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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JUAN MARCHELL KING, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

LOS ANGELES REGIONAL FOOD BANK, a
California corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 23STCV17761

*[Assigned for all purposes to the Honorable
Lawrence P. Riff, Dept. 7]*

**DECLARATION OF KANE MOON IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

*[Filed with Plaintiff's Notice of Motion and
Memorandum of Points and Authorities, the
Declaration of Plaintiff in Support of Motion,
and [Proposed] Preliminary Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: November 22, 2024

Time: 10:00 am

Dept.: 7

Action Filed: July 27, 2023

FAC Filed: October 31, 2023

Trial Date: Not Set

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I, KANE MOON, declare as follows:

1. I am an attorney at law duly licensed to practice as such before all Courts of the State of California and am one of the attorneys of record for Plaintiff Juan Marchell King (“Plaintiff”) and the putative Class. I have personal knowledge of the matters set forth herein and if called as a witness, I could and would testify competently to the facts described herein.

CASE BACKGROUND AND PROCEDURAL HISTORY

2. This is a wage and hour class and representative action for alleged Labor Code violations and claims for civil penalties pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* (“PAGA”). Plaintiff seeks to represent a class of all persons employed by Defendant Los Angeles Regional Food Bank (“Defendant”) (collectively, the “Parties”) in California and classified as non-exempt who worked for Defendant during the period from July 27, 2019 through September 1, 2024. (all as more particularly set forth in the Class Action and PAGA Settlement Agreement and Class Notice attached hereto as **Exhibit 1**), for various alleged violations of the California Labor Code. Defendant is a nonprofit organization. Plaintiff worked for Defendant from approximately May 2016 until about August 2022. Plaintiff was employed by Defendant as a forklift operator. Throughout his employment, Plaintiff was employed in an hourly paid, non-exempt position. Plaintiff contends that both he and his coworkers were subject to the same unlawful labor practices, including failure to pay wages for all hours worked.

3. Plaintiff's claim for unpaid wages is three-fold, stemming from Defendant's alleged unlawful time-rounding practice, required off-the-clock work, and Defendant's failure to accurately incorporate the regular rate of pay for overtime, sick, and meal premiums. Moreover, Plaintiff brings claims against Defendant for meal and rest period violations, and derivative claims for waiting time penalties, wage statement violations, unfair business practices, and civil penalties under PAGA.

4. Because of the foregoing alleged violations of various provisions of the Labor Code, Plaintiff filed a class action complaint on July 27, 2023, which, as amended, alleges Defendant systematically: (1) failed to pay minimum wages, (2) failed to pay overtime compensation, (3) failed to provide meal periods, (4) failed to authorize and permit rest periods, (5) failed to pay final wages at termination, (6) failed to provide

1 accurate itemized wage statements, (7) engaged in unfair business practices, and (8) violated civil penalty
2 provisions recoverable as PAGA penalties pursuant to Labor Code sections 2698, *et seq.*

3 5. On July 27, 2023, Plaintiff gave written notice to the California Labor and Workforce
4 Development Agency (the “LWDA”) of the alleged Labor Code violations, with certified mail service on
5 Defendant. A true and correct copy of Plaintiff’s PAGA Notice letter to Defendant and the LWDA is attached
6 hereto as **Exhibit 2**. On October 31, 2023, Plaintiff filed his first amended complaint adding a ninth cause of
7 action for civil penalties under PAGA, and subsequently submitted a copy to the LWDA in compliance with
8 Labor Code section 2699, subd. (l)(1). To date, the LWDA has not indicated its intent to investigate the
9 alleged violations or intervene in this Action.

10 6. Defendant opposes the merits of this case and denies Plaintiff’s factual allegations. Defendant
11 argues that the putative Class Members and Aggrieved Employees were paid all minimum and overtime
12 wages owed, and that its time-rounding practice did not harm them given that it was neutral on its face and
13 as applied, therefore lawful. Defendant maintains compliance with all its meal and rest period obligations and
14 asserts that employees were provided with compliant meal and rest breaks and were provided with options to
15 report issues related to noncompliant breaks. To the extent Class Members and Aggrieved Employees
16 received wage statements that were allegedly inaccurate, Defendant asserts that its alleged failure was neither
17 knowing nor intentional, and employees suffered no actual damage or harm as a result. (*See, e.g., Angeles v.*
18 *U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C 12–05860 CRB) 2013 WL 622032, at *10 [“A plaintiff
19 must adequately plead an injury arising from an employer’s failure to provide full and accurate wage
20 statements, and the omission of the required information alone is not sufficient.”].) With respect to Plaintiff’s
21 claim for waiting time penalties, Defendant alleges its good-faith belief that it paid all wages owed, precluding
22 the imposition of waiting time penalties since Plaintiff cannot prove Defendant’s alleged failure to pay all
23 final wages at the time of separation was “willful.” (*See, e.g., Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14,
24 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073, *5.) For these reasons, among others,
25 Defendant denies all Plaintiff’s claims and allegations, and further claims it did not engage in any unfair
26 business practices and denies liability under PAGA. Defendant also maintains the claims are improper for
27 class treatment, in part, due to the individualized and testimony-intensive nature of the wage claims that could
28 bar class certification or significantly reduce Defendant’s overall liability.

DISCOVERY AND INVESTIGATION

7. Following the filing of the complaint, the Parties then engaged in meet and confer efforts and an informal exchange of documents and information regarding the matter. The Parties later agreed to mediate the claims with Tripper Ortman, Esq., an experienced class action and PAGA mediator. In preparation for mediation, the Parties agreed to a protocol for an informal exchange of further documents and information. Prior to mediation, Plaintiff obtained from Defendant documents and data that was necessary and helpful to evaluate the claims asserted in this action. Defendant produced a statistically significant sample of time and pay records for the putative Class and Aggrieved Employees, Plaintiff's personnel file, and Defendant's written policies. Defendant also provided information regarding the estimated number of current and formerly employed Class Members, Workweeks, Aggrieved Employees, and PAGA Pay Periods.

8. In preparation for mediation, Plaintiff's Counsel reviewed and analyzed all the information Defendant provided, including the sample records and documents regarding Defendant's wage and hour policies. Plaintiff's Counsel retained a statistics expert to analyze the sample records and prepare a damage analysis prior to the mediation. The sample time and pay records analyzed contained approximately 50 individuals' time and pay data (representing roughly 20% of the total employees who worked during Class Period), which allowed Plaintiff's expert to prepare a damage analysis with a high degree of certainty. In conjunction with their extensive factual investigation, Plaintiff's Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. Accordingly, Plaintiff's Counsel were able to evaluate the probability of class certification, success on the merits, and Defendant's maximum and realistic monetary exposure for all claims. Thus, Plaintiff's and his Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement.

SETTLEMENT NEGOTIATIONS

9. On May 29, 2024, the Parties participated in a full day of private mediation before Tripper Ortman, Esq., an experienced, professional, and neutral class action mediator. The negotiations were at arm's length and, although conducted in a professional manner, were adversarial. The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. The Parties did reach a

1 settlement following mediation, the material terms of which have been memorialized within the Class Action
2 and PAGA Settlement Agreement and Class Notice (the “Settlement Agreement”), a true and correct copy
3 of which is attached hereto as **Exhibit 1**, which contains as **Exhibit A** thereto the Parties’ proposed Class
4 Notice.

5 10. To the best of my knowledge, I am not aware of any individual, representative, or class action
6 in this jurisdiction, or any other court or jurisdiction, asserting claims similar to those asserted in this
7 action on behalf of a class or group of individuals who would also be members of the putative Class or
8 Aggrieved Employees, as defined in this matter. I have come to this conclusion after a reasonable inquiry
9 and review of the LWDA’s PAGA Case Search website, this Court’s case search website, and other
10 information reasonably available online. Additionally, Defendant has not indicated there is any related
11 case pending as of the date of this declaration. As such, I am unable to name any case, the nature of any
12 claims asserted in such case, or the definition of a class of parties on whose behalf any action was brought
13 that would overlap with the putative Class or would otherwise be adversely affected by approval of this
14 Settlement.

15 11. In compliance with Labor Code section 2699, subdivision (1)(2), on DATE, Plaintiff’s Counsel
16 submitted to the LWDA a notice of settlement and a copy of the proposed Settlement. A true and correct copy
17 of the LWDA’s email confirming receipt thereof is attached hereto as **Exhibit 3**.

18 12. Class Members will not need to submit any claim form as a condition of receiving individual
19 settlement payments. (Settlement, ¶ 3.1.) Each Participating Class Member, who does not opt-out, will
20 receive a pro rata share of the Net Settlement Amount, which is calculated by dividing the Net
21 Settlement Amount by the total number of Workweeks worked by all Participating Class Members
22 during the Class Period and multiplying the result by each Participating Class Member’s Workweeks.
23 (Settlement Agreement, at ¶¶ 1.22, 3.2.4.) In addition, 20% of each Participating Class Member’s
24 Individual Class Payment will be allocated to the settlement of wage claims, and the remaining 80% will
25 be allotted to the settlement of claims for interest and penalties. (*Id.* at ¶ 3.2.4.1.) Similarly, each
26 Aggrieved Employee will receive a pro rata share of 25% of the PAGA Penalties, which the
27 Administrator will determine by dividing the amount of the Aggrieved Employees’ 25% share of PAGA
28 Penalties \$7,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved

1 Employees during the PAGA Period and multiplying the result by each Aggrieved Employee's PAGA
2 Period Pay Periods. (*Id.* at ¶¶ 1.23, 3.2.5.1.) The Aggrieved Employees will assume full responsibility
3 and liability for any taxes owed on their Individual PAGA Payment. (*Id.* at ¶ 3.2.5.1.)

4 13. The Settlement provides a fee application of not more than thirty-three and one third percent
5 (33.33%) of the Gross Settlement Amount for reasonable attorneys' fees, currently estimated to be
6 \$196,980.30, plus reimbursement for actual litigation costs not to exceed \$25,000.00, payable from the Gross
7 Settlement Amount. (*Id.* at ¶ 3.2.2.) In the event the amounts finally approved are less, the difference will
8 revert to Participating Class Members. (*Id.*) To date, my firm has incurred \$17,516.66 in costs, and a true and
9 correct copy of a report showing our to-the-date costs is attached hereto as **Exhibit 4**.

10 14. The Settlement includes a Class Representative Service Payment up to \$10,000.00 payable from
11 the Gross Settlement Amount, subject to the Court's approval, to Plaintiff as the Class Representative, in
12 addition to the amount he is eligible to receive as a Class Member and Aggrieved Employee. (*Id.* at ¶ 3.2.1.)
13 This award is for Plaintiff's time and effort, as well as his exposure to substantial risk, in bringing and
14 presenting the action, and for his general release of claims, both known and unknown, and waiver of section
15 1542 rights. (*Id.* at ¶¶ 1.14, 5.1.1.) In the event the award finally approved is less than the amount requested,
16 the Administrator will retain the remainder in the Net Settlement Amount. (*Id.* at ¶ 3.2.1.)

17 15. The Parties jointly appointed Simpluris - Legal Administration Services ("Simpluris") as the
18 neutral entity to administer this Settlement, agreed the Administrator will be paid the costs of administration
19 work from the Gross Settlement Amount, and estimated administration costs will not exceed \$7,000.00. (*Id.*
20 at ¶¶ 3.2.3., 7.1.) In the event the amount finally approved is less, the difference will revert to Participating
21 Class Members. (*Id.* at ¶ 3.2.3.) At this time, the Administrator estimates costs will not exceed \$7,000.00, and
22 a true and correct copy of the Administrator's costs estimate is attached hereto as **Exhibit 5**.

