
14 on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
15 hours or major fraction thereof." Here, Plaintiff alleges that Defendant does not provide
16 employees with a "net" ten-minute rest period meaning that employees must use their rest
17 period time to transit to and from a suitable rest area.

18 31. Defendant asserts that its rest period policy is lawful and that it provides employees with
19 rest periods in compliance with California law. Defendant contends that if litigation were
20 to continue, it would provide declarations from employees stating that they knew they were
21 entitled to rest periods in accordance with California law and that they were able to take
22 full ten-minute rest periods at a suitable rest area. Defendant contends that it resolving this
23 issue, the Court would have to ask each employee whether or not they received a full ten-
24 minute rest period which would defeat certification.

25 32. If Plaintiff were to prevail on this claim, the potential damages would be approximately
26 \$621,742 (19,066 shifts x \$32.61 = \$621,742.26).

27 33. Plaintiff alleges that employees are not reimbursed for all business expenses. Under Labor
28 Code § 2802, an employer must "indemnify its employees for expenses they necessarily

1 incur in the discharge of their duties...” *Gattuso v. Harte-Hanks Shoppers, Inc.* (2015) 169
2 P.3d 889. In *Cochran v. Schwan’s Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1140,
3 it was held that § 2802 requires employers to always reimburse employees who are required
4 to use personal cell phones for work-related calls for a reasonable percentage of their cell
5 phone bills. Here, Plaintiff asserts that employees are required to use their personal cell
6 phones for business purposes but are not reimbursed for this expense. Plaintiff asserts that
7 Defendant requires employees to install an ADP application on their personal cell phones
8 to record time employees work.

9 34. Defendant asserts that employees do not need to use their personal cell phones to clock in
10 and that employees can clock in on any computer in Defendant’s facility. Defendant argues
11 that employers must only reimburse employees for “necessary expenditures” under
12 California Labor Code § 2802. As such, employees must show that they incurred the
13 expense, the expenses were necessary to discharge their duties, and the expenses were not
14 reimbursed. Defendant contends that there is not a necessity for employees to use their
15 personal cell phones.

16 35. If Plaintiff were to prevail on this claim, the potential damages would be approximately
17 \$42,560 (76 months x \$40 per month x 14 current employees = \$42,560).

18 36. Plaintiff also contends that Defendant failed to pay employees their final wages within the
19 timeframes outlined by California law. This claim is derivative of Plaintiff’s meal period
20 and rest period claims. Should Plaintiff’s meal period and rest period claims fail, these
21 claims would also fail.

22 37. Defendant contends that even if Plaintiff were successful in his meal and rest period claims,
23 he would have to prove Defendant “willfully” failed to pay employees the appropriate
24 wages due upon separation of employment. “A willful failure to pay wages within the
25 meaning of Labor Code Section 203 occurs when an employer intentionally fails to pay
26 wages to an employee when those wages are due. However, a good faith dispute that any
27 wages are due will preclude imposition of waiting time penalties under Section 203.” Cal.
28 Code Regs. Tit. 8 § 13520. “A ‘good faith dispute’ that any wages are due occurs when an

1 employer presents a defense, based in law or fact, which would preclude any recovery on
2 the part of the employee. The fact that a defense is ultimately unsuccessful will not preclude
3 a finding that a good faith dispute did exist.” *Id.* Defendant contends that any failure to pay
4 wages due at the separation of employment was not willful. Defendant argues that it would
5 not be liable for waiting time penalties because a “good faith dispute” exists over the
6 payment of those premium wages. *See* Cal. Code Regs. Tit. 8 § 13520; *Amaral v. Cintas*
7 *Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201.

8 38. If Plaintiff were to prevail on his meal and rest period claims, he and the Class Members
9 may also be entitled to waiting time penalties. Plaintiff calculates the potential exposure
10 under this claim as \$352,188 (45 former employees x 8 hours per day x 30 days x \$32.61
11 = \$352,188).

12 39. Plaintiff alleges that Defendant failed to provide lawful meal periods because Defendant’s
13 time records show meal period violations in approximately 29% of shifts. If Plaintiff were
14 to prevail on this claim, the potential damages would be approximately \$180,300 (5,529
15 shifts x \$32.61 = \$180,300.69).

16 40. Plaintiff also seeks PAGA penalties. PAGA allows the private enforcement of certain
17 California Labor Code sections relating to wage and hour violations. The statute of
18 limitations for PAGA violations go back one year. The potential damages under Plaintiff’s
19 PAGA claim are \$1,370,100 [(\$100 x 4 PAGA violations x 3,414 pay periods =
20 \$1,365,600) + (\$100 x 1 PAGA violation for waiting time penalties x 45 pay periods =
21 \$4,500) = \$1,370,100].

22 41. Defendant contends that Plaintiff would not be allowed to “stack” PAGA penalties. If the
23 Court were to agree with this and only award one PAGA penalty per pay period,
24 Defendant’s exposure would be \$341,400 (3,414 pay periods x \$100 = \$341,400).

25 42. As Plaintiff’s PAGA claims are based on the same alleged unlawful conduct as his class
26 claims, Plaintiff’s PAGA claims are subject to the same risks on the merits as Plaintiff’s
27 class claims. In addition, the Court may reduce any PAGA penalties awarded under Section
28 2699, subdivision (e)(2). The likelihood of the Court reducing the PAGA penalties awarded

1 to Plaintiff and the Aggrieved Employees – assuming liability is proven as to each of
2 Plaintiff's claims – is higher in this case where these same individuals may also be
3 receiving money for the same unlawful conduct under the class claims. *See Avila v. Cold*
4 *Spring Granite Co.* (E.D. Cal. Jan. 12, 2018) Case No. 1:16-cv-001533-AWI-SKO, 2018
5 U.S. Dist. LEXIS 6142 *17 (“Because the PAGA penalties sought are at least partially
6 duplicative of penalties granted by the underlying Labor Code violations, *see, e.g.,* Cal.
7 Lab. Code §§ 203, 226, 558(a), 1194.2, and because a Court has discretion in whether and
8 in what amount to award PAGA penalties, *see* Cal. Lab. Code § 2699(e)(2), Plaintiff
9 recognizes that the potential PAGA penalties are highly uncertain.”). As such, the Court
10 may reduce any PAGA penalty amount awarded to Plaintiff and the Aggrieved Employees.

11 43. Thus, not taking into account any of its defenses or arguments, Plaintiff estimated that if
12 he were successful in his core claims, Defendant's total exposure would be approximately
13 \$956,602 [\$112,000 (wage statements) + \$180,300 (meal periods) + \$621,742 (rest
14 periods) + \$42,560 (business reimbursements) = \$956,602]. If the fact finder were to side
15 with Defendant on these claims, Plaintiff and the Class Members would also not be entitled
16 to any damages for waiting time penalties or PAGA penalties that are derivative of and
17 dependent on Plaintiff prevailing on his meal and rest period claims. If Plaintiff is
18 successful in his meal and rest period claims, and is able to prove that Defendant's waiting
19 time penalties violations were willful, he may also be entitled to damages for waiting time
20 penalties in the amount of \$352,188. Plaintiff and the Aggrieved Employees may also be
21 entitled to PAGA penalties in the between \$341,400 and \$1,370,100, subject to Court
22 reduction.

23 44. Based upon the risks just discussed, Plaintiff had to discount the potential exposure.
24 Plaintiff also had to consider that, should the Court agree with his theories and grant
25 certification as to each of the claims, he may not be awarded the full exposure. Plaintiff
26 also had to consider that the Court could agree with Defendant's arguments. These factors
27 led Plaintiff to reduce the potential exposure in order to gain a definite monetary recovery
28 for the class.

1 45. In light of the risks Plaintiff's claims faced, Plaintiff and his Counsel believe that the
2 settlement amount of \$179,750 – with an average settlement share amount estimated at
3 \$234.45 is a reasonable and fair settlement amount.

4 46. The preliminary approval motion and supporting documents were uploaded to the Labor
5 Workforce Development Agency. Attached hereto as **Exhibit 3** is a confirmation received
6 as a result of this upload.

7 I declare under penalty of perjury under the laws of the State of California that all the
8 foregoing is true and correct.

9
10 Dated: September 19, 2025

MARA LAW FIRM PC

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12 David Mara, Esq.
13 Attorneys for the Plaintiffs
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Exhibit 1

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this settlement agreement is made between Plaintiff Keith O'Shea on behalf of himself and the Class ("Plaintiff") and Defendant Vector Laboratories, Inc. ("Defendant") (collectively Plaintiff and Defendant are referred to in this Agreement as the "Parties"). This agreement is intended to settle the lawsuits designated: *Keith O'Shea v. Vector Laboratories, Inc.* (Alameda County Case No. 23CV035196 (the "Class Action") and Case No. 23CV049223 (the "PAGA Action").

I. DEFINITIONS

In addition to the other terms defined in this agreement, the terms below have the following meaning:

1. **Actions and/or Class and PAGA Actions:** collectively refers to the Class Action and PAGA Action filed by Keith O'Shea in the lawsuits entitled *Keith O'Shea v. Vector Laboratories, Inc.* (Alameda County Case No. 23CV035196 and Case No. 23CV049223, respectively).
2. **Administration Costs:** The costs incurred by the Settlement Administrator, ILYM Group, Inc., to administer this Settlement, which shall not exceed \$7,500. All Administration Costs shall be paid from the Gross Settlement Amount. If the actual administration costs are less than the amount allocated in this agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.
3. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement:** The settlement agreement reflected in this document, titled "Joint Stipulation and Settlement Agreement."
4. **Aggrieved Employees:** All current and former hourly, non-exempt employees who worked for Defendant in California at any time from June 6, 2022 through the date the Court grants preliminary approval ("PAGA Period"). Non-Participating Class Members (i.e., those who exclude themselves from the Class Settlement) who are also Aggrieved Employees will nonetheless be bound by the PAGA Settlement and Release, as defined below. Likewise, any non-exempt employee who previously signed a release of all claims, actual or potential, arising during the Class Period who is an Aggrieved Employee will be bound by the terms of the PAGA Settlement and Release.
5. **Attorneys' Fee Award:** The amount of attorneys' fees approved of by the Court and awarded to Class Counsel. This amount shall not exceed one-third of the Gross Settlement Amount. The Attorneys Fee Award shall be paid from the Gross Settlement Amount. If the Court awards less than the amount requested,