23 16. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary
24 to fully pay Defendant's share of payroll taxes, by transmitting the funds to the Administrator no later than
25 30 days after the Effective Date. (*Id.* at ¶ 4.3.)

26 **THE PROPOSED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

27 17. Plaintiff's Counsel have conducted a thorough investigation into the facts of this case. Based on
28 the foregoing document and information exchange and on their own independent investigation and

evaluation, Plaintiff's Counsel are of the opinion that the proposed Settlement is fair, reasonable, and adequate. Furthermore, considering all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, and the defenses that Defendant may assert both to certification and on the merits, the Settlement is in the best interest of the Class.

18. Based on Plaintiff's Counsel's review of the time, payroll, and additional data provided by Defendant, Plaintiff's expert's analysis of the sample records provided by Defendant, and information from Plaintiff, Plaintiff's Counsel evaluated the estimated maximum and risk-adjusted exposure that Defendant faced. At the time of mediation, there were an estimated: 251 Class Members who worked an aggregate of 29,115 Workweeks and 134,792 shifts at an average hourly rate of \$22.12. Additionally, there were an estimated: 76 former employees falling within the three-year statute of limitations ("SOL") period for waiting time penalties, 201 employees falling within the two-year SOL period for inaccurate wage statement penalties and PAGA penalties, and 6,446 PAGA Pay Periods.

Accordingly, we calculated Defendant's potential exposure as follows:

Claim	Relevant Time Period	Rate	Number of Violations	Exposure
Unpaid Wages (Due to Rounding)	29,115 workweeks / 134,792 shifts	\$22.12 average rate	1,537.33 net unpaid hours (includes reg + OT + DT hours)	Maximum: \$46,342.00 Realistic: \$23,171.00*
Unpaid Wages (Due to Off the Clock Work)	29,115 Workweeks / 134,792 shifts	\$22.12 average rate	11,232 net unpaid hours (assuming 5 minutes per shift) (87.9% OT)	Maximum: \$357,646.42 Realistic: \$35,764.64***
Unpaid Overtime Wages, Meal Break Premiums, and Sick Pay (Regular Rate Issue)	29,115 workweeks / 134,792 shifts	\$22.43 average regular rate	Based on expert analysis of records	Maximum: \$43,891.00 Realistic: \$8,778.20**
Meal Period Violations	29,115 workweeks / 134,792 shifts	\$22.12 average rate	17,926 unique meal break violations (with meal break waivers)	Maximum: \$396,523.12 Realistic:

				\$79,304.62**
Rest Period Violations	29,115 workweeks / 134,792 shifts	\$22.12 average rate	130,686 rest break violations (assumes 100% violations rate for shifts of at least 3.5 hours)	Maximum: \$2,890,774.32 Realistic: \$289,077.43***
Labor Code § 203	Based on approx. 76 terminated employees within the 3-year SOL	\$22.12 average rate /30-day max.	Violations based on analysis of records by expert (assumes 8.2 hours per day and 30 day max)	Maximum: \$415,424.00 Realistic: \$41,542.40***
Labor Code § 226	Based on approx. 201 employees within the 1-year SOL	\$50 per initial pay period /\$100 per subsequent pay periods /\$4,000 employee max.	6,446 pay periods within the 1-year SOL	Maximum: \$634,550.00 Realistic: \$63,455.00***
PAGA	Based on approx. 201 employees within the 1-year SOL	\$100 per pay period	Based on 6,446 pay periods within the 1-year SOL	Maximum: \$644,600.00 Realistic: \$64,460.00***
Total				Maximum: \$5,429,750.80 Realistic: \$605,553.29
*These figures are discounted based on a 50% probability of prevailing at class certification and on the merits. ** These figures are discounted based on a 20% probability of prevailing at class certification and on the merits. *** These figures are discounted based on a 10% probability of prevailing at class certification and on the merits.				

19. The Settlement is fair to all parties involved, meeting the requirements of Labor Code § 2699(l)(2) and the standards established in Williams v. Superior Court (2017) 3 Cal.5th 531, 549.

20. Plaintiff's unpaid wages claim is in part based on the fact that Defendant did not compensate Class Members for all hours worked. Specifically, Defendant rounded Class Members' time entries, which resulted, over the period, in underpayment of wages. A review of the sample records shows that on account of Defendant's time rounding practices, there were approximately 1,537.33 total unpaid hours during the

Class Period. Accordingly, Defendant's **maximum estimated exposure is \$46,342.00**. However, Defendant denies Plaintiff's claims and further argues that its alleged time-rounding practice was neutral on its face and as applied, therefore lawful, as it also led to overpayments for some putative Class Members. A review of the sample records indeed shows that about 30% of the employees were overpaid their wages due to rounding. Notwithstanding, the records also show that a disproportionate number of employees were negatively impacted by Defendant's time rounding practices. Because of this, we determined Defendant's time-rounding practice was not neutral on its face. Although I believe there is merit to this claim, I acknowledge there is some risk with certifying this claim and proof on the merits. Accordingly, I applied a 50% discount to the maximum exposure figure, arriving at **a realistic damage estimate of \$23,171.00 for the unpaid rounding claim.**

21. As discussed above, Plaintiff's claim for unpaid wages is also based on allegations that Defendant failed to compensate Class Members for off-the-clock hours worked. Specifically, Plaintiff asserts that he and Class Members were required to perform certain pre-clock-in activities, such as preparing the forklift for use, and had to wait in line to clock in each day. Additionally, many timeclocks were non-operational and spread over an area approximately the size of a football field, causing Plaintiff and Class Members to spend extra unpaid time walking to find functioning timeclocks. This resulted in an estimated 11,232 total underpaid off-the-clock hours during the Class Period. Accordingly, Defendant's **maximum estimated exposure is calculated to be \$357,646.42**. While I recognize the merit in this claim, I acknowledge the risk involved in certifying it and proving its merits, particularly given the variability in off-the-clock work among individuals. Specifically, the claim assumes that each shift includes 5 minutes of off-the-clock work due to delays from waiting in line to clock in and out, performing certain pre-clock-in activities, and walking to find operational timeclocks. In recognition that actual pre-clock-in activities, wait times, and walk times may vary among Plaintiff and Class Members, I applied a 90% discount to the maximum exposure figure to account for these uncertainties. This adjustment leads to **a more realistic damage estimate of \$35,764.64.**

22. As discussed above, Plaintiff's unpaid overtime claim also arises from allegations that Defendant failed to include all forms of remuneration in Class Members' regular rate of pay for calculating overtime, meal break premiums, and sick pay. A review of sample records indicates that Defendant maintained a

1 quarterly incentive program for Plaintiff and Class Members, but these non-discretionary incentives were not
2 retroactively included in the overtime pay, meal break premium pay, and sick pay calculations. The result is
3 an **estimated maximum exposure of \$43,891.00**. However, Defendant denies Plaintiff's claim and
4 maintains that any additional remuneration paid to Plaintiff and the Class Members was discretionary. While
5 I acknowledge the merit of this claim, there is considerable risk associated with certifying and proving it.
6 Consequently, I applied a 50% discount to the maximum exposure figure, arriving at a **more realistic**
7 **damage estimate of \$8,778.20 for the unpaid regular rate claim.**

8 23. As discussed above, Plaintiff's meal period claim is based on allegations that meal breaks were
9 sometimes late, shorter than required, or missed entirely. A review of the records indicates that out of shifts
10 greater than 6 hours, 17,977 (97.8%) had a recorded meal break, with 13,731 (76.4%) being exactly 30
11 minutes long. However, the sample of records also shows that 2,089 breaks (11.6%) were recorded after the
12 end of the 5th hour, and 395 shifts (2.2%) had no recorded meal break. Additionally, 175 breaks in the sample
13 records (1.0%) were shorter than 30 minutes. Assuming a 100% violation rate for missed or late breaks, the
14 **maximum estimated exposure is calculated at \$396,523.12**. However, the Defendant argues that its meal
15 break policies are compliant and that it provides employees with options to report issues related to short, late,
16 and missed breaks. In fact, the sample records also show that during the Class Period, Defendant paid
17 \$161,313.00 in meal break premiums. Therefore, Defendant contends that all meal breaks were taken in
18 accordance with the policy and that for the instances where no premiums were paid, it was individual
19 employee's choice to forgo a complaint meal and/or rest breaks. Finally, the Defendant further claims that
20 this issue is not suitable for class treatment due to the individualized nature of meal break experiences and the
21 damages involved. While there is some merit to the claim, certifying and proving it presents significant risks,
22 as it would require extensive individual declarations that could highlight varying experiences among class
23 members. Consequently, I applied an 80% discount to the maximum exposure figure, resulting in a **realistic**
24 **damage estimate of \$79,304.62 for the meal period claim.**

25 24. As discussed above, Plaintiff's rest period claim is based on allegations that Defendant
26 prohibited Plaintiff and Class Members from leaving the work premises during rest breaks, thus failing to
27 relinquish full control over employees as is required under California law. In addition, though Defendant's
28 meal break policies clearly state that Defendant will relinquish all control over employees during meal breaks,

the rest break policies are silent on the issue. As such, 130,686 violations are presumed to have occurred (assuming 100% violation rate for shifts of at least 3.5 hours), yielding an **estimated maximum exposure of \$2,890,774.32**. However, Defendant asserts that notwithstanding the omission in their policies, Plaintiff and Class Members were provided all rest breaks in compliance with California law and that any violations were due to employee waiver. Defendant further argues that this claim is improper for class treatment, in part, given the individualized nature of assessing non-compliant rest periods and resulting damages. I acknowledge the foregoing presents significant risk with certifying this claim and proof on the merits. Certification and proof of this claim would require declarations from almost all Class Members and obtaining such declarations potentially would reveal that each Class Member had a different experience with respect to rest periods. Accordingly, I applied a 90% discount to the maximum exposure figure to arrive at a **realistic damage estimate of 289,077.43** for the rest period claim.

25. With respect to Plaintiff's derivative claims for statutory and civil penalties, Plaintiff estimates Defendant's **maximum potential exposure, prior to risk-adjustment, is \$1,694,574.00**, which breaks down as follows: **\$415,424.00** for waiting time penalties for approximately 76 terminated Class Members in the 3-year SOL; a **\$634,550.00** penalty for inaccurate wage statements based on approximately 201 Class Members in the 1-year SOL; and **\$644,600.00** for PAGA penalties based on approximately 6,446 Pay Periods and the Court assessing a \$100 penalty for each pay period containing a violation. However, I believe it would be unrealistic to expect the Court to award the full exposure amount given the discretionary nature of awarding penalties and given Defendant's defenses, including without limitation, that any failure to pay all final wages at the time of separation was not willful or intentional and that to the extent Plaintiff received wage statements that were allegedly inaccurate, Plaintiff suffered no actual resulting damage or harm. Moreover, I understand the individualized and testimony-intensive nature of the wage claims could bar class certification or otherwise significantly reduce Defendant's overall liability for statutory and civil penalties. Furthermore, considering the underlying wage claims are realistically estimated to be \$246,549.79, awarding such a disproportional amount in penalties would also raise Due Process concerns. Weighing these factors, I applied a 90% discount to each penalty (resulting in **\$41,542.40** for waiting time penalties, **\$63,455.00** for inaccurate wage statement penalties, and **\$64,460.00** for PAGA penalties) and accordingly arrived at a **realistic damage estimate of \$169,457.40.00 for statutory and civil penalties**.

26. Using these estimated figures, Plaintiff predicted **the realistic (risk-adjusted) recovery for all claims, including penalties, is \$605,553.29**. This means **the \$591,000.00 gross settlement figure represents roughly 97.6% of the total realistic recovery**. This is an outstanding result for the Class and Aggrieved Employees, as it not only maximizes their financial recovery but also ensures timely and guaranteed relief, avoiding the risk of not being able to recover anything. Moreover, the Settlement includes an escalator clause whereby should the actual number of Workweeks exceed 32,522.6 (10% of the total 29,566 workweeks), Defendant will increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Workweeks worked by Participating Class Members above 10%. (Settlement, ¶ 8.)

27. With regard to the PAGA claims, Plaintiff and his Counsel believe the Settlement is a fair and reasonable resolution that satisfies PAGA’s dual statutory purposes of deterrence and punishment, on the one hand, and providing Aggrieved Employees with genuine and meaningful relief, on the other. (Lab. Code §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage in both formal and informal discovery, and participate in mediation. Defendant is also now having to pay civil penalties to the LWDA under the Settlement, assuming final settlement approval is granted. (Settlement, ¶ 3.2.5.) Not including its own attorneys’ fees and costs as well as the employer’s share of payroll taxes, Defendant will pay no less than \$591,000.00 to resolve this matter—of which \$30,000.00 is allocated toward the PAGA claims and will be distributed, in compliance with Labor Code section 2699 as 75% (\$22,500.00) to the LWDA and 25% (\$7,500.00) to Aggrieved Employees—and the release obtained under the Settlement does not preclude Aggrieved Employees from seeking remedies based on any underlying individual claims they may have against Defendant or the other Released Parties. (Lab. Code § 2699(i).) Further, the \$30,000.00 total amount allocated for the released PAGA Claims represents roughly **46.5%** of *the total realistic recovery* estimated for the alleged PAGA claims (\$64,460.00) at the time of mediation. Moreover, Plaintiff’s Counsel are of the opinion that because the issues here are fairly contested, there is a possibility of the Court not awarding the PAGA penalties even if Plaintiff prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. Indeed, under Labor Code section 2699, subdivision (e)(2), a Court can reduce PAGA penalties “if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or

confiscatory.” (Lab. Code § 2699(e)(2).) In other words, were this matter to go to trial, any award granted would be at the discretion of the Court and subject to a substantial reduction.

28. While Plaintiff is confident in the merits of his claims, a legitimate controversy exists as to each cause of action. Plaintiff also recognizes that proving the amounts of wages owed to each Class Member would be an expensive, time-consuming, and uncertain proposition.

29. The Settlement obviates the significant risk that this Court may deny certification of all or some of Plaintiff’s claims. Furthermore, even if Plaintiff was able to pursue his claims on a class-wide basis and obtain certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the Class and Aggrieved Employees.

30. This Settlement avoids the risks, burdens, and the accompanying expense of further litigation. Although the Parties have engaged in a significant amount of investigation, informal discovery, and class-wide data analysis, they have not conducted extensive formal discovery, including depositions. Moreover, preparation for class certification and a trial would remain for the Parties as well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or any summary judgment ruling. As a result, the Parties would incur considerably more attorneys’ fees and costs through trial.

31. The Net Settlement Amount available for settlement payments is estimated to be *no less than* **\$322,019.70** for an estimated Class of **251 individuals**.¹ (Settlement, ¶ 3.1.) As a result, it is estimated each Participating Class Member will receive an average gross benefit of approximately **\$1,282.95**. (Settlement, ¶ 3.2.4.1.) Considering Class Members’ average hourly rate is \$22.12, the average benefit is roughly **58 hours of work** per Class Member. Additionally, it is currently estimated there are **201 Aggrieved Employees** who will receive an estimated average of approximately **\$37.31** from their \$7,5000.00 total share of the PAGA Penalties. (Settlement, ¶ 4.1.) The actual amounts to Participating Class Members and Aggrieved Employees will vary based on each individual’s duration of work during the Class Period or PAGA Period, respectively;

¹ The Net Settlement Amount is at least \$591,000.00 less the following: \$10,000.00 for the Class Representative Service Payment, \$7,000.00 for Administration Expenses Payment, \$30,000.00 for the PAGA Penalties to the LWDA and Aggrieved Employees, \$196,980.30 for the Class Counsel Fees Payment, and up to \$25,000.00 for the Class Counsel Litigation Expenses Payment. (Settlement, ¶¶ 3.2.1-3.2.5.)

1 thus, those who worked longer will receive a gross benefit greater than the average estimated amount. At this
2 time, the high and low range of payments to Class Members is unknown. These ranges will be calculated by
3 the Administrator following preliminary approval and receipt and processing of the Class List and will be
4 provided to the Court in a motion for final approval. (Settlement, ¶¶ 3.2.4, 3.2.5.1.)

5 32. The proposed Settlement of \$591,000.00 therefore represents a substantial recovery when
6 compared to Plaintiff's reasonably forecasted recovery. When considering the risks of litigation, the
7 uncertainties involved in continued litigation, the burdens of proof necessary to establish liability, and the
8 probability of appeal, it is clear the Settlement amount of \$591,000.00 is within the "ballpark" of
9 reasonableness, and that preliminary settlement approval is both appropriate and fair to Plaintiff, Class
10 Members, and Aggrieved Employees.

11 THE SETTLEMENT IS FAIR TO ALL AFFECTED PARTIES

12 33. Beyond just the Plaintiff, Class Members, and Aggrieved Employees, the Gross Settlement
13 Amount is also fair and just to all other affected parties in accordance with the requirements set forth under
14 Labor Code § 2699(l)(2) and the precedent established in *Williams v. Superior Court* (2017) 3 Cal.5th 531,
15 549.

16 34. Specifically, the Settlement respects the role of the Labor and Workforce Development
17 Agency ("LWDA") by addressing the statutory claims the agency could have pursued but ultimately
18 chose not to. This alignment with the LWDA's interests ensures that public enforcement objectives are
19 upheld, promoting compliance with labor laws and enhancing protections for all employees in the state
20 of California.

21 35. For the Defendant, the Settlement provides a practical resolution that mitigates the risks and
22 costs associated with prolonged litigation, without placing an undue burden on the company. The
23 \$591,000 Gross Settlement Amount represents a reasonable 97.6% of their realistic exposure and is not
24 intended to bankrupt them. By agreeing to this Settlement, the Defendant also avoids the unpredictability
25 of trial outcomes and can focus on improving its practices, demonstrating a commitment to addressing
26 the issues raised in this Action.

27 36. Furthermore, the settlement acknowledges the contributions of Plaintiff's counsel by
28 providing reasonable compensation for their efforts, indicative of their high level of experience and

1 expertise in the field, which is discussed further below. This compensation is fair to all parties, given the
2 complexity and subject matter of the case and the successful resolution achieved for the Class Members
3 and Aggrieved Employees. Additionally, by appropriately compensating counsel, the Settlement
4 reinforces the broader policy objective of ensuring effective representation for Class Members and
5 Aggrieved Employees in addressing and defending valid claims for wage and hour violations.

6 THE CLASS REPRESENTATIVE SERVICE PAYMENT TO PLAINTIFF IS REASONABLE

7 37. Under the Settlement Agreement, subject to the Court's approval, Defendant agrees to pay an
8 enhancement payment in the amount of \$10,000.00 to Plaintiff. (Settlement, ¶ 3.2.1.) Throughout this
9 litigation, Plaintiff, who was a former employee of Defendant, has cooperated immensely with my office
10 and has taken many actions to protect the interests of the Class. Plaintiff provided valuable information
11 regarding his hours worked, and what duties were performed during those hours. Plaintiff also provided
12 information regarding meal periods taken and missed by Plaintiff and other Class Members and
13 Aggrieved Employees. Plaintiff participated in decisions concerning this action, assisted in preparation
14 for the mediation, and provided my office with the names and contact information of potential witnesses
15 in this action. Before we filed this case, Plaintiff worked with my office to determine the viability of his
16 claims. Plaintiff also provided information and documents relating to his employment by Defendant. The
17 information and documentation provided by Plaintiff was instrumental in establishing the wage and hour
18 violations alleged in this action, and the recovery provided for in the Settlement would have been
19 impossible to obtain without his undivided commitment and participation.

20 38. At the same time, Plaintiff faced many risks in adding himself as the named Plaintiff in this
21 matter. Plaintiff faced actual risks with his future employment, as putting himself on public record in an
22 employment lawsuit could also very well affect his likelihood for future employment. For example, a search
23 of Plaintiff's name will reveal this action, and as a result, many employers may likely forego hiring
24 Plaintiff in learning he sued a former employer. In turn, Class Members and Aggrieved Employees can now
25 participate in a settlement, reimbursing them for wage violations they may have never known about or been
26 willing to pursue on their own. If each Class Member and Aggrieved Employee would have tried to pursue
27 legal remedies on their own, that would have resulted in each having to expend a significant amount of their
28

own monetary resources and time, not to mention limited judicial resources, which were obviated by Plaintiff putting himself on the line on behalf of the Class and Aggrieved Employees.

39. In the final analysis, this class and representative action would not have been possible without the aid of Plaintiff, who put his own time and effort into this litigation and placed himself at risk for the sake of the Class. The requested service payment to Plaintiff for his service as the Class Representative is a relatively small amount of money considering the time and effort put into the litigation and compared to enhancements granted in other class actions. Indeed, a 2006 study examining the average incentive award given to class action plaintiffs from 1993 to 2002 found that named plaintiffs in employment discrimination class actions received an average award of \$69,850 and a median award of \$31,081, while named plaintiffs in other employment class actions received an average award of \$12,121 and a median award of \$13,059. (Theodore Eisenberg & Jeffrey P. Miller, “Incentive Awards to Class Action Plaintiffs: An Empirical Study”, 53 UCLA L. Rev. 1303, 1334.) The authors of the study found that higher awards in employment cases reflected the “courts” wish to make representative plaintiffs whole by compensating them for the high costs of their service to the group, including risks of stigmatization or retaliation on the job. (*Id.* at 1308.) The requested service payment of \$10,000.00 is therefore reasonable to compensate Plaintiff for his active participation in this lawsuit, in addition to his general release of claims, both known and unknown, and waiver of section 1542 rights.

MY EXPERIENCE AND QUALIFICATIONS

40. I received a B.A. in History in 1998 from UCLA, and my J.D. from Loyola Marymount Law School in 2006. I became an Active Member of the State Bar of California in June 2007 and have been an Active Member in good standing continuously since then. I have been selected to Super Lawyers each year from 2019 to 2023.

41. I co-founded Moon & Yang, APC—now Moon Law Group, PC—in March 2010. My practice is focused exclusively on advocating for the rights of employees in wage and hour litigation, almost entirely in class and/or representative actions.