any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

6. **Class:** All hourly, non-exempt employees who (a) are or were employed by Defendant in California at any time from June 6, 2019 through the date the Court grants Preliminary Approval (unless modified by the Escalator Provision set forth in Section 72.1 below); and (b) did not previously sign an agreement to release all claims alleged or could be reasonably alleged against Defendant at any point during the Class Period based on the facts in the Operative Complaint to the Class Action. To the extent an employee agreed to release such claims in their entirety, that employee shall be excluded as a Class Member.
7. **Class Counsel:** David Mara, Jill Vecchi, and Carter Cordura of Mara Law Firm, PC; and Sabrina Sanders of Lawyers for Employee and Consumer Rights, APC.
8. **Class Data:** The electronic database Defendant shall deliver to the Settlement Administrator which will list the following information for each Class Member: (1) first and last name; (2) last known mailing address; (3) social security number; (4) telephone number; and (5) the total number of weeks during which the Class Member performed work during the Class Period. The Class Data shall be based on Defendant's payroll, personnel, and other business records.
9. **Class Member:** Each person eligible to participate in this Settlement who is a member of the Class as defined above.
10. **Class Notice:** The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
11. **Class Period:** June 6, 2019 through the date the Court grants preliminary approval, unless modified by the Escalator Provision set forth in Section 72.1 below.
12. **Class Representative:** Plaintiff Keith O'Shea.
13. **Class Representative Enhancement Payment:** The amount the Court awards to the Class Representative, Keith O'Shea, which will not exceed \$10,000. This payment shall be paid from the Gross Settlement Amount and is being offered in consideration for Plaintiff executing a general release of claims against Defendant, a release that is broader than any Participating Class Member will provide in consideration for a settlement share. This payment is also offered in consideration for the Plaintiff's actions in conferring a benefit upon the State of California and the Class, and the time and effort Plaintiff put into pursuing the litigation. If the Court awards less than the amount requested, any amount not

awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

14. **Class Settlement:** Refers to the settlement of claims included in the Released Class Claims, for which Participating Class Members will receive an Individual Class Settlement Share payments.
15. **Cost Award:** The amount that the Court orders Defendant to pay Class Counsel for payment of actual litigation costs, which shall not exceed \$45,000. The Cost Award will be paid from the Gross Settlement Amount. The Cost Award is subject to Court approval. If the actual costs incurred are less than the amount allocated in this Agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this Agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.
16. **Counsel for Defendant:** Joanna E. MacMillan and Nicolas W. Tomas, of Constangy, Brooks, Smith & Prophete, LLP.
17. **Court:** Superior Court of California for the County of Alameda.
18. **Defendant:** Vector Laboratories, Inc.
19. **Disbursement of the Settlement:** Within ten (10) calendar days after the Settlement Administrator's receipt of the Gross Settlement Amount, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to Aggrieved Employees; (3) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (5) the Administration Costs, as approved by the Court; and (6) the LWDA Payment to the LWDA.
20. **Effective Date:** The Effective Date means the date the Court's order approving the Settlement and Judgment becomes final. The Court's Judgment becomes "final" as of the latest of the following occurrences: (i) if no appeal is filed, the expiration date for filing or noticing an appeal or challenge to the Court's Judgment (i.e., 61 calendar days after notice of entry of the Court's Judgment); (ii) to the extent an objection to the Settlement is filed by a Class Member, the expiration date for filing or noticing an appeal arising from such objection; and (iii) if an appeal is filed, the date upon which the reviewing court issues a decision, the time for a further appeal has expired, and the Court has regained jurisdiction over the case.
21. **Employer Taxes:** Defendant's portion of payroll taxes as the Class Members' current or former employer (including the employer's payment of applicable

FICA, FUTA, and SUI contributions, etc.) owed to the appropriate local, state, and federal taxing authorities. Defendant will pay its portion of payroll taxes separate and apart from the Gross Settlement Amount.

22. **Final Approval:** means the Court's order granting final approval of the Settlement.
23. **Final Approval Hearing:** means the Court's hearing on the Motion for Final Approval of the Settlement.
24. **Final Judgment:** means the Judgment entered by the Court upon granting Final Approval of the Settlement.
25. **Funding of Settlement:** Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later fifteen (15) calendar days after the Effective Final Settlement Date.
26. **Gross Settlement Amount or GSA:** The total value of the settlement is a non-reversionary \$179,750. This is the maximum gross amount Defendant will be required to pay under this Settlement Agreement, with the exception of its obligation to pay Employer Taxes, notwithstanding the event that the Escalator Provision, set forth below in Section 74.1 of the Agreement, is triggered. The Gross Settlement Amount includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; (5) the PAGA Payment to the LWDA and to Aggrieved Employees, as approved by the Court; and (6) \$29,750 which has already been paid to employees and will be a credit to Defendant. Defendant's portion of payroll taxes as the Class Members' current or former employer will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason.
27. **Individual Class Settlement Share(s):** means a Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period. Under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Class Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Class Settlement Share automatically, without the return of a claim form.
28. **Individual PAGA Settlement Share(s):** means an Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

29. **Judgment:** means the Judgment entered by the Court based upon the Final Approval.
30. **LWDA:** California Labor and Workforce Development Agency (“LWDA”). The LWDA is empowered to enforce the Labor Code Private Attorneys General Act, California Labor Code section 2698, *et seq.*, and has delegated such authority to Plaintiff with regard to the claim in this Action through the procedural mechanisms provided for by statute.
31. **LWDA Payment:** Refers to the Seventy-five percent (75%) of the PAGA Payment of \$10,000 that is to be paid to the LWDA as described in this Settlement (*i.e.*, \$7,500).
32. **Net PAGA Settlement Amount or “NPSA”:** The total amount of money for payout to Aggrieved Employees, which is the PAGA Payment less the LWDA Payment (*i.e.*, \$2,500).
33. **Net Settlement Amount or “NSA”:** The total amount of money available for payout to Participating Class Members, which is the GSA less the Attorneys Fee Award, Cost Award, Class Representative Enhancement Payment, the PAGA Payment, and Administration Costs. In other words, the NSA is the portion of the GSA that will be distributed to Participating Class Members. The payment of employee-side taxes on the portion of the settlement shares earmarked as wages shall be paid out of the Net Settlement Amount. Thus, the Individual Settlement Shares that are paid out of the Net Settlement Amount shall be reduced by the employee’s tax liability for the portion of the settlement shares allocated as wages.
34. **Non-Participating Class Member:** means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
35. **PAGA:** refers to the California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).
36. **PAGA Data:** The electronic database Defendant shall deliver to the Settlement Administrator which will list the following information for each Aggrieved Employee: (1) first and last name; (2) last known mailing address; (3) social security number; (4) telephone number; and (5) the total number of PAGA Workweeks during which the Aggrieved Employee performed work during the PAGA Period as an Aggrieved Employee. The PAGA Data shall be based on Defendant’s payroll, personnel, and other business records.
37. **PAGA Notice:** refers to Plaintiff’s June 6, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3(a).

38. **PAGA Payment**: Refers to the \$10,000 the Parties have agreed to settle the PAGA claims. 75% of this amount, or \$7,500, shall be paid to the LWDA. The remaining 25% of the \$10,000, or \$2,500, shall become part of the Net PAGA Settlement Amount payable to Aggrieved Employees.
39. **PAGA Period**: June 6, 2022, through the date Court grants preliminary approval, unless modified by the Escalator Provision set forth in Section 72.1 below.
40. **PAGA Settlement**: Refers to the settlement of claims included in the Released PAGA Claims, for which Aggrieved Employees will receive an Individual PAGA Settlement Share payment.
41. **Participating Class Members**: All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.
42. **Parties**: Plaintiff Keith O'Shea, as an individual and as Class Representative, and Defendant Vector Laboratories, Inc.
43. **Preliminary Approval**: The Court's order preliminarily approving the Class Settlement.
44. **Released Class Claims**: The Participating Class Members shall release Defendant and the Released Parties from any and all claims, rights, demands, liabilities, and causes of action, whether statutory, in tort, contract, or otherwise, alleged or that could have been reasonably alleged based on the facts pleaded in the operative Class Action Complaint during the Class Period, including, but not limited to, claims under the California Labor Code, California Industrial Welfare Commission Wage Orders, regulations, and/or other provisions of law, which include but are not limited to: failure to pay wages (including minimum wages, overtime and double time wages), failure to provide compliant meal periods and associated premium pay, failure to provide compliant rest periods and associated premium pay, failure to provide compliant wage statements, failure to timely pay wages upon termination of employment, failure to timely pay wages during employment, failure to adopt a compliant sick pay/paid time off policy, failure to provide business reimbursements and/or illegal deductions, and failure to maintain requisite payroll records. The Released Class Claims further includes any claims, rights, demands, liabilities, damages, wages, benefits, expenses, penalties, debts, obligations, attorneys' fees, costs, any other form of relief or remedy in law, equity, or whatever kind or nature, as well as any unpled causes of action, that could potentially arise from the receipt of any monies as a result of this Settlement by any Participating Class Member.
45. **Released PAGA Claims**: The State of California and the Aggrieved Employees shall release Defendant and the Released Parties from any and all

claims for civil penalties under the California Labor Code and the Private Attorneys General Act of 2004 that were or could have been reasonably alleged based on the facts pleaded the PAGA Notice during the PAGA Period, which include but are not limited to: failure to pay wages (including minimum wages, overtime and double time wages), failure to provide compliant meal periods and associated premium pay, failure to provide compliant rest periods and associated premium pay, failure to provide compliant wage statements, failure to timely pay wages upon termination of employment, failure to timely pay wages during employment, failure to adopt a compliant sick pay/paid time off policy, failure to provide business reimbursements and/or illegal deductions, and failure to maintain requisite payroll records. The scope of the Released PAGA Claims shall also include claims for penalties under Labor Code section 558.

46. **Released Parties**: means (i) Defendant and (ii) each of Defendant's respective past, present and future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, partnership, trust, foundation, and non-profit entity which controls, is controlled by, or is under common control with Defendant; (iii) the past, present and future shareholders, directors, officers, agents, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing under Labor Code section 558.1 or otherwise.
47. **Request for Exclusion**: means a Class Member's submission of a written request to be excluded from the Class Settlement signed by a Class Member.
48. **Response Deadline**: Sixty (60) calendar days from the initial mailing of the Class Notices, which shall be the last date upon which the Class Members may postmark a written Request for Exclusion, Notice of Objection to the Settlement, and any workweek disputes. No extensions will be provided for Class Notices that must be remailed to the Class Members, as this 60-day period factors in additional time needed for remailings to occur.
49. **Settlement**: means the disposition of the Actions pursuant to this Settlement Agreement.
50. **Settlement Administration**: The Settlement Administrator will use the National Change of Address Database to obtain updated addresses for Class Members. The Settlement Administrator will mail the Class Notices by first class U.S. mail to all Class Members at the address resulting from the search of the National Change of Address Database. The Class Notices will inform Class Members that they have until the Response Deadline to either object to the Settlement or to opt-out of the Settlement. Any Class Member who does not

receive notice after the steps outlined above have been taken will still be bound by the Settlement and/or Judgment.