42. For the past decade, I have built my practice to have an emphasis on employment and related civil litigation cases and have both prosecuted and defended employment-related litigation cases. I have been heavily, successfully, and continuously involved in active litigation and trial work, and have conducted bench

1 and jury trials on behalf of both employees and employers in wage and hour cases. My current billing rate is
2 \$900.00 per hour, which is my usual hourly rate in wage and hour litigations.

3 43. I am experienced in prosecuting and defending employment matters, particularly class actions
4 and PAGA representative actions. My firm has focused a substantial percentage of its practice on wage, hour,
5 and working conditions violations. In addition to the present case, I am also class counsel for other wage and
6 hour class action lawsuits pending in various California counties, including in state and federal courts. The
7 following is a list of some of our recent class action settlements that have received preliminary and final
8 approval: *Aparicio v. Lineage Logistics, LLC* (LASC No. BC722764) (class size approx. 155; lead counsel);
9 *Black v. Mission Healthcare Servs., Inc.* (LASC No. 19STCV04602) (class size approx. 1,000; lead counsel);
10 *Campa v. Bloomingdeals, Inc.* (LASC No. BC700366) (class size approx. 1,500; lead counsel); *Garcia v.*
11 *Comfy U.S.A. Apparel, Inc.* (LASC No. BC709630) (class size approx. 210; lead counsel); *Gomez v. H Mart*
12 *Cos., Inc.* (LASC No. BC671525) (class size approx. 2,500; co-counsel); *Jones v. Citiguard, Inc.* (LASC No.
13 BC664890) (class size approx. 587; lead counsel); *Jones v. Fitness Alliance, LLC* (Riverside No.
14 PSC1404079) (class size approx. 1,000; lead counsel); *Lagos v. ThyssenKrupp Elevator Corp.* (LASC No.
15 BC682972) (\$750,000 for 79 class members; lead counsel); *Mark Brulee et al. v. DAL Global Servs., LLC*
16 (C.D. Cal. Dec. 20, 2018, No. CV 17-6433 JVS(JCGx)) 2018 WL 6616659, at *10 (class size approx. 2,650;
17 lead counsel) (in approving my hourly rate in that case, the Court found: “Class Counsel’s declarations show
18 that the attorneys are experienced and successful litigators. Other courts have approved the attorneys’ current
19 rates for the Moon & Yang, APC attorneys”); *Martinez v. Bail Hotline Bail Bonds, Inc.* (LASC No.
20 BC700131) (class size approx. 173; lead counsel); *Montoya v. Golden 1 Credit Union* (Sacramento No. 34-
21 2018-00228252) (class size approx. 1,900; lead counsel); *Onofre v. Caitac Garment Processing, Inc.* (LASC
22 No. BC702283) (class size approx. 750; lead counsel); *Rodriguez v. Rossmoyne, Inc.* (LASC No. BC699137)
23 (class size approx. 220; lead counsel); *Sison v. Cha Hollywood Med. Ctr., L.P.* (LASC No. BC6441 29) (class
24 size approx. 2,100; co-counsel); *Slaughter v. ACA Sec. Stems, LP* (LASC No. BC699137) (class size approx.
25 300; lead counsel); *Taylor v. Sherman’s Delicatessen & Bakery, LLC* (LASC No. BC722765) (class size
26 approx. 515; lead counsel); *Vargas v. AMS Paving, Inc.* (LASC No. BC722767) (case size approx. 260; lead
27 counsel); *Vertti v. Bagcraft Papercon III, LLC* (LASC No. 19STCV12729) (class size approx. 260; lead
28

counsel); and *Wallick v. Campbell Soup Supply Co., LLC* (San Joaquin No. STK-CV-UOE-2021-0000865) (class size 435; lead counsel).

LILIT TER-ASTVATSATRYAN'S EXPERIENCE AND QUALIFICATIONS

44. Lilit Ter-Astvatsatryan is a Senior Associate attorney at Moon Law Group, PC. Since she was admitted to the California Bar, her practice has exclusively focused on labor and employment class action lawsuits involving California and federal labor laws. Prior to her employment at Moon Law Group, PC, she worked at Setareh Law Group, where she worked with Senior Counsel and mentor H. Scott Leviant on over 80 class actions. Ms. Ter-Astvatsatryan's billing rate is \$700.00 per hour, which is her usual hourly rate in wage and hour litigations.

45. Mr. Ter-Astvatsatryan received her Juris Doctor from the University of California, Hastings College of the Law in 2017, where she served as a Symposium Editor for the Hastings Race and Poverty Law Journal and a Teaching Assistant to the Legal Research & Writing and Legal Analysis programs. In law school, she served as a Judicial Extern to the Honorable Patrick J. Walsh of the United States District Court, Central District of California.

46. Ms. Ter-Astvatsatryan received her undergraduate degree in 2014 from the University of California, Los Angeles with a Bachelor of Arts degree in Anthropology and a minor in English Literature.

47. As a senior associate working solely on wage and hour class action cases, she has been involved in all aspects of complex litigation, including assisting in class certification motions in the following cases:

- (a) *Macario Gonzalez v. Metcon TI, Inc.*, Alameda Superior Court, Case No. RG19015589 [after class certification motion was filed, the parties attended mediation and ultimately resolved the matter on a class wide basis];
- (b) *Miguel Angel Lopez Cuadras v. R.C. Wendt Painting, Inc.*, Los Angeles Superior Court, Case No. BC705964 [after class certification motion was entirely briefed, the parties attended mediation and ultimately resolved the matter on class wide basis];
- (c) *Noe Armendariz v. Kinkisharyo International, LLC*, United States District Court, Central District of California, Case No. 2:19-cv-08757-JAK-KS [motion for class

certification filed, decision pending].

48. Additionally, the following is a list of cases where she briefed preliminary and final approval motions of class action settlements that were ultimately granted by each respective Court:

- (a) Ana Rose De Jesus, et al. v. Philippine National Bank, et al, Los Angeles Superior Court, Case No. BC673024;
- (b) Andres De La Riva Sotelo v. Belfor USA Group, Inc., Los Angeles Superior Court, Case No. BC688895;
- (c) Carlos Vertti v. Bagcraft Papercon III, LLC, et al., Los Angeles Superior Court, Case No. 19STCV12729;
- (d) Christopher Thurman v. Wanton Group SP, LLC, et al, Los Angeles Superior Court, Case No. 19STCV18772;
- (e) Francisca Velasco v. Paige, LLC, Los Angeles Superior Court, Case No. 19STCV12114;
- (f) Jose Montoya v. The Golden 1 Credit Union, Sacramento Superior Court, Case No. 34-2018-00228252
- (g) Malu Vaesau v. Double AA Corporation, San Francisco Superior Court, Case No. CGC-19-572598
- (h) Tyler Jones v. Citiguard, Inc., Los Angeles Superior Court, Case No. BC664890;
- (i) Venancio Miranda v. Maximum Nursery, Inc., Santa Barbara Superior Court, Case No. 19STCV06041;

49. In addition to her work on complex litigation matters and class actions, she has authored published articles on California labor laws, including:

- (a) Lilit Ter-Astvatsatryan and H. Scott Leviant, Where Troester Stops Not Even Troester Knows, Daily Journal (Los Angeles & San Francisco), July 2, 2019;
- (b) Lilit Ter-Astvatsatryan and H. Scott Leviant, Unaccounted Time: Reading the Tea Leaves of Troester, Daily Journal (Los Angeles & San Francisco), September 12, 2018.

ANNIE “YUDI” RUAN’S EXPERIENCE AND QUALIFICATIONS

1 50. Until recently, Annie “Yudi” Ruan was an associate attorney at Moon Law Group, PC,
2 formerly known as Moon & Yang, APC, and represented employees in all aspects of employment
3 litigation, including wage-and-hour class and representative actions involving claims related to overtime
4 and minimum wages, meal and rest break violations, improper wage statements, the California Private
5 Attorneys General Act, and unfair business practices.

6 51. Ms. Ruan received a Juris Master from Peking University School of Law, Beijing,
7 and a Juris Doctor from Georgetown University Law Center.

8 52. Ms. Ruan became an Active Member of the State Bar of California in November 2022
9 and has been an Active Member in good standing continuously since. Ms. Ruan’s billing rate was
10 \$325.00 per hour, which was her usual hourly rate in wage and hour litigations.

11 NICHELLE CHRISTOPHERSON’S EXPERIENCE AND QUALIFICATIONS

12 53. Nichelle Christopherson is an associate attorney at Moon Law Group, PC, formerly known as
13 Moon & Yang, APC, and represents employees in all aspects of employment litigation, including wage-
14 and-hour class and representative actions involving claims related to overtime and minimum wages, meal
15 and rest break violations, improper wage statements, the California Private Attorneys General Act, and
16 unfair business practices.

17 54. Ms. Christopherson received a Bachelor of Arts in Political Science from Arizona
18 State University and a Juris Doctor from Michigan State University College of Law. In law
19 school, Ms. Christopherson served as a Senior Editor on the *MSU International Law Review*
20 *Journal* and President of the Lori E. Talsky Center for Human Rights of Women and Children
21 Student Network.

22 55. Ms. Christopherson became an Active Member of the State Bar of California in
23 May 2023 and has been an Active Member in good standing continuously since. Ms.
24 Christopherson is also admitted to practice before the U.S. District Courts for the Central,
25 Southern, and Eastern Districts of California.

26 CLASS COUNSEL’S EXPERIENCE AND QUALIFICATIONS

27 56. As demonstrated by the foregoing, my office is qualified to handle this litigation because we are
28 experienced in litigating Labor Code and Wage Order violations in individual, class, and representative

actions. The attorneys at my office have been appointed as lead or co-lead counsel in numerous wage and hour class and/or PAGA actions in state and federal courts by way of motion for settlement approval. Including myself, Moon Law Group, PC is comprised of more than twenty attorneys, all of whom are actively and continuously practicing employment litigation, representing almost entirely employee-plaintiffs, in both individual and class and/or PAGA actions, in this Superior Court and other Superior Courts throughout the State, in the Courts of Appeal, and in various federal courts. The attorneys at my firm have a high level of skill and knowledge in wage and hour class actions, PAGA representative actions, and labor and employment law generally, the substantive (state and federal) and procedural law of which is frequently evolving.

57. Moon Law Group, PC has been engaged in the practice of employment and labor law for over a decade, and presently focuses exclusively on plaintiffs' employment law. The firm and its lawyers have tried both bench and jury trials (representing both plaintiffs and defendants) relating to employment matters. As noted above, Moon Law Group, PC has been appointed lead or co-lead class counsel in federal and state courts in California. Also, the firm and its lawyers have successfully settled hundreds of cases during that time, including wage and hour class and/or PAGA actions.

58. The foregoing experience of myself and other attorneys of Moon Law Group, PC is helpful in assessing the reasonableness of settlements, such as the one at issue here, and from this experience we concluded that this litigation could not have been settled on better terms than provided under the Settlement.

59. I respectfully submit that the attorneys of Moon Law Group, PC, myself included, are well suited to act as Class Counsel in this action, and we have, and will continue to, vigorously represent the interests of the Class. To my knowledge, we do not have any conflicts of interest with Plaintiff, other Class Members, or the proposed Settlement Administrator, and we are not related to Plaintiff. We respectfully request to be appointed as Class Counsel, for settlement purposes.

THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

60. The Settlement provides for attorneys' fees payable to Class Counsel in an amount up to thirty-three and one third percent (33.33%) of the Gross Settlement Amount (currently estimated to be \$196,980.30), plus reimbursement for out-of-pocket litigation costs not to exceed \$25,000.00 (currently determined to be \$17,516.66. (*Id.* at ¶ 3.2.2.) The proposed award of attorneys' fees can be justified under either the lodestar method or the percentage/common-fund recovery method. Plaintiff's Counsel, however, intend to base the

1 proposed fees award on the percentage method, as many of the entries in the time records will have to be
2 redacted to preserve attorney-client and attorney work product privileges.

3 61. I am informed and believe that the fees and costs provision in the Settlement is reasonable. The
4 fee percentage requested is in line with that charged by my office for other employment cases of this nature
5 and scope. Moreover, my office invested significant time and resources into the case, with payment deferred
6 to the end of the case, and then, of course, contingent on the outcome.

7 62. It is further estimated that my office will need to expend at least another 50 to 100 hours to
8 monitor the administration process leading up to the final approval, prepare for final approval, and oversee
9 distribution to the Class following final approval. My office also bears the risk of taking whatever actions are
10 necessary should Defendant fail to pay.

11 63. The risk to my office has been very significant, particularly if we would not be successful in
12 pursuing this class action. In such an instance, we would have been left with no compensation for all the time
13 taken in litigating this case due to the contingency fee arrangement. Indeed, I have taken on a number of class
14 action cases that have resulted in thousands of attorney hours being expended and ultimately having the
15 defendant company going bankrupt during litigation. The contingent risk in these types of cases is very real
16 and occurs regularly. Furthermore, we were precluded from focusing on, or taking on, other cases which
17 could have resulted in a larger, and less risky, monetary gain.

18 64. Because most individuals cannot afford to pay for representation in litigation on an hourly basis,
19 Moon Law Group, PC represents virtually all its employment law clients on a contingency fee basis, including
20 Plaintiff in this matter. Pursuant to this arrangement, we are not compensated for our time unless we prevail
21 at trial or successfully settle our clients' cases. Because Moon Law Group, PC is taking the risk that we will
22 not be reimbursed for our time unless our client settles or wins his or her case, we cannot afford to represent
23 an individual employee on a contingency basis if, at the end of our representation, all we are to receive is our
24 regular hourly rate for services. It is essential that we recover more than our regular hourly rate when we win
25 if we are to remain in practice so as to be able to continue representing other individuals in civil rights
26 employment disputes.

1 65. My office invested significant time and resources into the case, with payment deferred to the end
2 of the case, and then, of course, contingent on the outcome. My office's efforts have included, and will include
3 following preliminary and final approval, without limitation, the following:

- 4 (a) Numerous interviews with Plaintiff and review of documents provided by him;
- 5 (b) Legal research and investigation regarding Defendant's business and employment practices at
6 numerous points in the litigation;
- 7 (c) Preparation and submission of Plaintiff's PAGA notice letter;
- 8 (d) Preparation, finalization, and filing of multiple drafts of the original class action complaint and
9 subsequent first amended complaint;
- 10 (e) Informal discovery activity;
- 11 (f) Extensive "meet and confer" correspondence and discussions with Defense Counsel regarding
12 mediation and to obtain relevant documents and information through informal discovery;
- 13 (g) Research and preparation of Plaintiff's mediation brief;
- 14 (h) Analysis of the discovery production and preparation of a damages model with the aid of a
15 statistics expert;
- 16 (i) Attendance and active participation at a full day of mediation;
- 17 (j) Drafting, negotiating, and reviewing multiple drafts of the Settlement and Class Notice;
- 18 (k) Preparation of the motion for preliminary approval and the accompanying filings;
- 19 (l) Anticipated preparation for and attendance at the preliminary approval hearing;
- 20 (m) Anticipated conferring with Defense Counsel and the Settlement Administrator regarding the
21 Class Notice mailing, Class responses, and preliminary and final calculations;
- 22 (n) Anticipated preparation, finalization, filing, and service of a motion for final approval and
23 accompanying filings;
- 24 (o) Anticipated preparation for and anticipated attendance at the final approval hearing, and then
25 monitoring of the distribution of funds following final approval; and
- 26 (p) Anticipated responding to Class Member inquiries and communicating with Plaintiff regarding
27 the case.

28 66. As of the drafting of this motion, my office has incurred \$17,516.66 in unreimbursed expenses

1 litigating this action, and we anticipate accruing additional costs up to final approval. These expenses were
2 reasonably necessary to the litigation and were actually incurred by my office.

3 67. Through the efforts of my office and Plaintiff in this case, a fair and reasonable joint resolution
4 has been reached that includes a gross, non-reversionary payment by Defendant of \$591,000.00 to
5 compensate Class Members and Aggrieved Employees for the alleged unlawful wage and hour practices. I
6 am informed and believe that, without the efforts of my office or Plaintiff, the Labor Code and Wage Order
7 violations alleged in the Operative Complaint would have gone completely unremedied.

8 CLASS COUNSEL'S RELATIONSHIP TO THE PROPOSED CY PRES RECIPIENT

9 68. The Parties have agreed to propose Legal Aid at Work as a *cy pres* beneficiary. I have not
10 been involved with Legal Aid at Work and have never done work for them. I made a reasonable inquiry of
11 other members of my law firm to determine whether there is any relationship between Legal Aid at Work and
12 my firm. I believe that no attorney from my firm has any such relationship. I made a reasonable inquiry of
13 Plaintiff to determine whether there is any relationship between Legal Aid at Work and Plaintiff. I believe
14 that Plaintiff has no form of relationship with Legal Aid at Work.

15
16 I declare under penalty of perjury under the laws of the State of California and the United States that
17 the foregoing is true and correct. Executed on October 7, 2024, at Los Angeles, California.

18
19 
20 _____
Kane Moon

EXHIBIT 1

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Attorneys for Plaintiff JUAN MARCHELL KING

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JUAN MARCHELL KING, individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

LOS ANGELES REGIONAL FOOD
BANK, a California corporation; and DOES
1 through 10, inclusive,
Defendants.

Case No.: 23STCV17761

CLASS AND PAGA ACTION

*[Assigned for all purposes to the Hon. Lawrence
P. Riff, Dept. 7]*

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

Complaint filed: July 27, 2023
FAC Filed: October 31, 2023
Trial date: Not set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Juan Marchell King (“Plaintiff”) and defendant Los Angeles Regional Food Bank, a California corporation (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Juan Marchell King v. Los Angeles Regional Food Bank, a California corporation*, initiated on July 27, 2023, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Simpluris Legal Administration Services (“Simpluris”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former non-exempt, hourly paid employees who worked for Defendant Los Angeles Regional Food Bank, a California corporation, in California during the PAGA Period.
- 1.5. “Class” means all current and former non-exempt, hourly paid employees who worked for Defendant Los Angeles Regional Food Bank in California during the Class Period.
- 1.6. “Class Counsel” means Moon Law Group, PC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address (“NCOA”) database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation unless otherwise agreed by the Parties, attached as **Exhibit A** and incorporated by reference into this Agreement. The Parties, through counsel, may agree to modifications to the Class Notice required to correct errors or effectuate changes required by the Court without the need to amend this Agreement, and the revised Class Notice shall be incorporated herein in place of the original **Exhibit A**.
- 1.12. “Class Period” means the period from July 27, 2019 to September 1, 2024, or the Preliminary Approval date, whichever occurs first.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Defendant” means named Defendant Los Angeles Regional Food Bank, a California corporation.
- 1.17. “Defense Counsel” means Gordon Rees Scully Mansukhani, LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its order granting final approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no

Participating Class Member objects to the Settlement, the day the Court enters Judgment;
(b) if one or more Participating Class Members objects to the Settlement, the day after the
deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the
Judgment is filed, the day after the appellate court affirms the Judgment and issues a
remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the motion for final approval of the
Settlement.

1.21. “Gross Settlement Amount” means \$591,000.00 which is the total amount Defendant agrees
to pay under the Settlement except as provided in Paragraphs 3.1 and 8 below. The Gross
Settlement Amount will be used to pay Individual Class Payments, Individual PAGA
Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel
Litigation Expenses Payment, Class Representative Service Payment and the Administration
Expenses Payment.

1.22. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
Net Settlement Amount calculated according to the number of Workweeks worked during
the Class Period.

1.23. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the
PAGA Penalties calculated according to the number of PAGA Pay Periods worked during
the PAGA Period.

1.24. “Judgment” means the judgment entered by the Court based upon the Final Approval.

1.25. “LWDA” means the California Labor and Workforce Development Agency, the agency
entitled, under Labor Code § 2699(i).

1.26. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under
Labor Code § 2699(i).

1.27. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments
in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class

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

1.28. “Non-Participating Class Member” means any Class Member who opts out of the Class portion of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

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

1.30. “PAGA Period” means the period from July 27, 2022, September 1, 2024.

1.31. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.32. “PAGA Notice” means Plaintiff’s June 29, 2023, letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).

1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500.00) and the 75% to LWDA (\$22,500.00) in settlement of PAGA claims.

1.34. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement.

1.35. “Plaintiff” means Juan Marchell King, the named plaintiff in the Action.

1.36. “Preliminary Approval” means the Court’s order granting preliminary approval of the Class portion of the Settlement.

1.37. “Preliminary Approval Order” means the proposed order granting preliminary approval of the Class portion of the Settlement.

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

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

1.40. “Released Parties” means: Defendant, including each of its past, present, and future parent companies, subsidiaries, affiliated and related companies, successors, employees, and predecessors, as well as their respective past, present, and future owners, officers, directors,

shareholders, employees, managers, agents, principals, representatives, administrators, accountants, auditors, consultants, fiduciaries, insurers and reinsurers, company-sponsored employee benefit plans, and attorneys, both individually and in their official capacities, as well as all persons acting by, through, under, or in concert with any of these persons or entities.

1.41. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.42. “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Class portion of the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. The Response Deadline for Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall be extended by 14 calendar days beyond the original Response Deadline.

1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.44. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. **RECITALS.**

2.1. On July 27, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure to Authorize and Permit Rest Breaks (Cal. Lab. Code §§ 226.7); (5) Failure to Indemnify Necessary Business Expenses (Cal. Lab. Code § 2802); (6) Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203); (7) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); and (8) Unfair Business Practices (Cal. Bus. & Prof. Code § 17200, et seq.). On October 31, 2023, Plaintiff filed a First Amended Complaint alleging causes of action against Defendant for Civil Penalties pursuant to the

Labor Code Private Attorneys General Act (“PAGA”) (Cal. Lab. Code § 2698, et seq.). The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.3. On May 29, 2024, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, policy documents, time clock records, wage payment records, and Plaintiff’s personnel file. Plaintiff’s investigation was 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*”).

2.5. The Court has not granted class certification.

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

3. **MONETARY TERMS.**

3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$591,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount or any payroll taxes prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. **Payments from the Gross Settlement Amount.** The Administrator will make and deduct the

following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00 in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$196,980.30 and a Class Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms.

Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed \$7,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration expenses are less or the Court approves payment less than \$7,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

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

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Workweeks of Non-Participating Class Members are not included in the calculation of payments to Participating Class Members and therefor have no effect on the calculation of Individual

Class Payments paid from the Net Settlement Amount.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$30,000.00 to be paid from the Gross Settlement Amount, with 75% (\$22,500.00) allocated to the LWDA PAGA Payment and 25% (\$7,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$7,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. **SETTLEMENT FUNDING AND PAYMENTS.**

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 251 Class Members who collectively worked a total of 29,566 Workweeks as of May 29, 2024, and 201 Aggrieved Employees who worked a total of 6,446 PAGA Pay Periods.

4.2. Class Data. Not later than 21 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the

Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

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

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any

checks, the Settlement Administrator must update the recipients' mailing addresses using the NCOA database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without a United States Postal Service ("USPS") forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Legal Aid at Work, in accordance with Code of Civil Procedure §384(b) ("Cy Pres Recipient"). The Parties, Class Counsel, and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

5. **RELEASES OF CLAIMS.**

Effective on 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, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. **Plaintiff's Release.**

5.1.1. **Scope of Plaintiff's Release.** Plaintiff and his or her respective former and present, representatives, agents, attorneys, heirs, administrators, successors, and assigns

generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, 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 Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.2. Plaintiff's Waiver of Rights Under California Civil Code § 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.

5.2. Release by Participating Class Members: Upon remittance of the Gross Settlement Amount by Defendant to the Settlement Administrator and entry of Judgment by the Court, the Settlement Class Members, other than those who timely submit valid requests for exclusion, will fully and finally release and discharge Defendant and all Released Parties from any and all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in Plaintiff's First Amended Complaint, or any subsequent amended complaint including but not limited to claims for: (i) failure to pay minimum wages in violation of Labor Code §§ 204, 1194, 1194.2 and 1197; (ii) failure to pay overtime compensation in

violation of Labor Code §§ 1194 and 1198; (iii) failure to provide meal periods in violation of Labor Code §§ 226.7 and 512 or failure to provide adequate compensation in lieu of meal periods; (iv) failure to authorize and permit rest breaks in violation of Labor Code §§ 226.7; (v) failure to pay the correct rate of pay for paid sick leave; (vi) failure to indemnify necessary business expenses in violation of Labor Code §§ 2802; (vii) failure to timely pay final wages at termination in violation of Labor Code §§ 201-203; (viii) failure to provide accurate itemized wage statements in violation of Labor Code § 226; (ix) unfair business practices in violation of Cal. Business & Professions Code §§ 17200 (collectively, the “Released Claims”). The Released Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California’s Business and Professions Code §§ 17200). The Released Claims include all types of relief available for the Released Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any such Released Claims if raised in the future.

5.3. Release by Class Members Who Are Aggrieved Employees: Upon remittance of the Gross Settlement Amount by Defendant to the Settlement Administrator and entry of Judgment by the Court, PAGA Class Members, whether they timely submit valid requests for exclusion from the Settlement Class or not, will fully and finally release and discharge Defendant and all Released Parties from any and all claims, causes of action, demands, damages, or liabilities arising at any time during the PAGA Period that were pled or which could have been pled based on the factual allegations contained in Plaintiff’s First Amended Complaint (collectively, the “PAGA Released Claims”).

6. MOTION FOR PRELIMINARY APPROVAL.

The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for preliminary approvals,

1 to the extent the Court maintains such a checklist.

2 6.1. Defendant's Declaration in Support of Preliminary Approval. Similarly, if any other
3 pending matter or action asserting claims will be extinguished or adversely affected by the
4 Settlement, Defendant shall prepare and deliver to Class Counsel a signed declaration from
5 Defendant and/or Defense Counsel identifying any other pending matter or action asserting
6 claims that will be extinguished or adversely affected by the Settlement. Alternatively, if
7 such other actions are filed between the execution of this Agreement and the filing of the
8 Motion for Preliminary Approval and become known to Defendant and/or Defense Counsel,
9 Defense Counsel will advise Class Counsel.

10 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel documents
11 necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
12 memorandum in support, of the Motion for Preliminary Approval that includes an analysis
13 of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement
14 under Labor Code § 2699(f)(2)); (ii) a draft proposed order granting preliminary approval
15 and approval of PAGA settlement; (iii) a draft proposed Class Notice; (iv) a signed
16 declaration from the Administrator attaching its "not to exceed" bid for administering the
17 Settlement and attesting to its willingness to serve; competency; operative procedures for
18 protecting the security of Class Data; amounts of insurance coverage for any data breach,
19 defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts
20 of interest with Class Members; and the nature and extent of any financial relationship with
21 Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff
22 confirming willingness and competency to serve and disclosing all facts relevant to any
23 actual or potential conflicts of interest with Class Members, and/or the Administrator; and,
24 (vi) a signed declaration from each Class Counsel firm attesting to its competency to
25 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA
26 documents (initial notice of violations [Labor Code § 2699.3(a)], Operative Complaint
27 [Labor Code § 2699(l)(1)], this Agreement [Labor Code § 2699(l)(2)]); and, all facts relevant
28 to any actual or potential conflict of interest with Class Members, and/or the Administrator.

Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement or disclose the existence of any such pending matters. Alternatively, if such other actions are filed between the execution of this Agreement and the filing of the Motion for Preliminary Approval and become known to Class Counsel, Class Counsel will advise Defense Counsel.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

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

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing

reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation § 468B-1.

7.4. Notice to Class Members.

7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 10 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of each Individual Class Payment and/or Individual PAGA Payment payable to the Class Member and/or Aggrieved Employee, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the NCOA database.

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

7.4.4. The deadlines for Class Members’ written objections, challenges to Workweeks and/or pay periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class

Members whose notices are re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class portion of the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Class portion of the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final as to the Parties, but a Class Member whose Request for Exclusion is rejected by the Administrator may present a challenge to that determination to the Court.

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final as to the Parties (although Defendant shall retain the right to correct erroneous Class Data if subsequently discovered),

but a Class Member whose Workweek and/or Pay Period challenge is rejected by the Administrator may present the same evidence supporting the Workweek and/or Pay Period challenge to the Court for review. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement.

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

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

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

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

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval Order, the Class Notice, the motion for final approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses

Payment and Class Representative Service Payment, the Final approval Order and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

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

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, and challenges to Workweeks and/or PAGA Pay Periods received and/or resolved (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received. In addition to the Weekly Reports, the Administrator shall report to the Parties when it has completed the initial distribution of the Individual Class Payments and Individual PAGA Payments to all individuals with valid addresses.

7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s determination of each Class Member’s allocation of Workweeks and/or PAGA Pay Periods shall be final as to the Parties (although

Defendant shall retain the right to correct erroneous Class Data if subsequently discovered), but a Class Member whose Workweek and/or Pay Period challenge is rejected by the Administrator may present the same evidence supporting the Workweek and/or Pay Period challenge to the Court for review.

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

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

8. ESCALATOR CLAUSE

Based on its records, Defendant estimates that, there are a total of 29,566 Workweeks as of May 29, 2024 (i.e., as of the date the Parties participated in mediation). Should the total number of Workweeks worked by Participating Class Members during the Class Period increases by more than

10% (i.e., by more than 2,956.6 Workweeks), Defendant shall increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Workweeks worked by Participating Class Members above 10%.

9. **DEFENDANT’S RIGHT TO WITHDRAW.**

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated to, withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement administration expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. **MOTION FOR FINAL APPROVAL.**

Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code § 2699(l), a Proposed final approval order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

10.2. **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final

Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

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

the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

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

12. ADDITIONAL PROVISIONS.

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

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

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

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

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

12.5. Attorney Authorization. Class Counsel and Defense Counsel separately 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 pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and

authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

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

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

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

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

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

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

12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by

Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

12.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kane Moon
kmoon@moonlawgroup.com
Lilit Ter-Astvatsatryan
lilit@moonlawgroup.com
Nichelle Christopherson
nchristopherson@moonlawgroup.com
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

To Defendant:

Lisa Garner

lgarner@grsm.com
Fernando Vicente
fvicente@grsm.com
GORDON REES SCULLY MANSUKHANI, LLP
633 West Fifth Street, Suite 5200
Los Angeles, CA 90071
Telephone: (213) 576-5000
Facsimile: (213) 680-4470

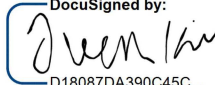
12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument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

12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

[Signature Page Follows]

Plaintiff & Class Representative:

Dated: 10/1/2024

DocuSigned by:

By: D18087DA390C45C...
Juan Marchell King

Plaintiff's Counsel:

Dated: 10/1/2024

MOON LAW GROUP, PC

By: 
Kane Moon
Lilit Ter-Astvatsatryan
Nichelle Christopherson
Attorneys for Plaintiff

Defendant:

Dated:

LOS ANGELES REGIONAL FOOD BANK

By: _____
Print Name

Signature

Title

Defendant's Counsel:

Dated:

GORDON FEES SCULLY MANSUKHANI, LLP

By: _____
Lisa Garner
Fernando Vicente
Attorneys for Defendant Los Angeles Regional
Food Bank

Plaintiff & Class Representative:

Dated:

By: _____
Juan Marchell King

Plaintiff's Counsel:

Dated:

MOON LAW GROUP, PC

By: _____
Kane Moon
Lilit Ter-Astvatsatryan
Nichelle Christopherson

Attorneys for Plaintiff

Defendant:

Dated: October 4, 2024 | 8:11 AM PDT

LOS ANGELES REGIONAL FOOD BANK

By: Michael Flood

Print Name

DocuSigned by:
Michael Flood
CA735372D6824CF...

Signature

President / CEO

Title

Defendant's Counsel:

Dated: October 4, 2024

GORDON FEES SCULLY MANSUKHANI, LLP

By: *[Signature]*

Lisa Garner
Fernando Vicente

Attorneys for Defendant Los Angeles Regional
Food Bank

EXHIBIT A

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

Juan Marchell King v. Los Angeles Regional Food Bank, Case No. 23STCV17761

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

You may be eligible to receive money from an employee class action lawsuit ("Action") against defendant Los Angeles Regional Food Bank ("Defendant") for alleged wage and hour violations. The Action was filed by a former employee Juan Marchell King ("Plaintiff") and seeks payment of (1) back wages [and other relief] for a class of hourly employees ("Class Members") who worked for Defendant during the Class Period (July 27, 2019 to September 1, 2024); and (2) penalties under the California Private Attorney General Act ("PAGA") for all hourly employees who worked for Defendant during the PAGA Period (July 27, 2022 to September 1, 2024) ("Aggrieved Employees").

Defendant denies any wrongdoing and is entering into this settlement to avoid the costs and uncertainties of litigation. Defendant is not admitting to any allegations in the case. Again, Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any material respect, or is liable to anyone under the claims asserted in this Action.

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments 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 Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

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

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

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

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [REDACTED]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [REDACTED]	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [REDACTED] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by [REDACTED]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee. The Action accuses Defendant of violating California labor laws by (1) failing to pay all wages; (2) failing to properly calculate overtime; (3) failing to provide meal breaks (including without limitation first and second meal breaks) each day based on the hours worked by each employee, including meal breaks that were short, late, interrupted, and/or missed altogether; (4) failing to authorize and permit legally compliant rest breaks each day based on the hours worked by each employee, including rest breaks that were short, late, interrupted,

and/or missed altogether; (5) failing to pay the correct rate of pay for paid sick leave; (6) failing to indemnify necessary business expenses; (7) failing to timely pay final wages at termination; (8) failing to provide accurate itemized wage statements; and (9) conducting unfair business practices. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: MOON LAW GROUP, PC (“Class Counsel.”)

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

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

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

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

1. Defendant Will Pay \$591,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than [30] days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$ 196,980.30 (33.33% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$7,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$30,000.00 for PAGA Penalties, allocated 75% to the LWDAPAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20 % of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be sent to Legal Aid at Work as the approved *cy pres* recipient.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Settlement Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, Simpluris - Legal Administration Services (“Simpluris”) (the “Administrator”), to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to

administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

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

The Participating Class Members will be bound by the following release:

Upon remittance of the Gross Settlement Amount by Defendant to the Settlement Administrator and entry of Judgment by the Court, the Settlement Class Members, other than those who timely submit valid requests for exclusion, will fully and finally release and discharge Defendant and all Released Parties from any and all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in Plaintiff's First Amended Complaint, or any subsequent amended complaint including but not limited to claims for: (i) failure to pay minimum wages in violation of Labor Code §§ 204, 1194, 1194.2 and 1197; (ii) failure to pay overtime compensation in violation of Labor Code §§ 1194 and 1198; (iii) failure to provide meal periods in violation of Labor Code §§ 226.7 and 512 or failure to provide adequate compensation in lieu of meal periods; (iv) failure to authorize and permit rest breaks in violation of Labor Code §§ 226.7; (v) failure to pay the correct rate of pay for paid sick leave; (vi) failure to indemnify necessary business expenses in violation of Labor Code §§ 2802; (vii) failure to timely pay final wages at termination in violation of Labor Code §§ 201-203; (viii) failure to provide accurate itemized wage statements in violation of Labor Code § 226; (ix) unfair business practices in violation of Cal. Business & Professions Code §§ 17200 (collectively, the "Released Claims"). The Released Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California's Business and Professions Code §§ 17200). The Released Claims include all types of relief available for the Released Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys' fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any such Released Claims if raised in the future.

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

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

Upon remittance of the Gross Settlement Amount by Defendant to the Settlement Administrator and entry of Judgment by the Court, PAGA Class Members, whether they timely submit valid requests for exclusion from the Settlement Class or not, will fully and finally release and discharge Defendant and all Released Parties from any and all claims, causes of action, demands, damages, or liabilities arising at any time during the PAGA Period that were pled or which could have been pled based on the factual allegations contained in Plaintiff's First Amended Complaint (collectively, the "PAGA Released Claims").

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$7,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Juan Marchell King v. Los Angeles Regional Food Bank* case, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Court's website by going to <http://www.lacourt.org/casesummary/ui/index.aspx>, but you will be required to pay for them.

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

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department 7 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Plaintiff and Defendant have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at _____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 23STCV17761. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Kane Moon, Esq.
Lilit Ter-Astvatsatryan, Esq.
Nichelle Christopherson, Esq.
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, CA 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
kmoon@moonlawgroup.com
lilit@moonlawgroup.com
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Defense Counsel:

Lisa Garner, Esq.
Fernando Vicente, Esq.
Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, Suite 5200
Los Angeles, CA 90071
Phone: (213) 576-5000
Fax: (213) 680-4470
lgarner@grsm.com
fvince@grsm.com

Settlement Administrator:

Name of Company:
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT 2

MOON LAW GROUP, PC

ATTORNEYS AT LAW
WWW.MOONLAWGROUP.COM

1055 W. SEVENTH ST., SUITE 1880
LOS ANGELES, CALIFORNIA 90017
TELEPHONE: (213) 232-3128
FACSIMILE: (213) 232-3125

Kane Moon, Esq.
kmoon@moonlawgroup.com

July 27, 2023

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

VIA CERTIFIED MAIL

Los Angeles Regional Food Bank
1734 E. 41st Street
Los Angeles, CA 90058

Notice of Labor Code Violations and PAGA Penalties

Re: ***Juan Marchell King v. Los Angeles Regional Food Bank***

To Whom It May Concern:

Please be advised that my office has been retained by Juan Marchell King (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Los Angeles Regional Food Bank. (“Defendant”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of Plaintiff as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff worked for Defendant as a forklift operator from approximately May 2016 to August 2022, primarily in Los Angeles County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked at least 5 days per week, and at least 8 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Plaintiff and the Aggrieved Employees received non-discretionary bonuses, COVID incentives, and other remuneration. However, Defendants failed to incorporate all remuneration when calculating the correct overtime rate of pay, sick day rate of pay, and meal break premium rate of pay, leading to underpayment to Plaintiff and the Aggrieved Employees. Also throughout the statutory period, Plaintiff and the Aggrieved Employees were required to work "off the clock" and uncompensated. For example, Plaintiff and the Aggrieved Employees were required to wait for a supervisor to open the gate for the parking entrance, and wait for the supervisor to open the entrance to the warehouse, which was off the clock and uncompensated. Plaintiff and the

Aggrieved Employees were also instructed to get the forklift before clocking into work. Plaintiff and the Aggrieved Employees were also required to wait in line in order to clock into work, off the clock and uncompensated. Plaintiff and the Aggrieved Employees were required to show up to work early in order to complete these and other items prior to clocking into work, and prior to the scheduled shift. Also throughout the statutory period, Defendants did not pay all wages owed, including premiums. For example, on July 16, 2021, the wage statement for Plaintiff shows that Plaintiff's meal break premium was paid at a lower rate than the base rate, leading to underpayment to Plaintiff and the Aggrieved Employees. Also throughout the statutory period, Defendants sometimes altered pay timeclocks in order to reduce the hours worked, reflected in rounded hours in wage statements.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of meal periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required meal periods. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant,

however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of rest periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further, Defendant did not maintain accurate records of employee work periods, and therefore Defendant cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods during the middle of each work period. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement. For example, Plaintiff and the Aggrieved Employees were required to use their own personal cellular telephones for work purposes without sufficient reimbursement.

Plaintiff and the Aggrieved Employees were also required to maintain their own uniforms without reimbursement.

Failure to Pay All Accrued Vacation Wages at Termination

Labor Code § 227.3 requires employers to pay employees for all unused vested vacation time at their final rate of pay upon termination of their employment.

During the statutory period, Defendant maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees the correct amount of vacation pay owed at the termination of employment. For instance, when Plaintiff's employment with Defendant terminated, he was owed vacation wages at his true final wage rate on his final pay check from Defendant even though he had accrued unused vacation time. On information and belief, Defendant's failure to pay Plaintiff the correct amount of vacation pay was not a single, isolated incident, but was instead part of Defendant's policy and practice that applied to the Aggrieved Employees.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to pay all accrued vacation wages at termination.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 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 that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate

until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, 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 the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;

5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code § 227.3 by failing to pay all vacation wages at termination;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements; and
9. Labor Code § 204 by failing to pay all earned wages two times per month.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

MOON LAW GROUP, PC

A handwritten signature in blue ink, appearing to read 'Kane Moon', is written over a light blue circular stamp.

Kane Moon, Esq.
Attorney at Law

EXHIBIT 3



Thank you for your Proposed Settlement Submission

From DIR PAGA Unit <no-reply@formassembly.com>

Date Mon 10/7/2024 11:21 AM

To Nichelle Christopherson <nchristopherson@moonlawgroup.com>

10/07/2024 11:20:57 AM

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

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: <http://labor.ca.gov/Private Attorneys General Act.htm>

EXHIBIT 4

Activities Export

09/12/2024

10:53 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
07/23/2024	\$	Berger Consulting Group ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Support Account	1.00	\$3,780.00	-	\$3,780.00
07/02/2024	\$	Case Anywhere ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Support Account	1.00	\$153.00	-	\$153.00
06/20/2024	\$	Journal ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Support Account	1.00	\$7.26	-	\$7.26
04/03/2024	\$	Case Anywhere ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Andrea Marin	1.00	\$153.00	-	\$153.00
03/27/2024	\$	Mediation Tripper Ortman King v. Los Angeles Regional Food Bank Paid via wire transfer MLG checking ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Kane Moon	1.00	\$13,000.00	-	\$13,000.00
02/09/2024	\$	Ace ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Andrea Marin	1.00	\$55.15	-	\$55.15
01/08/2024	\$	Case Anywhere ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Andrea Marin	1.00	\$148.83	-	\$148.83
10/31/2023	\$	Journal ● Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Andrea Marin	1.00	\$7.26	-	\$7.26
10/18/2023	\$	Journal	02235-King	Andrea	1.00	\$7.26	-	\$7.26
							\$0.00 0.00h	\$17,516.66 0.00h

Activities Export

09/12/2024
10:53 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		Unbilled	King v. Los Angeles Regional Food Bank (ED)	Marin				
09/11/2023	\$	Ace Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Andrea Marin	1.00	\$55.15	-	\$55.15
08/21/2023	\$	Ace Unbilled	02235-King King v. Los Angeles Regional Food Bank (ED)	Andrea Marin	1.00	\$149.75	-	\$149.75
							\$0.00 0.00h	\$17,516.66 0.00h

EXHIBIT 5



Reference No. 20240830-PJI-02

August 30, 2024

Nichelle Christopherson, Esq.
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, CA 90017

RE: *King v. LARFB*

Dear Nichelle,

Thank you for this opportunity to provide a quote for your above-captioned settlement. Using the parameters you described, Simpluris' total estimated cost of administration is \$9,649. As a courtesy, we are applying a \$2,649 discount, for a discounted total of \$7,000.

Please let me know if you have questions. I look forward to this opportunity to work together.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Patrick J. Ivie".

PATRICK J. IVIE
Chief Revenue Officer

m: 310-995-6455
o: 714-975-5260
e: pivie@simpluris.com



3194-C Airport Loop Drive, Costa Mesa, CA 92626
www.simpluris.com | 1 (800) 779 - 2104

Estimate Number:	20240830-PJI-02	Prepared By:	Patrick J. Ivie
Estimate Date:	8/30/2024	Telephone Number (mobile):	310.995.6455
Estimate Expiration Date:	11/28/2024	Email:	pjvie@simpluris.com

Attorney Contact
Attorney: **Nichelle Christopherson, Esq.**
Firm: MOON LAW GROUP, PC
Email: nchristopherson@moonlawgroup.com

Opposing Counsel Contact
Attorney:
Firm:
Email:

Case Name: King v. LARFB
Opt Out Settlement

Assumptions

In addition to the assumptions enumerated below, this estimate assumes that

- (1) Simpluris will receive data in a single, complete file; (2) there will be no substantial change to class size or in response rate;
- (3) administration costs will be paid from the QSF, and (4) Simpluris will submit revisions to this estimate to account for any material changes to scope.

Class Members:	251	Undeliverable Rate:	10%
Claims Rate:	N/A	Mail Skip Trace Success Rate:	85%
Opt-out Rate:	1%	Call Rate:	4%
Language(s) for Communication	EN/SP	Average Call Length:	4 Minutes
Reminder Mailing:	N/A	Fund Distribution:	Simpluris
Unclaimed Funds:	Cy Pres	Number of Distributions:	1
State(s):	CA	Tax Year(s):	1
Length of Administration:	9 Months		

Case Setup

- Undertake postings on Simpluris website of key documents as ordered by the Court (e.g. orders and the Settlement Agreement)
- Maintain and monitor Fax to address class member inquiries
- Data compilation: develop case-specific response tracking.