- 51. **Settlement Administrator:** The third party administrator agreed upon by Parties to administer this Settlement is ILYM Group.
- 52. **Workweek:** means any week during which a Class Member worked for Defendant for at least one day during the Class Period (“Class Workweek”) or PAGA Period (“PAGA Workweek”).

II. **RECITALS**

- 53. On June 6, 2023, Plaintiff Keith O’Shea provided timely written notice to Defendant and the LWDA of his claim for PAGA penalties by sending a PAGA Notice.
- 54. On June 6, 2023, Plaintiff Keith O’Shea filed a Class Action Complaint in Alameda County Superior Court against Defendant asserting the following causes of action: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Adopt a Compliant Sick Pay Policy; (6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; (7) Failure to Pay All Wages Due at the Time of Termination of Employment; (8) Failure to Reimburse/Illegal Deductions; and (9) Unfair Competition. This case was designated with Case Number 23CV035196.
- 55. On July 25, 2023, Defendant filed an Answer to Plaintiff’s Class Action Complaint. Defendant denies each and every one of the allegations asserted in Plaintiff’s operative Class Action Complaint.
- 56. On October 30, 2023, Plaintiff filed a PAGA Complaint in the Alameda County Superior Court against Defendant asserting the following causes of action: (1) Violation of the PAGA for Failure to Pay Straight time Wages; (2) Violation of the PAGA for Failure to Pay All Overtime Wages; (3) Violation of the PAGA for Failure to Provide Meal Periods; (4) Violation of the PAGA for Failure to Provide Rest Periods; (5) Violation of the PAGA for Failure to Pay Wages Due at Termination of Employment; (6) Violation of the PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements; (7) Violation of the PAGA for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy and Failure to Provide Written Notice Setting Forth Amount of Sick Leave Available; and (8) Violation of the PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties. This case was designated with Case Number 23CV049223.

57. On December 4, 2023, Defendant filed an Answer to Plaintiff's PAGA Complaint. Defendant denies each and every one of the allegations asserted in Plaintiff's operative PAGA Complaint.
58. On January 10, 2024, Judge Tara Desautels rendered an Order finding that Plaintiff's Class and PAGA Actions were "related" within the meaning of California Rules of Court Rule 3.300(a). The Class Action (Case Number 23CV035196) was designated as the lead case.
59. In an effort to avoid litigation costs, the Parties agreed early in the case to mediate the Class Action and PAGA Action before Kelly Knight, Esq., a mediator experienced in wage-and-hour class actions, on May 28, 2024.
60. Before mediation, Vector agreed to produce certain information needed for Class Counsel to conduct a thorough evaluation of the claims and damages at issue in this case. Accordingly, Vector produced the following to Class Counsel prior to mediation: (a) all Employee Handbooks and relevant policy documents in effect during the Class Period; (b) timecard and payroll data for all putative Class Members from June 6, 2019 to April 1, 2024, identified by Employee ID number only; (c) certain data points pertaining to the putative Class Members and Aggrieved Employees (i.e., total number of putative Class Members and corresponding workweeks worked; total number of Aggrieved Employees and corresponding pay periods worked; average rate of pay for Class Members and Aggrieved Employees); and (d) Keith O'Shea's timecards, paystubs, personnel file, and other employment records.
61. The Parties attended a mediation with Kelly A. Knight on May 28, 2024. At that time, the Parties did not reach a settlement of the Class and PAGA Actions.
62. Following the May 28, 2024 mediation, the Parties engaged in formal written discovery with regard to both the Class and PAGA Actions. Specifically, both Parties exchanged Requests for Production, Special Interrogatories, Form Interrogatories – Employment, and Form Interrogatories – General.
63. In responding to Plaintiff's discovery, Defendant formally produced all documents and data previously provided to Plaintiff prior to mediation, as well as formal responses to Plaintiff's interrogatories propounded. In addition to the written discovery exchanged, on March 28, 2025, Defendant took Plaintiff's deposition in person in San Francisco, California.
64. On or around November 25, 2024, Defendant sent each member of the putative class a packet consisting of an offer letter and unsigned form settlement agreement. Pursuant to the terms of the offer letter and agreement, if the employee voluntarily chose to sign the agreement, Defendant offered to pay the employee a specified monetary amount in exchange for a release of all claims that had been asserted, or could reasonably have been asserted, against

Defendant in the Class Action. As the documents make clear, the scope of the release did not extend to claims arising after the date the employee executed the agreement.

65. On March 31, 2025, Defendant provided Plaintiff with two subpoenas it intended to serve. One was to Kaiser Permanente Medical Center-CVA/Custodian of Records seeking Plaintiff's medical records and the second was to MetroPCS Subpoena Compliance Department seeking Plaintiff's cell phone records.
66. On or about April 7, 2025, Mediator Kelly Knight, Esq. reengaged the Parties in settlement negotiations. By the end of May of 2025, the Parties reached a settlement-in-principle. In the weeks that ensued, the Parties negotiated several key terms of the Class Settlement and PAGA Settlement. To that end, the Parties filed a Notice of Settlement with the Court on June 3, 2025.
67. The Court has not granted class certification in the Class Action. Pursuant to an *ex parte* application filed by Plaintiff on May 8, 2025, the Court continued the hearing date on Plaintiff's Motion for Class Certification from July 31, 2025 to November 13, 2025.
68. **Benefits of Settlement to Class Members.** Based on a thorough review of the formal discovery obtained from Defendant, as well as the testimony offered by Plaintiff via deposition, Plaintiff and Class Counsel have conducted a diligent investigation and evaluation of the claims asserted in the Class and PAGA Actions. Plaintiff's investigation is therefore sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*"). Plaintiff and Class Counsel further recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel have conducted extensive settlement negotiations. Based on the foregoing, Plaintiff and Class Counsel believe the settlement set forth in this Settlement Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members, as it provides a definite, present sum of money.
69. **Defendant's Reasons for Settlement.** While Defendant is confident of a positive outcome of the Class and PAGA Actions if decided on the merits, Defendant has concluded that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendant have been and, unless this settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to

settle in the manner and upon the terms set forth in this Settlement Agreement to put to rest the Released Claims.

70. **Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the actions are not appropriate for class or representative treatment. Defendant asserts a number of defenses to the claims, and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Neither this Settlement Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Settlement Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. There has been no final determination by any court as to the merits of the claims asserted by Plaintiff against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.
71. **Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Settlement Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Settlement Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the actions. However, in the event that this settlement is finally approved by the Court, the Plaintiff, Participating Class Members, and Class Counsel will not oppose Defendant's efforts to use this Settlement Agreement to prove that Plaintiff and Participating Class Members have resolved and are forever barred from re-litigating the claims released under this Settlement Agreement.

III. SETTLEMENT TERMS AND CONDITIONS

72. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount is a non-reversionary \$179,750. The Gross Settlement Amount includes, but is not limited to: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; (5) the PAGA Payment, as approved by the Court; and (6) \$29,750 which has already been paid to employees and will be a credit to Defendant. Defendant's portion of payroll taxes for the Net Settlement Amount (not including the \$29,750 credit) will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

72.1 Escalator Provision: In the Class Action, Defendant estimates that Class Members will have worked approximately 4,237 Class Workweeks during the Class Period that are not subject to a release entered into by any individual through the terms of a signed settlement agreement or otherwise. Defendant further estimates that the Aggrieved Employees worked approximately 3,414 PAGA Workweeks, irrespective of whether a release potentially applies to any of the individual and/or representative claims asserted in the PAGA Action, as California law remains unsettled as to whether such releases are enforceable in the context of PAGA.

If the number of actual total workweeks worked by Class Members during the Class Period as reflected in the Class Data and as reported to the Settlement Administrator following preliminary approval, exceeds this amount by more than 10% (i.e., if there are 4,593 or more total Class Workweeks) Defendant will either: (1) pay an additional sum necessary to increase the Gross Settlement Amount on a proportional basis (i.e., if there was a 15% increase in workweeks, Defendant would increase the Gross Settlement Amount by only 5%); or (2) elect to shorten the Class Period and PAGA Period (along with their associated releases) to a date that the total number of workweeks worked is at or under the stated 4,593 Class Workweek threshold.

- 73. Class Certification.** Solely for the purposes of this settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that in order for this settlement to occur, the Court must certify the Class as defined in this Settlement Agreement.
- 74. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this settlement only. If the Settlement does not become effective, class certification entered for settlement purposes shall immediately be set aside and the Class certified for settlement purposes shall be immediately decertified. The fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible, considered, or used in any way in connection with, the question of whether the Court should certify any claims in a non-settlement context in this action or in any other lawsuit. If the Settlement does not become effective, the Parties shall be restored to their pre-settlement status. Defendant reserves all defenses and rights that were previously available before the Settlement was reached, and reserves the right to contest any issues relating to class certification and liability.
- 75. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff Keith O'Shea shall be

appointed as representative for the Class. Defendant reserves the right to challenge Plaintiff's adequacy should the Settlement fail to become effective.

76. Appointment of Class Counsel. Solely for the purpose of this settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.

77. Individual Class Settlement Share. Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Class Settlement Share from the Net Settlement Amount to each Participating Class Member.

78. Calculation.

78.1 Individual Class Settlement Share Calculation. Participating Class Members will receive a pro-rated share of the Net Settlement Amount, less applicable withholdings, based on the number of workweeks they worked in California while employed by Defendant during the Class Period and for which they did not already release their claims against Defendant. The formula for distribution to Participating Class Members shall be calculated as follows: Defendant shall provide the Settlement Administrator with the total number of work weeks worked by all Class Members during the Class Period for which Class Members did not already release their claims against Defendant; the Settlement Administrator shall then divide the Net Payment by the total number of work weeks resulting in a value for each work week attributable to Class Members ("Work Week Value"); the Settlement Administrator shall then take the number of work weeks worked by each Class Member for which the Class Member did not already release their claims against Defendant and multiply it by the Work Week Value. As such, for Class Members who previously released claims against Defendant during the Class Period, the settlement calculation will be based on the number of workweeks worked after these Class Members signed the releases to the end of their employment in the Class Period or the end of the Class Period, whichever is earlier.

78.2 Tax Withholdings. Each Class Member's Individual Settlement Share will be apportioned as follows: 1/3 wages, 1/3 penalties, and 1/3 interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Only the employee share of payroll tax withholdings shall be paid from each Class Member's Individual

Settlement Share. The employer share of payroll tax withholdings shall be paid separate from and in addition to the Gross Settlement Amount. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Settlement Share Payments.

79. Individual PAGA Settlement Share. Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual PAGA Settlement Share from the Net PAGA Settlement Amount to each Aggrieved Employee.

80. Calculation.

80.1 Individual PAGA Settlement Share Calculation. Aggrieved Employees will receive a pro-rated share of the Net Settlement Amount, less applicable withholdings, based on the number of workweeks they worked while employed by Defendant during the PAGA Period (“PAGA Workweeks”). The formula for distribution to Aggrieved Employees shall be calculated as follows: Defendant shall provide the Settlement Administrator with the total number of PAGA Workweeks worked by each Aggrieved Employee during the PAGA Period. The Settlement Administrator shall then divide that number by the aggregate number of PAGA Workweeks worked by all Aggrieved Employees during the PAGA Period, resulting in a “PAGA Payment Ratio” attributable to each Aggrieved Employee. To calculate the Individual PAGA Settlement Share to be paid to each Aggrieved Employee, the Settlement Administrator shall take the Aggrieved Employee’s PAGA Payment Ratio and divide it by the aggregate Net Settlement Amount allocated to all the Aggrieved Employees in the PAGA Action.

80.2 Tax Withholdings. Each Aggrieved Employee’s Individual PAGA Settlement Share will be apportioned as 100% penalties. The Individual PAGA Settlement Shares shall therefore be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees’ wages and shall be reported by IRS 1099 forms.

81. Constituents of Gross Settlement Amount Disbursement. Subject to the terms and conditions of this Settlement Agreement, the Settlement Administrator shall disburse the Gross Settlement Amount as directed later on herein to the following:

81.1 To the Named Plaintiff: In addition to his Individual Settlement Shares, and subject to the Court’s approval, the named Plaintiff Keith O’Shea will receive up to \$10,000 in consideration for providing Defendant a General Release, a release that is broader than the claims released by Participating

Class Members; for the benefits he conferred upon Class Members; and for the time and effort he put into pursuing this litigation. The Settlement Administrator will pay the Class Representative Enhancement Payment out of the Gross Settlement Amount. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payment. An IRS Form 1099 will be issued to Plaintiff with respect to her Class Representative Enhancement Payment.

81.2 To Class Counsel. At the Final Approval Hearing, Class Counsel will apply to the Court for an Attorneys Fee Award not to exceed one-third of the GSA and a Cost Award not to exceed \$45,000. The Settlement Administrator will pay the Court approved amounts for the Attorneys Fee Award and Cost Award out of the Gross Settlement Amount. Payroll tax withholding and deductions will not be taken from the Attorneys Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to the Attorneys Fee Award. In the event the Court does not approve the entirety of the application for the Attorneys Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorneys Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Participating Class Members.

81.3 To the Responsible Tax Authorities. The Settlement Administrator shall be responsible for ensuring that all taxes associated with the Agreement are properly calculated and timely paid to the appropriate tax authorities. Specifically:

81.3.1 The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each Class Member's Individual Settlement Share.

81.3.2 Defendant's portion of payroll taxes as the current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) will be paid outside of and in addition to the GSA. The Settlement Administrator shall calculate all employer payroll taxes owed on the Individual Settlement Share payments allocated to wages, and will report that total amount to Defendant within five (5) calendar days of the Effective Date. Defendant shall remit to the Settlement Administrator the

amount of employer payroll taxes owed in addition to the Gross Settlement Amount.

81.3.3 The Settlement Administrator shall timely pay the taxes to the appropriate tax authorities. The Settlement Administrator shall furnish Defense Counsel with copies of all forms detailing that the payment of taxes (including all 1099 returns) were properly remitted, as well as a final accounting adequate to demonstrate full compliance with all tax withholding, payment, and reporting obligations.

81.4 To the Settlement Administrator. The Settlement Administrator ILYM will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$7,500. This will be paid out of the Gross Settlement Amount. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and be available for distribution to Participating Class Members.

81.4.1 To the LWDA and Aggrieved Employees. The Settlement Administrator will pay \$7,500 of the PAGA Payment to the LWDA. This is 75% of the \$10,000 allocated to satisfy the PAGA penalties claim. The remaining 25% of the PAGA Payment (which equates to \$2,500) shall become part of the Net PAGA Settlement Amount payable to Aggrieved Employees.

81.4.2 To Participating Class Members. The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members and Aggrieved Employees shall be made from the Gross Settlement Amount.

82. Appointment of Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree that ILYM shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and mailing the Class Notice to Class Members and Aggrieved Employees; performing skip traces and re-mailing notices to Class Members and Aggrieved Employees; calling Class Members and Aggrieved Employees with undeliverable notices to obtain accurate addresses; keeping track of any objections or requests for exclusion from Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's and Aggrieved Employee's Individual Settlement Share; providing weekly status reports to Defendant's Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have

been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing and remailing Individual Settlement Shares to Participating Class Members and Aggrieved Employees; calculating and mailing the LWDA Payment to the LWDA; distributing the Attorneys Fee Award and Cost Award to Class Counsel; printing and providing Participating Class Members, Aggrieved Employees, and Plaintiff with a W-2 and 1099 forms as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Court upon the completion of the Settlement; and for such other tasks as outlined in this Agreement or upon which the Parties mutually agree. The Parties each represent that they do not have any financial interest in ILYM or otherwise have a relationship with ILYM that could create a conflict of interest.

83. Procedure for Approving Settlement.

83.1 Cooperation.

83.1.1 All Parties and their counsel shall support the settlement and take such steps as are reasonably necessary to effectuate the settlement.

83.2 Motion for Preliminary Approval and Conditional Certification.

83.2.2 Plaintiff will move for an order: (1) conditionally certifying the Class for settlement purposes only; (2) granting Preliminary Approval of the Settlement; (3) setting a date for the Final Approval hearing; and (4) approving the Class Notice.

83.2.3 At the same time that Plaintiff files his Motion for Preliminary Approval, Plaintiff shall send a copy of the Settlement Agreement to the LWDA pursuant to the 2016 amendments to PAGA.

83.2.4 At the Preliminary Approval hearing, Class Counsel will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representative, Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval hearing.

83.2.5 Effect of Denial of Preliminary Approval. Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the

Settlement, the Settlement Agreement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement Agreement. Any order or proceeding relating to an application for the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment.

83.3 Notice to Class Members and Aggrieved Employees. After the Court enters its Preliminary Approval Order, every Class Member and Aggrieved Employee will be provided with the Class Notice in accordance with the following procedure:

83.3.2 Delivery of Class and PAGA Data. Within twenty-one (21) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver to the Settlement Administrator an electronic database, which will list the Class and PAGA Data. If any or all of this information is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will use the National Change of Address Database to obtain updated addresses for Class Members. The Class Data and PAGA Data shall be based on Defendant's payroll, personnel, and other business records. The Settlement Administrator shall maintain the Class and PAGA

Data and all information contained within the Class and PAGA Data as private and confidential.

83.3.3 Preparation of Class Notices. Based on the information in the Class and PAGA Data and the formulae set forth herein, the Settlement Administrator shall promptly calculate the estimated Individual Settlement Share and Individual PAGA Settlement Share for every Class Member and Aggrieved Employee, to be included in the individualized Class Notices to be sent to that Class Member and/or Aggrieved Employee, and shall prepare and mail a spreadsheet setting forth those calculations to Class Counsel and Defense Counsel no fewer than five (5) calendar days before mailing the Class Notices to Class Members and Aggrieved Employees. The Class Notices will inform each Class Member of his/her right to do nothing, dispute the number of work weeks worked, opt out of the Settlement, or object to the Settlement. It will also inform Class Members that if they first request exclusion from the Settlement and then object, the objections would not be considered valid. In addition, if the Class Members object and then request exclusion from the Class Settlement, the Class Members would be deemed to have waived their objection.

83.3.4 Mailing of Class Notices. Within ten (10) calendar days after receipt of the Class and PAGA Data, the Settlement Administrator will mail via first-class regular U.S. Mail the Class Notice to all identified Class Members and Aggrieved Employees using the mailing address information provided by Defendant and the results of the search of the National Change of Address Database on all Class Members and Aggrieved Employees.

83.3.5 Returned Notices. If a Class Notice is returned because of an incorrect address, within five (5) calendar days from receipt of the returned notice, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to

attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail, performing address searches for all mail returned without a forwarding address, and promptly re-mailing to Class Members for whom new addresses are found.

83.3.6 Weekly Status Reports. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Notices mailed, the number of Notices returned as undeliverable, the number of Notices re-mailed, and the number of requests for exclusion or objections received.

83.3.7 Settlement Administrator's Declaration. No later than fourteen (14) calendar days after the Response Deadline, or on a date mutually agreed upon by the Parties and the Settlement Administrator, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel at the same time as the final approval motion is filed. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

83.4 Objections to Settlement. The Class Notice will provide that the Class Members who wish to object to the settlement must do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline. The timeframe to submit an objection will not be increased for returned mailings.

83.4.2 Format. Any Objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal

Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.

83.4.3 Notice of Intent to Appear. Objecting Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector’s own counsel. Objecting Class Members are permitted to appear regardless of whether they submitted a written objection.

83.5 Request for Exclusion from the Settlement (“Opt-Out”). The Class Notice will provide that Class Members who wish to exclude themselves from the settlement must mail to the Settlement Administrator a written request for exclusion. The written request for exclusion must: (a) state the Class Member’s name, address, telephone number, and the last four digits of the Class Member’s social security number or employee identification number; (b) state the Class Member’s intention to exclude themselves from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator; (d) be signed by the Class Member or his or her lawful representative; and (e) be postmarked no later than the Response Deadline.

83.5.2 Effect of “Opt-Out.” Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the settlement and subsequent judgment and will not receive an Individual Settlement Share or any benefit of this settlement. If the Class Member is also an Aggrieved Employee as defined in this Agreement, however, he or she will still receive an Individual PAGA Settlement Share payment as approved by the Court. Aggrieved Employees have no right to opt-out of the PAGA Settlement.

83.5.3 Confirmation of Authenticity. If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member’s identity. Any Class Member who returns a timely, valid, and executed request for exclusion will not

participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely request for exclusion will automatically be included in the Settlement, will receive an Individual Class Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the subsequent judgment, regardless of whether he or she has objected to the Settlement.

83.5.4 Report. No later than five (5) business days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

83.6 Class Member and Aggrieved Employee Disputes. If a Class Member or Aggrieved Employee who receives a Class Notice wishes to dispute the number of work weeks listed on the Class Notice, the Class Member or Aggrieved Employee may notify the Settlement Administrator by mail or telephone no later than the Response Deadline and should produce any available supporting evidence, such as wage statements, offers of employment, termination letters, and/or other employment records, to the Settlement Administrator. The documentation should provide evidence of the dates the Class Member or Aggrieved Employee contends he or she worked for Defendant during the Class or PAGA Period. The Settlement Administrator shall then provide the documentation provided by the Class Member or Aggrieved Employee to Defendant. Defendant shall review its records, the documentation provided by the Class Member or Aggrieved Employee, and shall provide information to the Settlement Administrator in response to any such disputed claim. Defendant shall respond within seven (7) business days of the Settlement Administrator reaching out to Defendant. Defendant's records shall be presumed to be determinative, but the Settlement Administrator

shall evaluate the evidence submitted by the Class Member or Aggrieved Employee and make the decision as to which dates should be applied. The determination by the Settlement Administrator shall be final and binding.

83.7 No Solicitation of Objection or Requests for Exclusion. Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the settlement, or appeal from the Judgment.

83.8 Motion for Final Approval.

82.8.1 Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the settlement and the following payments in accord with the terms of the Settlement: (1) the Attorneys Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement Payment; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Class and PAGA Claims of the Participating Class Members and LWDA.

82.8.2 Denial or Appeal of Final Approval. If the Court does not grant Final Approval of the settlement, or if the Court's Final Approval of the settlement is reversed or materially modified on appellate review, then this settlement will become null and void. If that occurs, the Parties will have no further obligations under the settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement Payment, Attorneys Fee Award, Cost Award, and Administration Costs award will not constitute a material modification to the Settlement within the meaning of this paragraph.

82.8.3 Proposed Order and Judgment. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving of the settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-judgment matters as may be appropriate under Court rules and applicable law.

82.9 Waiver of Right to Appeal. Provided that the judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the settlement, then the Parties and their respective counsel waive any and all rights to appeal from the judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.

82.10 Vacating, Reversing, or Modifying Judgment on Appeal. If, after a notice of appeal, the reviewing Court vacates, reverses, or modifies the judgment such that there is a material modification to the Settlement Agreement, and that Court's decision is not completely reversed and the judgment is not fully affirmed on review by a higher Court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Share.

82.11 Disbursement of Settlement Shares and Payments. Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order and Judgment. The Settlement Administrator shall keep Defendant's Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendant's Counsel and Class Counsel. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on

the distributions and payments made in accordance with this Agreement.

82.11.1 Funding the Settlement: Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement no later than fifteen (15) calendar days after the Effective Date of the Settlement.

82.11.2 Disbursement: Within ten (10) calendar days after the Defendant provides the GSA to the Settlement Administrator, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to be Paid to Aggrieved Employees; (3) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (5) the Administration Costs, as approved by the Court; (6) the LWDA Payment to the LWDA; and (7) Defendant's portion of payroll taxes as the Class Members' current or former employer.

82.11.3 Qualified Settlement Fund or QSF: The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

82.12 Settlement Administrator's Final Report. Within ten (10) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds. The Parties shall file this declaration with the Court. The Settlement Administrator will provide any supplemental declaration required by the Court or the Parties.

82.13 Uncashed Checks. Participating Class Members and Aggrieved Employees must cash or deposit their Individual Settlement Share checks within one hundred and eighty (180) calendar days after the checks are mailed to them.

82.13.1 Reminder Postcard. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced.

82.13.2 If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, cancel the checks. All funds associated with the Individual Settlement Share checks returned as undeliverable and funds associated with those checks remaining un-cashed shall be tendered to Legal Aid at Work. Legal Aid at Work is a nonprofit legal services organization that has been assisting low-income, working families for more than 100 years. Legal Aid at Work's Wage Protection Program represents low-wage workers who are the victims of wage violations. The wage claims made by Legal Aid at Work's clients are often the same type of claims made in wage-and-hour class actions brought by workers under the federal Fair Labor Standards Act and under California wage-and-hour laws.

82.14 Defendant's Legal Fees. Defendant is responsible for paying for all of Defendant's own legal fees, costs, and expenses incurred in this action outside of the Gross Settlement Amount.

84. Release of Claims. As of the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, and Aggrieved Employees will release claims against the Released Parties as follows:

84.1 Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were or reasonably could

have been alleged based on the facts pleaded in the Operative Complaint in the Class Action; and (b) all PAGA claims that were or reasonably could have been alleged based on facts pleaded in the Operative Complaint and/or Plaintiff's PAGA Notice. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that he may discover facts or law different from, or in addition to, the facts or law that he now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

84.2 Release by Participating Class Members Who Are Not Aggrieved Employees. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged or reasonably could have been alleged based on facts pleaded in the Operative Complaint during the Class Period. Except as set forth in Section 82.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

84.3 Release by Non-Participating Class Members Who Are Aggrieved Employees. All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were or reasonably could have been alleged based on the facts pleaded in the Operative Complaint and/or the PAGA Notice during the PAGA Period.

85. Miscellaneous Terms

85.1 No Admission of Liability. Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the action, or that but for the settlement, a Class should be certified in the action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This settlement and Plaintiff's and Defendant's willingness to settle the action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this settlement).

85.2 No Effect on Employee Benefits. The Class Representative Enhancement Payment and/or Individual Settlement Shares paid to Plaintiff and Participating Class Members and/or Aggrieved Employees shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiff or the Participating Class Members or Aggrieved Employees. The Parties agree that any Class Representative Enhancement Payment and/or Individual Settlement Share paid to Plaintiff or the Participating Class Members and/or Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiff's or Participating Class Members' and/or Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Class Representative Enhancement Payment shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

85.3 Integrated Agreement. After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

- 85.4 Authorization to Enter Into Settlement Agreement.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
- 85.5 Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
- 85.6 Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the settlement, pending the Final Approval hearing to be conducted by the Court.
- 85.7 Amendment or 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 counsel for all Parties or their successors-in-interest.
- 85.8 Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- 85.9 No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that she has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 85.10 Applicable Law.** All terms and conditions of this Agreement 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.

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

85.12 No Tax or Legal Advice. The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members and Aggrieved Employees will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members and Aggrieved Employees shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member or Aggrieved Employee, such Class Member assumes all responsibility for the payment of such taxes.

85.13 Jurisdiction of the Court. The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.

85.14 Invalidity of Any Provision; Severability. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

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

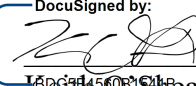
85.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart

will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

DATED: 9/19/2025 _____

DocuSigned by:

Keith O'Shea

DATED: _____

By: Lisa Sellers, CEO
Vector Laboratories, Inc.

DATED: 9/18/2025 _____

DocuSigned by:

David Mara, Esq.
Jill Vecchi, Esq.
MARA LAW FIRM, PC
Counsel for Plaintiff
Keith O'Shea

DATED: _____

Sabrina Sanders, Esq.
LAWYERS FOR EMPLOYEE
AND CONSUMER RIGHTS, APC
Counsel for Plaintiff
Keith O'Shea

DATED: _____

Joanna E. MacMillan, Esq.
Nicolas Tomas, Esq.
CONSTANGY, BROOKS
SMITH & PROPHETE, LLP
Counsel for Defendant
Vector Laboratories, Inc.

Exhibit *A*

CALIFORNIA SUPERIOR COURT, COUNTY OF ALAMEDA

*Keith O'Shea, on behalf of himself, all others similarly situated, and on behalf of the general public, Plaintiff, v.
Vector Laboratories, Inc., Defendant*

Case No. 23CV035196 (the "Class Action") and Case No. 23CV049223 (the "PAGA Action") (collectively
"Complaints")

NOTICE OF CLASS ACTION SETTLEMENT

A court authorized this notice. This is not a solicitation.

This is not a lawsuit against you and you are not being sued.

However, your legal rights are affected by whether you act or don't act.

TO: All hourly, non-exempt employees (a) who are or were employed by Vector Laboratories, Inc. ("Defendant" or "Vector") in California at any time from June 6, 2019 through [the end of the Class Period] (this time period is referred to as the "Class Period"); and (b) and who did not already release all of their claims against Defendant during the Class Period.

The California Superior Court, County of Alameda has granted preliminary approval to a proposed settlement ("Settlement") of the above-captioned action. Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement ("Notice") carefully.

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

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

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Settlement Share is estimated to be \$INSERT (less withholding) and your Individual PAGA Settlement Share is estimated to be \$INSERT.** The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Defendant's records showing that **you worked INSERT workweeks** during the Class Period (the Class Period is June 6, 2019 through [the end of the Class Period]) for which you did not already sign a release releasing your claims against Defendant and **you worked INSERT pay periods** during the PAGA Period (the PAGA Period is June 6, 2022, through [the end of the PAGA Period]).

If no amount is stated for your Individual PAGA Settlement Share, then according to Defendant's records you are not eligible for an Individual PAGA Settlement Share under the Settlement because you didn't work any pay periods during the PAGA Period. If no amount is stated for your Individual Class Settlement Share, then according to Defendant's records are you not eligible for an Individual Class Settlement Share under the Settlement because you already released your claims against Defendant for the Class Period. If you only released claims for a portion of the Class Period, you will still receive an Individual Class Settlement Share based upon the number of workweeks you worked for Defendant after the date of the release you signed.

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1. *Why Have I Received This Notice?*

Defendant's records indicate that you may be a Class Member. The settlement will resolve all Class Members' Released Claims, as described in Section No. 9 below, from June 6, 2019 through **[the end of the Class Period]** (this time period is referred to as the "Class Period"). If you worked for Defendant at some time during the Class Period, you may be entitled to money under this settlement. This notice provides you with basic information about the case and advises you of your options with regard to the settlement.

A Preliminary Approval Hearing was held on **October 14, 2025**, at **10:00 a.m.**, in the California Superior Court, County of Alameda. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

2. *What Is This Case About?*

On June 6, 2023, Plaintiff Keith O'Shea filed a Class Action Complaint in Alameda County Superior Court against Defendant asserting the following causes of action: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Adopt a Compliant Sick Pay Policy; (6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; (7) Failure to Pay All Wages Due at the Time of Termination of Employment; (8) Failure to Reimburse/Illegal Deductions; and (9) Unfair Competition. This case was designated with Case Number 23CV035196.

On June 6, 2023, Plaintiff Keith O'Shea provided timely written notice to Defendant and the LWDA of his claim for PAGA penalties by sending a PAGA Notice. On October 30, 2023, Plaintiff filed a PAGA Complaint in the Alameda County Superior Court against Defendant asserting the following causes of action: (1) Violation of the PAGA for Failure to Pay Straight time Wages; (2) Violation of the PAGA for Failure to Pay All Overtime Wages; (3) Violation of the PAGA for Failure to Provide Meal Periods; (4) Violation of the PAGA for Failure to Provide Rest Periods; (5) Violation of the PAGA for Failure to Pay Wages Due at Termination of Employment; (6) Violation of the PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements; (7) Violation of the PAGA for Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy and Failure to Provide Written Notice Setting Forth Amount of Sick Leave Available; and (8) Violation of the PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties. This case was designated with Case Number 23CV049223.

The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendant; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or it they violated the law and further denies any liability whatsoever to Plaintiff or to the Class.

3. *Am I A Class Member? Am I An Aggrieved Employee?*

You are a Class Member if you are or were an hourly, non-exempt employee (a) who is or was employed by Defendant in California at any time from June 6, 2019 through [the end of the Class Period]; and (b) and who did not already release all of your claims against Defendant during the Class Period.

You are an Aggrieved Employee if you are or were an hourly, non-exempt employee who worked for Defendant in California at any time from June 6, 2022 through [the end of the PAGA Period].

4. *How Does This Class Action Settlement Work?*

Plaintiff brought this Action on behalf of himself and all other similarly situated individuals who worked for Defendant as hourly, non-exempt employees in California at any time during the Class Period. Plaintiff and these other individuals comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the settlement is fair and reasonable. The Court must also review the terms of the settlement and determine if it is fair and reasonable to the Class. On [date of ruling on preliminary approval], the Court directed that you receive this notice.

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [the date of final approval hearing], 2025 at [time a.m./p.m.], in Department 23 before Judge Michael Markman, located at 1221 Oak Street, Oakland, California 94612. The date of the Final Approval Hearing may change without further notice to the Class. You are advised to check the Court’s website (instructions on accessing this site are provided in Section 12 of this Notice) to confirm that the date has not been changed.

5. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiff and the Class (“Class Counsel”)	Attorneys for Vector
MARA LAW FIRM, PC David Mara Email: dmara@maralawfirm.com Jill Vecchi Email: jvecchi@maralawfirm.com 2650 Camino Del Rio North, Suite 302 San Diego, California 92108 Telephone: (619) 234-2833	CONSTANGY, BROOKS, SMITH & PROPHETE, LLP Joanna E. MacMillan, Esq. Eric W. Witt, Esq. Nicolas W. Tomas, Esq. 2029 Century Park East, Suite 1100 Los Angeles, California 90067 Telephone: (310) 909-7775

**LAWYERS FOR EMPLOYEE AND CONSUMER
RIGHTS**

Colette Mahon
Email: cmahon@lfecr.com
3500 West Olive Avenue, Third Floor
Burbank, California 91505
Telephone: (323) 486-5101

The Court has decided that Mara Law Firm, PC; and Lawyers for Employee and Consumer Rights are qualified to represent you and all other Class Members simultaneously.

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. What Are My Options?

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: *Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.*

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendant and the Released Parties for the Released Class Claims. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.
- **OBJECT:** You may assert a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

7. How Do I Opt Out Or Exclude Myself From This Settlement?

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state your name, address, telephone number, and the last four digits of your social security number or your employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [INSERT]; (d) be signed by you or your lawful representative; and (e) be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not opt out of the Settlement, the Judgment will bind you to the terms of the Settlement. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt out of the settlement.

8. *How Do I Object To The Settlement?*

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than **[the Response Deadline]**. The objection must: (a) state your full name, address, and telephone number; (b) include the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) you intend to offer at the Final Approval hearing.

Class Members may appear at the Final Approval Hearing, either in person or through the objector’s own counsel. If the Court rejects the objection, the objector will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

9. *How Does This Settlement Affect My Rights? What are the Released Claims?*

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court’s Final Judgment and will release Defendant and the Released Parties¹ from the Released Class Claims: The Participating Class Members shall release Defendant and the Released Parties from any and all claims, rights, demands, liabilities, and causes of action, whether statutory, in tort, contract, or otherwise, alleged or that could have been reasonably alleged based on the facts pleaded in the operative Class Action Complaint during the Class Period, including, but not limited to, claims under the California Labor Code, California Industrial Welfare Commission Wage Orders, regulations, and/or other provisions of law, which include but are not limited to: failure to pay wages (including minimum wages, overtime and double time wages), failure to provide compliant meal periods and associated premium pay, failure to provide compliant rest periods and associated premium pay, failure to provide compliant wage statements, failure to timely pay wages upon termination of employment, failure to timely pay wages during employment, failure to adopt a compliant sick pay/paid time off policy, failure to provide business reimbursements and/or illegal deductions, and failure to maintain requisite payroll records. The Released Class Claims further includes any claims, rights, demands, liabilities, damages, wages, benefits, expenses, penalties, debts, obligations, attorneys’ fees, costs, any other form of relief or remedy in law, equity, or whatever kind or nature, as well as any unpled causes of action, that could potentially arise from the receipt of any monies as a result of this Settlement by any Participating Class Member.

Additionally, the LWDA will be bound by the Final Judgment and will release the Released Parties from the Released PAGA Claims. The Released PAGA Claims include: The State of California and the Aggrieved Employees shall release Defendant and the Released Parties from any and all claims for civil penalties under the

¹ “Released Parties” mean (i) Defendant and (ii) each of Defendant’s respective past, present and future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, partnership, trust, foundation, and non-profit entity which controls, is controlled by, or is under common control with Defendant; (iii) the past, present and future shareholders, directors, officers, agents, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing under Labor Code section 558.1 or otherwise.

California Labor Code and the Private Attorneys General Act of 2004 that were or could have been reasonably alleged based on the facts pleaded the PAGA Notice during the PAGA Period, which include but are not limited to: failure to pay wages (including minimum wages, overtime and double time wages), failure to provide compliant meal periods and associated premium pay, failure to provide compliant rest periods and associated premium pay, failure to provide compliant wage statements, failure to timely pay wages upon termination of employment, failure to timely pay wages during employment, failure to adopt a compliant sick pay/paid time off policy, failure to provide business reimbursements and/or illegal deductions, and failure to maintain requisite payroll records. The scope of the Released PAGA Claims shall also include claims for penalties under Labor Code section 558.

10. How Much Can I Expect to Receive From This Settlement?

The total maximum amount that Defendant could be required to pay under this Agreement shall be up to but no more than \$179,750 (“Gross Settlement Amount” or “GSA”).

A. Deductions from the Settlement

The “Net Settlement Amount” or “NSA” means the portion of the Gross Settlement Amount, available for distribution to Class Members after the deduction of (1) the Class Representative Enhance Payment to the named Plaintiff in an amount up to \$10,000 for prosecution of the Action, risks undertaken for the payment of attorneys’ fees and costs, and a broader release of claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed \$7,500; (3) a payment of \$10,000 allocated to the PAGA claims; (4) payment to Class Counsel in an amount not to exceed \$59,916 (one-third of the Gross Settlement Amount) for attorneys’ fees and an amount not to exceed \$45,000 for litigation costs; and (5) \$29,750 which has already been paid to employees and will be a credit to Defendant. All of these payments are subject to court approval.

B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount will be proportionately distributed amongst all Class Members who have not opted out. These Class Members are referred to as “Participating Class Members.” Participating Class Members will receive a pro-rated share of the Net Settlement Amount, less applicable withholdings, based on the number of workweeks they worked in California while employed by Defendant during the Class Period. The formula for distribution to Participating Class Members shall be calculated as follows: Defendant shall provide the Settlement Administrator with the total number of work weeks worked by all Class Members during the Class Period for which Class Members did not already release their claims against Defendant; the Settlement Administrator shall then divide the Net Payment by the total number of work weeks resulting in a value for each work week attributable to Class Members (“Work Week Value”); the Settlement Administrator shall then take the number of work weeks worked by each Class Member for which the Class Member did not already release their claims against Defendant and multiply it by the Work Week Value. As such, for Class Members who previously released claims against Defendant during the Class Period, the settlement calculation will be based on the number of workweeks worked after these Class Members signed the releases to the end of their employment in the Class Period or the end of the Class Period, whichever is earlier.

C. How Aggrieved Employee Settlement Payments are Calculated

If you are an Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of \$7,500 (75% of the \$10,000 total PAGA Payment). The

remaining \$2,500 is the “Net PAGA Settlement Amount” and will be proportionately distributed amongst all Aggrieved Employees. Aggrieved Employees will receive a pro-rated share of the Net Settlement Amount, less applicable withholdings, based on the number of pay periods they worked in California while employed by Defendant during the PAGA Period. The formula for distribution to Aggrieved Employees shall be calculated as follows: Defendant shall provide the Settlement Administrator with the total number of pay periods worked by all Aggrieved Employees during the PAGA Period; the Settlement Administrator shall then divide the Net PAGA Settlement Amount by the total number of pay periods resulting in a value for each pay period attributable to Aggrieved Employees (“Pay Period Value”); the Settlement Administrator shall then take the number of pay periods worked by each Aggrieved Employee and multiply it by the Pay Period Value.

D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on the Class Data which shows you worked [REDACTED] workweeks during the period of June 6, 2019 through [the end of the Class Period]) for which you did not already sign a release releasing your claims against Defendant.

If you are also an Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: \$ [REDACTED]. This is based on the PAGA Data which shows you worked [REDACTED] pay periods during the period of June 6, 2022 through [the end of the PAGA Period].

If you believe the number of workweeks attributed to you is incorrect, you must call the Settlement Administrator at [INSERT] no later than [RESPONSE DEADLINE] or mail documentation to the to the Settlement Administrator at [INSERT], that is postmarked no later than [RESPONSE DEADLINE]. You should produce any available supporting evidence, such as wage statements, offers of employment, termination letters, and/or other employment records, to the Settlement Administrator. The documentation should provide evidence of the dates you contend you worked for Defendant during the Class or PAGA Period.

E. Tax Treatment of Your Settlement Payments

One-third of each Individual Class Settlement Share is intended to settle each Class Member’s claims for unpaid wages (the “Wage Portion”). The Wage Portion will be reduced by applicable payroll tax withholdings and deductions. Defendant’s share of legally required payroll taxes for the Wage Portion will be calculated by the Settlement Administrator and paid by Defendants separately from the GSA. The Settlement Administrator will issue an IRS Form W-2 to each Participating Class Member with respect to the Wage Portion of his/her Individual Class Settlement Share.

Two-thirds of the Individual Class Settlement Share is intended to settle each Class Member’s claims for interest and penalties/other payments. The Non-Wage Portion will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Participating Class Member an IRS Form 1099 with respect to the Non-Wage Portion of his/her Individual Class Settlement Share.

If you are an Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

F. What Happens If You Don’t Cash Your Check?

Please note that you must cash or deposit your settlement check within 180 calendar days after the check is mailed to you. If your check was lost or misplaced or you have changed your address, please contact the Settlement Administrator at [INSERT]. All funds associated with the Individual Settlement Share checks returned as undeliverable and funds associated with those checks remaining un-cashed, shall be tendered to a *cy pres* beneficiary, Legal Aid at Work.

11. How Will the Attorneys for the Class and the Class Representatives Be Paid?

The attorneys for Plaintiff and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed one-third of the Gross Settlement Amount (\$59,916) for attorney fees and \$45,000 for litigation costs.

Defendant has paid all of its own attorneys' fees and costs.

Plaintiff will also be paid, subject to Court approval, an amount not to exceed \$10,000, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a broader release of claims.

12. What do I do if I Need More Information or Have Questions?

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting [administrator website], a website maintained by the Settlement Administrator. Please refer to the Vector Laboratories Class Action Settlement.

This Notice does not contain all of the terms of the proposed settlement or all of the details of these proceedings. For more detailed information, the pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "eCourt Public Portal," at <https://eportal.alameda.courts.ca.gov>

After arriving at the website, click the "Search" tab at the top of the page, then select the Document Downloads link, enter the case number and click "Submit." Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. You may also contact Plaintiff's counsel, whose contact information is above, and they will provide you with a copy of the settlement documents or case documents free of charge.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

Exhibit 2

David Mara
Jill Vecchi
Grace Campbell
Taylor Hanks
Joann B. Gerrity
Matthew Crawford



2650 Camino Del Rio North
Suite 302, San Diego, CA 92108
Phone: (619) 234-2833
Fax: (619) 234-4048

MaraLawFirm.com

June 6, 2023

Via Upload to the LWDA Website and U.S. Certified Mail

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

TO: California Labor and Workforce Development Agency; Vector Laboratories, Inc.

Keith O'Shea, on behalf of himself, others similarly situated, and the general public v. Vector Laboratories, Inc.

Factual Statement and Theories of Labor Code Violations

Keith O'Shea was formerly employed by Vector Laboratories, Inc. ("VECTOR") as a non-exempt hourly employee working out of VECTOR's location in Newark, California. In addition, VECTOR's headquarters is in Newark, California. Mr. O'Shea worked for VECTOR as a shipping specialist until his employment with VECTOR ended on or around April 3, 2023.

Mr. O'Shea gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for VECTOR's failure to comply with California's wage and hour requirements on behalf of himself and all hourly, non-exempt employees who worked for VECTOR in the State of California. These individuals include, but are not limited to, employees who worked in VECTOR's manufacturing, shipping and receiving, production, research and development, and bottling departments.

VECTOR empowers scientific advances with innovative proteomic and glycomic solutions. VECTOR is a manufacturing partner with unmatched technical expertise and a culture of service. To conduct its business, VECTOR employs hourly, non-exempt employees, such as Mr. O'Shea, in California.

I. VECTOR Fails to Pay All Straight Time Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section

1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

VECTOR has a continuous policy of not paying Mr. O'Shea and similarly aggrieved employees for all hours worked in that VECTOR has not paid for all the time Mr. O'Shea and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before "shifts" start, after "shifts" end, during meal periods, and/or any other time in the day when the employees were performing work tasks, subject to the control of VECTOR and/or otherwise had work duties that went unpaid.

VECTOR fails to keep accurate time records of Mr. O'Shea's and aggrieved employees' time. Instead of having employees record all of their hours worked, VECTOR has supervisors record some of the time for the employees they supervise. For example, Mr. O'Shea's supervisor would tell him that he was "doing timecards" or would tell Mr. O'Shea not to worry about clocking out and that he would fill in the times on Mr. O'Shea's and the aggrieved employees' timecards. This leads to employees having inaccurate times recorded and less recorded hours than they actually work. As such, Mr. O'Shea and the aggrieved employees are not paid for all of the hours they work and are owed additional wages.

Further, Mr. O'Shea could not clock in until he reached his workstation. As such, the time it took him to walk through VECTOR's expansive facility to his workstation was done off the clock. If Mr. O'Shea or the aggrieved employees clocked in when they entered the building, they would get in trouble. VECTOR instructed Mr. O'Shea and the aggrieved employees that they were not to clock in until they reached their workstations.

VECTOR also rounds Mr. O'Shea's and the aggrieved employees' time punches. In California, rounding policies are permissible if the rounding policy is "fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.'" *See's Candy, Inc. v. Superior Court* (2012) 210 Cal. App. 4th. 889, 907. VECTOR has an unlawful rounding practice that is not fair and neutral in practice. VECTOR's rounding policy results in Mr. O'Shea and the aggrieved employees' systematically being undercompensated.

Additionally, VECTOR has had a continuous policy of not paying Mr. O'Shea and the aggrieved employees for all hours worked in that VECTOR continuously and consistently clocked Mr. O'Shea and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Mr. O'Shea and the aggrieved employees work through their meal periods, were unable to take meal periods, and/or were not free of all work duties and employer controls during meal periods. Thus, VECTOR shaves/steals earned wages from Mr. O'Shea and the aggrieved employees every day they work without a meal period and have time

deducted.

Likewise, Mr. O'Shea and the aggrieved employees are informed and believe and thereon allege that VECTOR breached the legal duty to pay full wages to Mr. O'Shea by deducting a portion of the wages earned by Mr. O'Shea and the aggrieved employees when they worked through their meal periods and/or when VECTOR recorded a meal period for Mr. O'Shea and the aggrieved employees when no meal period was taken. Specifically, Mr. O'Shea and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by VECTOR, thereby denying them the right to be completely free from employer control under California law.

VECTOR committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. O'Shea and the aggrieved employees. VECTOR acted with malice or in conscious disregard of Mr. O'Shea's and the aggrieved employees' rights.

These claims are on behalf of Mr. O'Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O'Shea, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 221, 222, 224, 1194, and 1197

II. VECTOR Fails to Pay All Overtime Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

California Labor Code section 510 dictates that any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than two (2) times the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than two (2) times the regular rate of pay of an employee.

VECTOR failed to pay overtime when Mr. O'Shea and the aggrieved employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week. VECTOR failed to pay Mr. O'Shea and the aggrieved employees for all hours worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week.

VECTOR has a continuous policy of not paying Mr. O'Shea and similarly aggrieved employees for all hours worked in that VECTOR has not paid for all the time Mr. O'Shea and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before "shifts" start, after "shifts" end, during meal periods, and/or any other time in the day when the

employees were performing work tasks, subject to the control of VECTOR and/or otherwise had work duties that went unpaid. Because Mr. O'Shea and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

VECTOR fails to keep accurate time records of Mr. O'Shea's and aggrieved employees' time. Instead of having employees record their hours worked, VECTOR has supervisors record time for the employees they supervise. For example, Mr. O'Shea's supervisor would tell him that he was "doing timecards" or would tell Mr. O'Shea not to worry about clocking out and that he would fill in the times on Mr. O'Shea's and the aggrieved employees' timecards. This leads to employees having inaccurate times recorded and less recorded hours than they actually work. As such, Mr. O'Shea and the aggrieved employees are not paid for all of the hours they work and are owed additional wages. Because Mr. O'Shea and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

Further, Mr. O'Shea could not clock in until he reached his workstation. As such, the time it took him to walk through VECTOR's expansive facility to his workstation was done off the clock. If Mr. O'Shea or the aggrieved employees clocked in when they entered the building, they would get in trouble. VECTOR instructed Mr. O'Shea and the aggrieved employees that they were not to clock in until they reached their workstations. Because Mr. O'Shea and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

VECTOR also rounds Mr. O'Shea's and the aggrieved employees' time punches. In California, rounding policies are permissible if the rounding policy is "fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.'" *See's Candy, Inc. v. Superior Court* (2012) 210 Cal. App. 4th. 889, 907. VECTOR has an unlawful rounding practice that is not fair and neutral in practice. VECTOR's rounding policy results in Mr. O'Shea and the aggrieved employees' systematically being undercompensated. Because Mr. O'Shea and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

Additionally, VECTOR has had a continuous policy of not paying Mr. O'Shea and the aggrieved employees for all hours worked in that VECTOR continuously and consistently clocked Mr. O'Shea and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Mr. O'Shea and the aggrieved employees work through their meal periods, were unable to take meal periods, and/or were not free from all work duties and employer controls during meal periods. Thus, VECTOR shaves/steals earned wages from Mr. O'Shea and the aggrieved employees every day they work without a meal period and have time deducted. Because Mr. O'Shea and the aggrieved employees work shifts lasting over eight (8) hours, these unpaid hours would qualify for the overtime rate.

In addition, Mr. O'Shea and the aggrieved employees were deprived of wages for all overtime hours worked because VECTOR failed to pay Mr. O'Shea and the aggrieved employees at the appropriate regular rate of pay for all overtime hours worked. Specifically, VECTOR failed to incorporate payment for all hours worked and bonuses employees were paid when calculating employees' regular rate of pay for purposes of paying overtime compensation. Mr. O'Shea and the

aggrieved employees are paid non-discretionary performance bonuses, yet these bonuses were not included in employees' regular rate of pay.

These claims are on behalf of Mr. O'Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O'Shea, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

III. VECTOR Failed to Provide Lawful Meal Periods

Under *California Labor Code* section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

VECTOR fails to provide full thirty (30) minute meal periods to Mr. O'Shea and the aggrieved employees no later than the fifth hour of work.

Alternatively, VECTOR breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Mr. O'Shea and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by VECTOR, thereby denying Mr. O'Shea and the aggrieved employees of the right to be completely free from employer control under California law.

Further, VECTOR instituted a consistent policy/practice of not providing second meal periods to Mr. O'Shea and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Mr. O'Shea and the aggrieved employees are required to work shifts over ten (10) hours long but never received second meal periods.

In addition, VECTOR fails to keep accurate records of meal periods. Instead of having employees record all of own their hours worked, including meal period time, VECTOR has supervisors record some of the time for the employees they supervise. This leads to employees having inaccurate times recorded, including meal period time.

By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, VECTOR willfully violated the provisions of *California Labor Code* sections 226.7 and 512.

These claims are on behalf of Mr. O'Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O'Shea, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. O'Shea has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* sections 226.7 and 512.

IV. VECTOR Failed to Provide Lawful Rest Periods

VECTOR has had a consistent policy and/or practice of not providing duty free paid ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Mr. O'Shea and the aggrieved employees.

Industrial Welfare Commission Order No. 4-2001 section 11(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. . . . The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours worked, or major fraction thereof."

VECTOR breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring Mr. O'Shea and the aggrieved employees to work through their rest periods to satisfy the demanding workload duties imposed by VECTOR, thereby denying Mr. O'Shea and the aggrieved employees of the right to be completely free from employer control under California law.

Additionally, VECTOR has a continuous policy and practice that fails to provide Mr. O'Shea and the aggrieved employees with rest periods at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. Specifically, VECTOR does not provide Mr. O'Shea and the aggrieved employees with rest periods consisting of a net ten (10) minutes, nor does VECTOR provide them with a rest period per four (4) hours worked or major fraction thereof.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, VECTOR willfully violated the provisions of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 4-2001 section 11(A).

These claims are on behalf of Mr. O'Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O'Shea, as a non-exempt employee who was unlawfully deprived of paid ten-minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. O'Shea has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section

2699.5 and Industrial Welfare Commission Order No. 16-2001 section 18 for violations of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 16-2001 section 11(A).

V. VECTOR Failed to Pay All Wages Due at Termination and During Employment

VECTOR willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left VECTOR'S employ or who were terminated.

Mr. O'Shea and aggrieved employees who ended their employment with VECTOR during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' 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.

VECTOR has a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving VECTOR's employ.

During the relevant time period, VECTOR intentionally and willfully failed to pay the aggrieved employees who are no longer employed by VECTOR their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving VECTOR's employ.

Mr. O'Shea's employment with VECTOR was terminated on or about April 3, 2023, yet VECTOR failed to provide Mr. O'Shea his final wages in accordance with *California Labor Code* sections 201 through 203.

As discussed above, VECTOR has a continuous policy of not paying Mr. O'Shea and similarly aggrieved employees for all hours worked in that VECTOR has not paid for all the time Mr. O'Shea and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before "shifts" start, after "shifts" end, during meal periods, and/or any other time in the day when the employees were performing work tasks, subject to the control of VECTOR and/or otherwise had work duties that went unpaid.

In addition, VECTOR failed to pay all meal and rest period premiums owed to Mr. O'Shea and the aggrieved employees.

VECTOR's failure to pay the aggrieved employees who are no longer employed by VECTOR their wages, that were earned and unpaid, at the time of termination or within seventy-two hours of their leaving VECTOR's employ, is in violation of *California Labor Code* sections 201 and 202.

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

These claims are on behalf of Mr. O'Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O'Shea, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

VI. VECTOR's Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions

Section 226(a) of the *California Labor Code* requires VECTOR to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Mr. O'Shea and the aggrieved employees.

California Labor Code section 226 subdivision (a) requires that VECTOR, at the time of each payment of wages, "furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee..."

California Labor Code section 226, subdivision (a) also requires that "deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California" to itemize in wage statements and to accurately report the total hours worked and total wages earned.

VECTOR has knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Mr. O'Shea and the other aggrieved employees.

VECTOR knowingly and intentionally did not include the gross wages earned on wage statements. VECTOR therefore knowingly and intentionally failed to itemize the gross wages earned on Mr.

O'Shea's and the aggrieved employees' wage statements.

In every pay period during the period of the relevant statute of limitations, VECTOR knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, VECTOR knowingly and intentionally did not include the total hours worked on wage statements. VECTOR therefore knowingly and intentionally failed to itemize the total hours worked on Mr. O'Shea's and the aggrieved employees' wage statements. Further, Mr. O'Shea and the aggrieved employees are unable to determine the total hours worked based on the data provided on their wage statements.

As discussed above, VECTOR has a continuous policy of not paying Mr. O'Shea and similarly aggrieved employees for all hours worked in that VECTOR has not paid for all the time Mr. O'Shea and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before "shifts" start, after "shifts" end, during meal periods, and/or any other time in the day when the employees were performing work tasks, subject to the control of VECTOR and/or otherwise had work duties that went unpaid, and, thus, are owed wages for time during which they are subject to VECTOR's control and during which they are not free from all work duties. As VECTOR knew or had reason to know Mr. O'Shea and the aggrieved employees were owed compensation for this time, VECTOR knowingly and intentionally failed to comply with *California Labor Code* Section 226, subdivision (a).

In addition, VECTOR failed to pay all meal and rest period premiums owed to Mr. O'Shea and the aggrieved employees.

Further, in every pay period during the period of the relevant statute of limitations, VECTOR knowingly and intentionally did not include the name of the legal entity that is the employer on employees' wage statements. In every pay period during the period of the relevant statute of limitations, VECTOR also knowingly and intentionally did not include the full address of the legal entity that is the employer on employees' wage statements.

In every pay period during the period of the relevant statute of limitations, VECTOR knowingly and intentionally did not itemize the amount of sick leave available for use on employee's wage statements in violation of *California Labor Code* section 246(i).

Throughout the statutory period, as a result of the knowing and intentional failure by VECTOR to comply with itemized employee wage statement provisions, Mr. O'Shea and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Further, in addition to any penalties levied upon VECTOR for its failure to comply with *California Labor Code* section 226 subdivision (a)'s requirement to provide Mr. O'Shea and the aggrieved employees accurate, itemized wage statements, *California Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *California Labor Code* section 226 subdivision (a) requires VECTOR to maintain records that "accurately shows all of the information required by this subdivision." VECTOR has violated its

statutory duty to maintain records for Mr. O'Shea and the aggrieved employees that contain all of the information under *California Labor Code* section 226(a)(1) through (9).

These claims are on behalf of Mr. O'Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O'Shea, as a non-exempt employee who VECTOR failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr. O'Shea has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226 and 226.3.

VII. VECTOR Failed to Reimburse Employees for Business Expenses

Section 2802(a) of the *California Labor Code* requires "[a]n employer [to] indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

Mr. O'Shea and the aggrieved employees incurred expenses in the discharge of their duties without receiving reimbursement from VECTOR. These expenses include, but are not limited to, having to use their personal cell phones for business purposes. VECTOR requires Mr. O'Shea and the aggrieved employees to clock in and out for work through the ADP application on their personal cell phones. VECTOR fails to reimburse Mr. O'Shea and the aggrieved employees for this expense.

California Labor Code section 2802(a) entitles Mr. O'Shea and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

These claims are for Mr. O'Shea and all similarly situated non-exempt employees who worked for VECTOR in California.

Mr. O'Shea is an aggrieved employee with standing to bring an action under the PAGA. Furthermore, Mr. O'Shea satisfies all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802(a).

VIII. VECTOR Failed to Provide Paid Sick Days

Section 246(a) of the *California Labor Code* requires "an employee who, on or after July 1, 2015, works in California for the same employer for thirty (30) or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, "an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later."

California Labor Code section 246(k) provides that, "[a]n employee may determine how much

paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.”

California Labor Code section 246(i) requires that, “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

California Labor Code section 233(c) states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5” *California Labor Code* section 233(d) provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate equitable relief.”

California Labor Code section 234 further forbids employers from adopting an “absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

VECTOR operates under an absence control policy that counts sick leave taken pursuant to *California Labor Code* section 233 as an unexcused absence. Thus, VECTOR’s sick pay policy punishes employees for use of protected and appropriate sick leave. VECTOR further failed to provide paid sick days for all hours worked in compliance with these sections.

In addition, VECTOR does not provide employees with written notice that sets forth the amount of sick leave available for use, either in employees’ itemized wage statements or in a separate writing provided to employees on the designated pay date.

These claims are on behalf of Mr. O’Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O’Shea, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 246 and 247.5.

IX. VECTOR Failed to Pay Employees Twice Per Month

Section 204(a) of the *California Labor Code* required VECTOR to pay Mr. O’Shea and the aggrieved employees twice during each calendar month.

California Labor Code section 226 subdivision (a) provides “[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following month.”

During the relevant time period, VECTOR intentionally and willfully failed to pay Mr. O’Shea and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

VECTOR’s failure to pay Mr. O’Shea and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *California Labor Code* section 204.

These claims are on behalf of Mr. O’Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O’Shea, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 204.

III. VECTOR Failed to Pay Employees the Applicable Minimum Wage

Section 1197.1 of the *California Labor Code* states “[a]ny employer or other person acting individually as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties pursuant to Section 203.”

Industrial Welfare Commission Order No. 4-2001 section 4(A) states “[e]very employer shall pay to each employee wages not less than . . . fifteen dollars and fifty cents (\$15.50) per hour for all hours worked, effective January 1, 2023.”

Mr. O’Shea and the aggrieved employees who were employed by VECTOR during the last year were entitled to be paid the minimum wage for all time worked. By failing to pay for all work performed, as well as illegally deducting a portion of Mr. O’Shea’s and the aggrieved employees’ earned piece-rate commissions, VECTOR’s compensation to Mr. O’Shea and the aggrieved employees fell below the applicable minimum wage. VECTOR also pays employees during time that they are not performing bona-fide piece-rate work an hourly rate that is lower than the applicable minimum wage.

Mr. O’Shea and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are on behalf of Mr. O'Shea and all hourly, non-exempt employees who worked for VECTOR in the State of California.

Mr. O'Shea, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* sections 1194, 1197, 1197.1, 1199, and Industrial Welfare Commission Order No. 16-2001 section 4(A).

X. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. O'Shea will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,
MARA LAW FIRM, PC



David Mara, Esq.

Attn: PAGA Administrator
California Labor and Workforce Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Web Submission

Vatea Herman
6737 Mowry Avenue
Newark, CA 97035
Agent for Service of Process for Defendant Vector Laboratories, Inc.
Via Certified Mail

Vector Laboratories, Inc.
6737 Mowry Avenue
Newark, CA 94560
Via Certified Mail

1 **Case Name: Keith O'Shea v. Vector Laboratories, Inc.**

2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

4 I am employed in the County of: San Diego, State of California.

5 I am over the age of 18 and not a party to the within action; my business address is:
6 2650 Camino Del Rio N. Suite 302, San Diego, CA 92108

7 On June 6, 2023, I served the foregoing document(s) described as:

8 **NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION**
9 **2699.3**

10 On interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

11 **Vatea Herman**
12 6737 Mowry Avenue
13 Newark, CA 97035
14 Agent for Service of Process for Defendant
Vector Laboratories, Inc.
(Via Certified Mail)

Attn: PAGA Administrator
California Labor and Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(Via Electronic Filing)

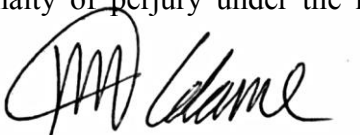
15 **Vector Laboratories, Inc.**
16 6737 Mowry Avenue
Newark, CA 94560
(Via Certified Mail)

17 **[XX] (BY UNITED STATES CERTIFIED MAIL)** On June 6, 2023, I enclosed the
18 documents in a sealed envelope or package addressed to the persons at the addresses
19 named above and deposited the sealed envelope with the United States Postal Service,
with the postage fully prepaid.

20 **[XX] (BY ELECTRONIC SUBMISSION)** On June 6, 2023, I caused the documents to be sent
21 to the persons at the electronic notification addresses of the parties named above. I did not
22 receive, within a reasonable time after the transmission, any electronic message or other
indication that the transmission was unsuccessful.

23 **[XX] (DECLARATION)** I declare under penalty of perjury under the laws of the State of
California that the above is true and correct.

24 Dated: June 6, 2023

25 
26 Mathew Adame
27
28

Thank you for submission of your PAGA Case.

From noreply@salesforce.com <noreply@salesforce.com>
on behalf of
LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Date Tue 6/6/2023 11:08 AM
To Matthew Adame <madame@maralawfirm.com>

6/6/2023

LWDA Case No. LWDA-CM-959998-23
Law Firm : Mara Law Firm, PC
Plaintiff Name : Keith O'Shea
Employer: Vector Laboratories, 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