Category	Unit Value	# of Units	Total
Project Manager - Case Setup	\$110.00	2	\$220.00
Case Document Web Postings	\$225.00	1	\$225.00
Database Manager - Initial Data Analysis	\$125.00	2	\$250.00
Fax Set-up for correspondence	\$75.00	1	\$75.00
Total:			\$770.00

Notice and Communications

- Spanish Translation of the class Notice
- Assuming 8-page class Notice, sent by First Class US Mail, in English and Spanish

Category	Unit Value	# of Units	Total
Spanish Translations - assuming 4,000 words	\$0.25	4,000	\$1,000.00
Bilingual Notice Packet - assuming 16 images	\$4.00	251	\$1,004.00
Postage	\$0.72	251	\$180.72
NCOA/CASS/LACS	\$0.14	251	\$35.14
Undeliverable Processing and Skip Trace	\$0.32	26	\$8.32
Remail Notice (assuming 85% skip trace success)	\$5.00	22	\$110.50
Remail Postage	\$0.72	22	\$15.91
Mailing Supervisor	\$55.00	2	\$110.00
Total:			\$2,464.59

Contact Center

- Establish case-specific toll-free number and 24/7 IVR
- Assuming 4-minute calls

Category	Unit Value	# of Units	Total
IVR Call Center Setup	\$350.00	1	\$350.00
IVR Monthly Maintenance	\$95.00	9 Months	\$855.00
IVR (includes toll-free number charges)	\$15.00	1	\$15.00
Subtotal			\$1,220.00

Administration

- Process incoming class and counsel communications, opt-outs, disposes, and objections

Category	Unit Value	# of Units	Total
Database Manager	\$125.00	2	\$250.00
Project Manager	\$110.00	2	\$220.00
Dispute Processing	\$1.75	13	\$21.96
Opt-out Processing	\$1.75	3	\$4.39
Reporting to Counsel (hours)	\$100.00	3	\$300.00
Total:			\$796.36

Award Disbursement

- Establish 26 CFR § 1.468B-1 compliant Qualified Settlement Fund ("QSF")
- Disburse award payments and tax documents
- Conduct regular and annual IRS-mandated QSF reporting and reconciliation (one per calendar year)
- Complete all required filings with state and federal tax authorities

Category	Unit Value	# of Units	Total
Disbursement Data Preparation	\$125.00	2	\$250.00
Disbursement Manager - Data Validation	\$90.00	2	\$180.00
Setup Banking Account/QSF	\$675.00	1	\$675.00
QSF Monthly Reconciliation and Maintenance	\$125.00	9	\$1,125.00
Print & Mail Distribution Check and Tax Docs	\$0.60	251	\$150.60
Postage	\$0.72	251	\$180.72
Process Returned Checks (assuming 5%)	\$0.20	13	\$2.60
Skip Trace Search Undeliverable Checks	\$0.12	13	\$1.56
Remail Checks (includes postage)	\$1.70	13	\$22.10
QSF Reporting and Final Declaration	\$500.00	1	\$500.00
QSF Annual Tax Reporting and Reconciliation	\$850.00	1	\$850.00
Distribution Manager	\$90.00	2	\$180.00
Total:			\$4,117.58

Case Completion

- Final audit and review
- Send final declaration and reporting to counsel

Category	Unit Value	# of Units	Total
Data Manager-Final Reporting	\$125.00	1	\$125.00
Clerical-Clean Up Any Misc.	\$45.00	1	\$45.00
Project Manager-Wrap-up Final Issues	\$110.00	1	\$110.00
Total:			\$280.00

Total Estimated Cost of Administration:	\$9,649
Less Client Courtesy Discount:	-\$2,649
Discounted Total:	\$7,000

Terms and Conditions

All administration services to be provided by Simpluris to Client, are provided subject to the following terms and conditions ("Agreement"):

1. Services: Simpluris agrees to provide Client those services set forth in the Proposal (the "Services") to which these terms and conditions are attached and which has been provided to Client. As compensation for such Services, Client agrees to pay the fees for Services outlined in the Proposal. Simpluris will often take direction from Client's representatives, employees, agents and or professionals (collectively, the "Client Parties") with respect to the Services. The parties agree that Simpluris may rely upon, and Client agrees to be bound by, any direction, advice or information provided by the Client Parties to the same extent as if provided by Client. Client agrees and understands that Simpluris shall not provide Client or any other party with any legal advice.

2. Fee Estimates Not Binding: Simpluris and Client acknowledge that it is difficult to determine all necessary work required for the Services or the total amount of fees that may be incurred in performing the Services. Client agrees that fees for Services described in the Proposal are estimated based on the requirements provided by Client. Actual fees charged by Simpluris may be greater or less than such estimate. Client specifically agrees that it will be responsible for the payment of all such fees. Simpluris will provide estimates and budgets, but they are not intended to be binding; are subject to unforeseen circumstances, and by their nature are inexact.

3. Billing and Payment: Simpluris will invoice Client on a regular basis unless a specific timeframe is otherwise set forth in the Proposal. Client shall pay all invoices within 30 days of receipt. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Services are not provided on a contingency basis and Client shall remain liable to Simpluris for all fees incurred by Simpluris in performing the Services, regardless of any circumstance that impacts the outcome of Client's matter, including but not limited to, court decisions, actions by the parties, or a failure to consummate a settlement.

4. Further Assurances: Client agrees that it will use its best efforts to include provisions reasonably acceptable to Simpluris in any relevant court order, settlement agreement or similar document that provide for the payment of Simpluris' fees and expenses hereunder. No agreement to which Simpluris is not a party shall reduce or limit the full and prompt payment of Simpluris' fees and expenses as set forth herein and in the Proposal.

5. Rights of Ownership: The parties understand that the software programs and other materials furnished Simpluris to Client and/or developed during the course of the performance of Services are the sole property of Simpluris. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. Client agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished to Client. Fees and expenses paid by Client do not vest in Client any rights in such property, it being understood that such property is only being made available for Client's use during and in connection with the Services provided by Simpluris.

6. Bank Accounts: Simpluris will establish a demand deposit checking account (i.e. non-interest bearing) for funds received related to a distribution, unless directed otherwise in writing by the parties or unless the settlement agreement stipulates otherwise. Simpluris may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and compensation for services Simpluris performs for financial institutions to be eligible for FDIC deposit insurance. The amounts held pursuant to these Terms and Conditions are at the sole risk of Client and, without limiting the generality of the foregoing, Simpluris shall have no responsibility or liability for any diminution of the fund that may result from any deposit made with a financial institution including any losses resulting from a default by such institution or other credit losses. It is acknowledged and agreed that Simpluris will have acted prudently in depositing the fund at such institution.

7. Retention of Documents & Data: Unless otherwise required in writing by the Client or court orders, all returned/undeliverable physical documents will be securely shredded after the data has been confirmed uploaded to our systems. Simpluris will retain bank and tax documents for such period of time as it determines is required to maintain compliance with various federal and state law requirements. Unless otherwise required in writing by the Client or court orders, Simpluris will adhere to the Company's data deletion policies and will destroy all remaining project-related information from our systems three (3) years after the conclusion of the project. Storage beyond three (3) years is available upon request and will be billed as incurred.

8. Limitation of Liability; Disclaimer of Warranties: Simpluris warrants that it will perform the Services diligently, with competence and reasonable care. In no event will Simpluris be liable to Client or any third party for any claims, losses, costs, penalties, fines, judgments, tax activities, lost profits or business opportunities, business interruptions or delay, special, exemplary, punitive, consequential, indirect or incidental damages relating to the performance of the Services, regardless of whether Client's claim is for breach of contract, tort (including negligence and strict liability) or otherwise, regardless of whether such damage was foreseeable and whether such party has been advised of the possibility of such damages. Simpluris' cumulative liability for damages to Client hereunder will be limited to the total fees charged or chargeable to Client for the particular portion of the Services affected by Simpluris' omission or error. THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

9. Force Majeure: To the extent performance by Simpluris of any of its obligations hereunder is substantially prevented or delayed by reason of any act of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date

that Simpluris began performing Services, epidemic, pandemic, quarantine, civil commotion, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation or because of any other matter beyond Simpluris' reasonable control, then Simpluris' performance shall be excused and this Agreement, at Simpluris' option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

10. Rights in Data: Client agrees that it will not obtain, nor does Simpluris convey, any rights of ownership in the programs, system data, or materials provided or used by Simpluris in the performance of the Services.

11. Electronic Communications: During the provision of the Services, the parties may wish to communicate electronically with each other at a business e-mail address. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Accordingly, each party agrees to use commercially reasonable procedures to check for the then most commonly known viruses and to check the integrity of data before sending information to the other electronically, but each party recognizes that such procedures cannot be a guarantee that transmissions will be virus free. It remains the responsibility of the party receiving an electronic communication from the other to carry out a virus check on any attachments before launching any documents whether received on disk or otherwise.

12. Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier to the address identified by each Party in the Proposal. Notice shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service. Notice should be addressed to an officer or principal of Client and Simpluris, as the case may be.

13. Waiver: Failure or delay on the part of a party to exercise any right, power or privilege hereunder shall not operate as a waiver thereof or any of other subject, right, power or privilege.

14. Termination: Client may terminate the Services at any time upon 30 days prior written notice to Simpluris. Termination of Services shall in no event relieve Client of its obligation make any payments due and payable to Simpluris for Services rendered up to the effective date of Termination. Simpluris may terminate this Agreement (i) for any reason upon no less than 60 days prior written notice to the Client; or (ii) upon 15 calendar days' prior written notice if the Client is not current in payment of fees.

15. Jurisdiction: These Terms and Conditions will be governed by and construed in accordance with the laws of the state of California, without giving effect to any choice of law principles.

16. Survival: Any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 4 - Limitation of Liability; Disclaimer of Warranties, Section 6 – Rights in Data, and Section 12- Jurisdiction, 14 -Confidentiality, and Section 15 – Indemnification.

17. Confidentiality: Simpluris maintains reasonable and appropriate safeguards to protect the confidentiality and security of data provided by Client to Simpluris in connection with the Services. If, pursuant to a court order or other proceeding, a third-party requests that Simpluris to disclose any confidential data provided by or for Client, Simpluris will promptly notify the Client unless prohibited by applicable law. Client will then have the option to provide Simpluris with qualified legal representation at Client's expense to defend against such request. If, pursuant to a court order, Simpluris is required to disclose data, produce documents, or otherwise act in contravention of the obligation to maintain confidentiality set forth in these terms and conditions, Simpluris will not be liable for breach of said obligation.

18. Indemnification: Client will indemnify and hold Simpluris (and the officers, employees, affiliates and agents) harmless against any losses whatsoever incurred by Simpluris, arising out of any action by a third party, including governmental agencies, in connection with , or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by Simpluris in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by Simpluris pursuant to Client's instructions.

19. Severability: If any term or condition or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

20. Database Administration: Simpluris' database administration for Client assumes that Client will provide complete data that includes all information required to send notifications and calculate and mail settlement payments. Data must be provided in a complete, consistent, standardized electronic format. Simpluris' standardized format is Microsoft Excel, however, Simpluris may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by Simpluris on a time and materials basis according to Simpluris' Standard Rates.

21. Entire Agreement: These Terms and Conditions together with the Proposal constitutes the entire agreement between the parties with respect of the subject matter hereof and supersede all prior understandings, agreements, or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof.