

1 **JUSTICE FOR WORKERS, P.C.**

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8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF ORANGE**

11 JUAN ARIAS, an aggrieved employee and on
12 behalf of other aggrieved employees;

13 Plaintiff,

14 vs.

15 CONTACTABILITY.COM LLC, an Ohio
16 limited liability company; and DOES 1 through
50,

17 Defendants.

Case No.: 30-2023-01352000-CU-OE-CXC

[Assigned for All Purposes to:
Hon. Layne H. Melzer, Dept. CX102]

**DECLARATION OF WILLIAM C. SUNG
IN SUPPORT OF MOTION FOR
APPROVAL OF PAGA SETTLEMENT,
ATTORNEY'S FEES AND COSTS, AND
ENHANCEMENT AWARD**

(Filed Concurrently with Notice of Motion
and Motion for Approval of PAGA
Settlement; Supporting Declarations and
[Proposed] Judgment and Order)

DATE: February 5, 2026

TIME: 2:00 p.m.

DEPT: CX102

Reservation No: 74663736

Action Filed: September 29, 2023

Trial Date: Not Set

1 I, William C. Sung, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the state of California and have been
3 admitted to practice before this Court. I am an attorney with the law firm of Justice for Workers,
4 P.C., counsel of record for Plaintiff Juan Arias (“Plaintiff”) in this action. I am lead counsel for
5 Plaintiff in this case and I have personal knowledge of the matters stated herein and if called and
6 sworn as a witness, I would and could competently testify under oath thereto.

7 **ATTORNEY QUALIFICATIONS**

8 2. My qualifications are as follow: I received my J.D. from the University of Southern
9 California Gould School of Law in 2011. During law school, I served as the Senior Content Editor
10 on the Southern California Law Review where I published the article: *Taking the Fight Back to Title*
11 *VII: A Case for Redefining “Because of Sex” to Include Gender Stereotypes, Sexual Orientation,*
12 *and Gender Identity*, Southern California Law Review, Volume 84:2 (Jan. 2011). During law
13 school, I also served as a judicial extern to U.S. Ninth Circuit Judge, Hon. Kim M. Wardlaw, and
14 U.S. Bankruptcy Court Judge, Hon. Ernest M. Robles; served as a law clerk to the General Counsel
15 of JM Eagle; and participated in the law school’s Employer Legal Advice Clinic.

16 3. After passing the California Bar in December 2011, I began practicing management-
17 side employment law at the Los Angeles office of Lewis Brisbois Bisgaard & Smith LLP. In 2013, I
18 began focusing my practice at Lewis Brisbois on representing employers in wage and hour class and
19 PAGA action lawsuits. In January 2017, I was elevated to the position of Partner and Vice Chair of
20 Lewis Brisbois’ Wage & Hour Class Action Practice Group. In November 2020, I was elevated as
21 the Co-Chair of Lewis Brisbois Wage & Hour Class Action Practice Group, becoming one of the
22 youngest attorneys to chair a practice group at the firm. In January 2022, I was voted in as an equity
23 partner, becoming one of the youngest equity partners and the third Asian-American equity partner
24 in the history of this 1,500-attorney firm.

25 4. In May 2023, I left LBBS and co-founded Barber Ranen LLP.

26 5. In July 2023, I joined Justice for Workers, P.C. (“JFW”) and began heading its
27 Complex Litigation Practice Group where I focus my practice on representing employees in wage
28 and hour class and PAGA action lawsuits.

6. In my current practice at JFW, I serve as the lead plaintiff's counsel on over 100 pending class and/or PAGA actions. In addition to this matter, I have resolved over 30 other class and/or PAGA actions at mediation. The following are cases in which I have received final or preliminary approval of class action and/or PAGA settlement and I was appointed as class and/or PAGA counsel: *Jose Regalado v. United Markets*, Marin County Superior Court Case No. CV0001169, final approval of class/PAGA settlement granted on August 29, 2025; *Irene Eunhee Ikuta v. TAKEE International, Inc.*, Los Angeles Superior Court, Case No. 23STCV21120, preliminary approval of class/PAGA settlement granted on August 27, 2025; *Mushfiqur Chowdhury v. CWT US, LLC*, Los Angeles Superior Court Case No. 23STCV25373, final approval of class/PAGA settlement granted on August 22, 2025; *Pedro Hernandez v. Edmund A. Gray Co.*, Los Angeles Superior Court Case No. 24STCV04118, final approval of class/PAGA settlement granted on August 19, 2025; *Poul Bedri v. City of Hope National Medical Center*, Los Angeles Superior Court Case No. 23STCV23713, preliminary approval of class/PAGA settlement granted on August 19, 2025; *Linda Salazar Ayala v. Applied Membranes, Inc.*, San Diego Superior Court, Case No. 37-2023-00054420-CU-OE-CTL, preliminary approval of class/PAGA action settlement granted on August 15, 2025; *Shayne Alissa Werber v. Teleferic Barcelona LA LLC, et al.*, Los Angeles Superior Court Case No. 23STCV25517, preliminary approval of class/PAGA action settlement granted on August 14, 2025; *Pedro Hernandez v. Steps Apparel Group, Inc., et al.*, Los Angeles Superior Court Case No. 23STCV27883, approval of PAGA settlement granted on August 13, 2025; *Doelisha Kelly v. Pan American Properties, Inc.*, Orange County Superior Court Case No. 30-2023-01362739-CU-OE-CXC, approval of PAGA settlement granted on July 11, 2025; *Alexis Bartram v. Lakeshore Learning Materials, LLC*, Los Angeles Superior Court Case No. 23STCV21174, final approval of class/PAGA settlement granted on July 3, 2025; *Randall Bachman v. Geodis Logistics LLC*, Riverside Superior Court, Case No. CVRI2400956, final approval of class/PAGA settlement granted on June 25, 2025; *Chinyere Ezekwesili v. Vermont HealthCare Center LLC*, Los Angeles Superior Court Case No. 24STCV17871, approval of PAGA settlement granted on June 11, 2025; *Jorge Nieto v. Pick-Your-Part Auto Wrecking*, Riverside Superior Court Case No. CVRI2402255, approval of PAGA settlement granted on May 29, 2025; *Ted Kim v.*

1 *Hyundai America Technical Center, Inc.*, San Bernardino Superior Court Case No. CIVSB2326861,
2 approval of PAGA settlement granted on May 21, 2025; *Eric Echeverria v. Fireclay Tile Inc.*, San
3 Benito Superior Court Case No. CU-23-00249, final approval of class/PAGA settlement granted on
4 May 7, 2025; *Isaias Velasco v. Nature's Produce*, Los Angeles County Superior Court Case No.
5 23STCV23811, approval of PAGA settlement granted on April 29, 2025; *Norma Borquez v. Smart*
6 *Metals Recycling LLC*, Yolo Superior Court Case No. CV2024-0050, final approval of class/PAGA
7 settlement granted on April 4, 2025; *Juan Hinojos Campos v. Applied Technology Group, Inc.*,
8 Kern Superior Court Case No. BCV-23-103067, final approval of class/PAGA settlement granted
9 on March 11, 2025; *Dennisha Lampkin v. Sunstates Security, Inc.*, Riverside Superior Court Case
10 No. CVRI2305600, final approval of class/PAGA settlement granted on December 18, 2024;
11 *Amaya Nelson v. Clair Global Corp.*, Los Angeles Superior Court, Case No. 24STCV14597,
12 preliminary approval of class/PAGA settlement granted on May 22, 2025.

13 7. During my tenure as a wage and hour class action defense attorney, I have
14 represented employers in over 80 wage and hour class and/or PAGA action lawsuits. The following
15 is a list of wage and hour class and/or PAGA actions where I served as lead defense counsel or
16 primary handling attorney and in which final settlement approval was granted, I tried the case to
17 verdict, or I obtained a denial of motion for class certification: *Sylvia Martinez v. CCS Engineering*
18 *Fresno, Inc., et al.*, Los Angeles Superior Court, No. 22STCV14985, filed May 4, 2022 (PAGA
19 settlement approved on May 13, 2023); *Fidel Cruz v. Crescent Hotels & Resorts, LLC*, Sacramento
20 Superior Court, No. 34-2021-00299126, filed April 20, 2021 (PAGA settlement approved on
21 January 14, 2022); *Sidney Judge v. Aliso Viejo Brewing Company*, Orange County Superior Court,
22 No. 30-2021-01178139-CU-OE-CXC, filed January 8, 2021 (Class/PAGA settlement approved on
23 January 18, 2023); *Joseph Montgomery v. Copart, Inc.*, Sacramento Superior Court, No. 34-2020-
24 00280733, filed June 15, 2020 (Class/PAGA settlement approved on February 14, 2023); *Khawla*
25 *Majdoub v. Argent Hotel Management, LLC, et al.*, San Francisco Superior Court, No.
26 CGC20582921, filed February 13, 2020 (Class/PAGA settlement approved on September 9, 2022);
27 *Irene Quesada v. California Commerce Club, Inc.*, Los Angeles Superior Court, No.
28 19STCV41482, filed November 18, 2019 (PAGA settlement approved on November 17, 2021); *FPI*

1 *Management Wage and Hour Cases*, Los Angeles Superior Court, No. JCCP5050, filed August 19,
2 2019 (Class/PAGA settlement of two included cases approved on September 9, 2022); *Stephanie*
3 *Ouellette v. MKTG, Inc., et al.*, Los Angeles Superior Court, No. 19STCV27487, filed August 2,
4 2019 (Class/PAGA settlement approved on March 21, 2023); *Naomi Guynn-Neupane v. Magna*
5 *Legal Services, LLC, et al.*, U.S. District Court, Northern District of California, No. 5:19-CV-
6 02652, filed May 15, 2019 (Plaintiff's motion for class certification denied and defendant's motion
7 for summary judgment granted on October 6, 2021); *Janelle Murphy v. BBVA Compass*,
8 Sacramento Superior Court, No. 34-2018-00241658, filed September 28, 2018 (Class/PAGA
9 settlement approved on November 20, 2020); *George Gunn v. Shimadzu Precision Instruments,*
10 *Inc.*, Los Angeles Superior Court, No. BC719424, filed August 31, 2018 (Class/PAGA settlement
11 approved on June 22, 2020); *Lizbeth Garcia v. The Bay Clubs Company LLC*, San Diego Superior
12 Court, No. 37-2018-00029247-CU-OE-CTL, filed June 13, 2018 (PAGA settlement approved on
13 March 14, 2022); *Miguel Casillas v. FPI Management, Inc.*, Sacramento Superior Court, No. 34-
14 2018-00227643, filed February 22, 2018 (PAGA settlement approved on October 10, 2018); *Jesus*
15 *A. Hernandez v. J.V.C. Trucklines, Inc.*, San Bernardino Superior Court, No. CIVDS1714857, filed
16 August 3, 2017 (Class/PAGA settlement approved on May 22, 2018); *Mireya Castrejon v. CCS*
17 *Orange County Janitorial, Inc.*, Orange County Superior Court, No. 30-2017-00920076-CU-OE-
18 CXC, filed May 12, 2017 (Class/PAGA settlement approved on November 17, 2021); *Alfonso*
19 *Valadez v. California Commerce Club, Inc.*, Los Angeles Superior Court, No. BC644587, filed
20 December 20, 2016 (PAGA settlement approved on December 17, 2021); *Loreta B. Gharghani v.*
21 *Gefer Farms, Inc., et al.*, Los Angeles Superior Court, No. BC624938, filed June 23, 2016 (PAGA
22 settlement approved on January 14, 2021); *Salvador Magana v. Normandie Club Incorporated*, Los
23 Angeles Superior Court, No. BC621737, filed May 25, 2016 (Class/PAGA settlement approved on
24 October 26, 2018); *Kejuan Moore v. Farwest Insulation Contracting*, Los Angeles Superior Court,
25 No. BC588118, filed July 15, 2015 (PAGA settlement approved on August 26, 2016); *Maria*
26 *Dominguez v. Viva Bargain Center, Inc., et al.*, Los Angeles Superior Court, No. BC588049, filed
27 July 14, 2015 (Class/PAGA settlement approved on June 13, 2017); *Valentin Maracine v. Mesa*
28 *Verde Convalescent Hospital, Inc.*, Orange County Superior Court, No. 30-2015-00780115-CU-

1 OE-CXC, filed April 1, 2015 (Class/PAGA settlement approved on July 7, 2017); *Judy Pittacora, et*
2 *al. v. Aurora Vista Del Mar, LLC*, Ventura County Superior Court, No. 56-2014-00454445-CU-OE-
3 VTA, filed June 20, 2014 (Class/PAGA settlement approved on October 20, 2016); *Iffat "Iffy" Khan*
4 *v. FPI Management, Inc.*, Los Angeles Superior Court, No. BC541747, filed April 4, 2014
5 (Class/PAGA settlement approved on January 4, 2018); *Michael Luparello v. VIP Tours of*
6 *California, Inc., et al.*, Los Angeles Superior Court, No. BC538570, filed March 6, 2014 (First-
7 chaired certified class action trial through judgment on behalf of one of the defendants on August
8 16, 2019); *Bertram Riddick v. WDI International, Inc.*, Los Angeles Superior Court, No. BC507786,
9 filed May 2, 2013 (Class settlement approved on February 21, 2017); *Pedro Aviles v. Super A*
10 *Foods, Inc.*, Los Angeles Superior Court, No. BC504376, filed March 29, 2013 (Class/PAGA
11 settlement approved on March 9, 2016); *Jose Chavez v. Vallarta Food Enterprises, Inc., et al.*, Los
12 Angeles Superior Court, No. BC490630, filed August 21, 2012 (Class/PAGA settlement approved
13 on November 10, 2014); and *Melinda Gonzalez v. Workforce Outsourcing, Inc., et al.*, Los Angeles
14 Superior Court, No. BC489320, filed July 31, 2012 (Class/PAGA settlement approved on February
15 5, 2016).

16 8. As counsel for Plaintiff and Aggrieved Employees, I have been intimately
17 involved in this case since its inception and I believe that the proposed PAGA settlement is a fair
18 and equitable result for Aggrieved Employees and the State. Enclosed as **Exhibit 1** is a true and
19 correct copy of the parties' fully executed PAGA Settlement Agreement (the "Settlement" or
20 "Agreement"). The proposed explanatory letter regarding the Settlement to be mailed to Aggrieved
21 Employees along with their settlement checks is attached to the Agreement as **Exhibit A**.

22 **SUMMARY OF THE LITIGATION AND SETTLEMENT**

23 9. Defendant operates a call center insurance sales business in Newport Beach,
24 California and is affiliated with Smart Financial (<https://contactability.com>).

25 10. On July 26, 2023, Plaintiff submitted the LWDA Letter of alleged Labor Code
26 violations to Defendant and the California Labor and Workforce Development Agency (the
27 "LWDA"). Enclosed as **Exhibit 2** is a true and correct copy of the July 26, 2023 LWDA Letter.

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1 11. On August 15, 2023, Plaintiff submitted the Amended LWDA Letter of alleged
2 Labor Code violations to Defendant and the LWDA. Enclosed as **Exhibit 3** is a true and correct
3 copy of the August 15, 2023 LWDA Letter. Plaintiff's administrative exhaustion period expired
4 without the LWDA indicating its intent to investigate the allegations.

5 12. On September 29, 2023, Plaintiff filed the operative Representative Action
6 Complaint ("Operative Complaint") alleging a single cause of action for violation of the PAGA.
7 Enclosed as **Exhibit 4** is a true and correct copy of the Operative Complaint. The Operative
8 Complaint has been uploaded to the LWDA in compliance with PAGA.

9 13. On November 17, 2023, the Parties stipulated to arbitration of Plaintiff's individual
10 claims and to stay representative PAGA claims. Thereafter, Plaintiff filed a Demand for Arbitration
11 with AAA. During the course of the arbitration proceedings, the Parties agreed to mediate on a
12 PAGA representative basis.

13 14. Prior to mediation, the Parties engaged in informal discovery which allowed the
14 Parties to meaningfully mediate this matter. Specifically, Defendant produced: (1) PAGA
15 demographics including the number of Aggrieved Employees and PAGA Pay Periods; (2) a 25%
16 sampling of employees time and payroll records; (3) excerpts of Defendant's employee handbook
17 with relevant policies; and (4) Plaintiff's personnel records.

18 15. Plaintiff's counsel, with the assistance of a retained expert data analyst, analyzed and
19 reviewed the documents regarding Defendants' wage and hour policies and practices, the Aggrieved
20 Employees' time and pay records, and other information provided by Defendants and Plaintiff.
21 Plaintiff's counsel was able to evaluate the probability of success on the merits and Defendant's
22 maximum and risk-adjusted monetary exposure and prepare a damage analysis prior to mediation.
23 The time and pay records of all Aggrieved Employees allowed Plaintiff's counsel and their expert to
24 prepare an analysis with a high degree of certainty. In conjunction with their extensive factual
25 investigation, Plaintiff's counsel also investigated the applicable law regarding the claims and
26 defenses asserted in the litigation. Thus, Plaintiff and Plaintiff's counsel's familiarity with the facts
27 of the case and the legal issues raised by the pleadings allowed them to act intelligently in
28 negotiating the Settlement.

1 16. On March 21, 2025, the Parties participated in private mediation before Tagore
2 Subramaniam, Esq., an experienced, neutral, class action and PAGA mediator. The settlement
3 negotiations were at arm's length and, although conducted in a professional manner, were
4 adversarial. The Parties went into the mediation willing to explore the potential for a settlement of
5 the dispute, but each side was also prepared to litigate their position through trial and appeal if a
6 settlement had not been reached. After extensive negotiations and discussions regarding the
7 strengths and weaknesses of Plaintiff's claims and Defendant's defenses, the Parties reached a
8 settlement of this Action, the material terms of which are encompassed within the Agreement. The
9 Parties recognized that the issues presented in the Action are likely only to be resolved with
10 extensive and costly pretrial and trial proceedings, and that further litigation will lead to
11 inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits
12 of litigation. Plaintiff and Plaintiff's counsel considered the risk and uncertainty of the outcome
13 inherent in any litigation when determining whether this Settlement was the correct option.

14 17. At this time, Plaintiff's litigation costs are approximately \$12,217.89, including
15 \$104.17 in estimated future costs in filing this Motion and supporting papers (\$75.91), supplemental
16 filings for this Motion (\$14.11), and filing of the Settlement Administrator's declaration of
17 compliance re settlement administration (\$14.11). Enclosed as **Exhibit 4** is a true and correct
18 itemized list of costs incurred to date and estimated future costs.

19 18. The Parties jointly selected Phoenix Settlement Administrator as the neutral entity to
20 administer this Settlement based on its bid of \$3,975.00 and after obtaining and comparing bids
21 from two administrators.

22 19. The amount estimated in the Net Settlement Amount for the LWDA payment and the
23 Aggrieved Employee payment is \$95,473.78. Accordingly, approximately \$23,868.44 (25% of the
24 Net Settlement Amount) will be paid to the estimated 141 Aggrieved Employees on a pro-rata basis
25 based on the number of pay periods each Aggrieved Employee worked during the PAGA Period,
26 and the raw average payment to Aggrieved Employees is estimated at \$169.28.

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1 total \$153,455.16. In response, Defendant argues that Plaintiff's damages analysis is grossly
2 inflated because it includes employees who were exempt from overtime under the Inside Sales
3 Exemption under IWC Wage Order 4, § 3(D), which provides: "The [overtime] provisions of [the
4 Wage Order] above shall not apply to any employee whose earnings exceed one and one-half (1½)
5 times the minimum wage if more than half of that employee's compensation represents
6 commissions."

7 23. Off-the-Clock Work. Plaintiff and his coworkers experienced off-the-clock work
8 because it took several minutes to start his computer before they were able to clock in for their shift.
9 At \$100 initial penalty per pay period and assuming a 100% violation rate, PAGA penalties for off
10 the clock work violations total \$256,400.00. In response, Defendant vigorously contests that the few
11 minutes Aggrieved Employees spent to start their computers before clocking in was compensable.

12 24. Meal Period Violations. Plaintiff alleges that Defendant failed to provide him with
13 full, 30-minute meal periods before the end of the fifth hour of work. Plaintiff's counsel and his
14 expert analyzed the 25% sampling of time and payroll records and found, out of 5,161 shifts and
15 560 pay periods, after accounting for meal period premiums paid, 26.96% of pay periods had one or
16 more meal period violations. At \$100 initial penalty per pay period, an 26.96% violation rate, and
17 extrapolated to 2,564 pay periods, PAGA penalties for meal period violations are **\$69,125.44**. In
18 response, Defendant counters that it has maintained compliant meal period policies and practices
19 throughout the PAGA Period and always provided compliant meal periods in line with those
20 policies. Defendant points to the fact that it paid approximately 89 meal period premiums totaling
21 \$2,443.18 in the sampling as evidence of their superior meal period compliance practices. As such,
22 Defendant maintains Plaintiff's meal period claim is unmanageable since individual inquiries would
23 be needed to assess which employees, if any, took non-compliant meal periods, how many meal
24 periods were non-compliant, and the reasons why a particular employee did not take a meal period
25 on a particular shift and a meal period premium was not paid.

26 25. Rest Period Violations. Plaintiff contends that he occasionally could not take his 10-
27 minute rest breaks because of his work duties. Any rest period violations would not be reflected in
28 the time or payroll records. Estimating that Aggrieved Employees experienced rest period violations

1 during approximately 20% of pay periods, and at \$100 initial violation rates and extrapolated to the
2 date of mediation, PAGA penalties for rest period violations are **\$51,280.00**. In response, Defendant
3 counters that it has maintained compliant rest period policies and practices throughout the PAGA
4 Period and always provided compliant rest periods in line with those policies. Defendant further
5 argued that Aggrieved Employees worked from home and had significant flexibility to take their
6 breaks. As such, Defendant maintains Plaintiff's rest period claim is unmanageable since individual
7 inquiries would be needed to assess which employees, if any, took non-compliant rest periods, how
8 many rest periods were non-compliant, and the reasons why a particular employee did not take a
9 rest period on a particular shift.

10 26. Derivative Wage Statement and Waiting Time Violations. Plaintiff alleges that, as a
11 result of the aforementioned wage violations, Defendant failed to furnish Aggrieved Employees
12 with accurate itemized wage statements in violation of Labor Code section 226(a). At an 100%
13 violation rate by pay period, and at \$100 initial violation rate penalty per pay period, PAGA
14 penalties are estimated at \$256,400.00. Plaintiff alleges that, as a result of the aforementioned wage
15 violations, Defendant failed to pay all wages due to formerly employed Aggrieved employees upon
16 their separation of employment in violation of Labor Code sections 201 and 202. At \$100 per
17 former employee for 115 former employees, PAGA penalties are estimated to be \$11,500.00. In
18 response, Defendant points to its substantive defenses on regular rate, off-the-clock work, and
19 meal/rest period claims to argue that these derivative claims will fail with the underlying claims.

20 27. Failure to Reimburse Business Expenses. During the PAGA period, Plaintiff and
21 other Aggrieved Employees were required to work from home since COVID. Although Defendant
22 provided Plaintiff with a work computer that contains a phone app, it failed to reimburse him for
23 any other costs of working from home, including prorated internet and utility expenses. At \$100 per
24 pay period over 2,564 pay periods, PAGA penalties for reimbursements violations are **\$256,400.00**.

25 28. Unlawful Non-Compete Agreement. During the relevant time period, Defendant
26 required Plaintiff and other aggrieved employees to sign an Employee Confidentiality, Non-
27 Solicitation, and Non-Competition Agreement which contains non-compete and non-solicitation
28 covenants, such as a covenant to not compete with Defendants for 18 months following the

1 separation of employment. At \$100 per employee for 141 employees, PAGA penalties are
2 **\$14,100.00.**

3 29. Maximum Exposure and Realistic Recovery at Trial. Based on the foregoing,
4 Plaintiff's counsel estimates Defendant's maximum exposure for PAGA penalties to be
5 approximately **\$1,068,660.60**. However, PAGA penalties subject to discretionary reduction by this
6 Court. Pursuant to Labor Code § 2699(f)(2), the Court can decline to award the full amount of
7 PAGA penalties where ". . . if, based on the facts and circumstances of the particular case, to do
8 otherwise, would result in an award that is unjust, arbitrary and oppressive, or confiscatory."
9 Indeed, courts have affirmed the reduction of PAGA penalties in the past. Here, Defendant argued
10 that based on their compliant policies and practices, the significant amount of overtime paid during
11 the PAGA Period, the high meal period compliance rate, and the hyper-technical nature of the
12 regular rate of pay theories of liability, the Court will significantly reduce any award of PAGA
13 penalties based on its good-faith compliance with the Labor Code.

14 30. Taking into account Defendant's defenses on the merits and the potential for the
15 Court to reduce a PAGA penalty award, Plaintiff's counsel believes there is a 75% risk factor that
16 the Court will find some of the claims in Defendant's favor and/or exercise its discretion to reduce
17 the PAGA penalty award. Accordingly, applying a 75% discount to the maximum penalty exposure,
18 Plaintiff's counsel believes the realistic recovery at trial on these claims to be **\$267,165.15**. The
19 \$175,000.00 settlement is an excellent result and amounts to "genuine and meaningful" relief
20 "consistent with the underlying purpose of the statute to benefit the public" as it represents
21 approximately **65.50%** of Plaintiff's realistic recovery. (*See Villalobos v. Calandri Sonrise Farm*
22 *LP* (C.D. Cal., July 22, 2015, No. CV 12-2615 PSG (JEMx)) 2015 WL 12732709, at *5; *see also*
23 *O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.) This is an
24 excellent result, particularly because, under the Settlement, Aggrieved Employees will receive
25 timely, guaranteed relief and will avoid the risk of not being able to recover anything.

26 **THE REQUESTED ATTORNEYS' FEES AND COST AWARD SHOULD BE APPROVED**

27 31. This Settlement is beneficial in that it limits the risk of continued expenses and
28 consumption of time, energy, and resources facing Defendant while at the same time rewarding

1 Plaintiff's counsel for their decision to assume risk by taking on this matter. In fact, prosecution of
2 this action involved significant financial risk for Plaintiff's counsel. Plaintiff's counsel undertook
3 this matter solely on a contingent basis, with no guarantee of recovery. Once Plaintiff's counsel
4 undertook this litigation on behalf of the Aggrieved Employees, they committed to pursue it to its
5 conclusion, placing their fiduciary duty to the Aggrieved Employees ahead of all other concerns.

6 32. As of the filing of this Motion, Justice for Workers, P.C. incurred a total lodestar of
7 \$67,005.00 for 89.7 hours worked by attorneys successfully litigating this matter, which represents
8 a negative 0.87 lodestar multiplier. I have reviewed my firm's lodestar in this matter and believe the
9 charges are reasonable and were reasonably necessary to the conduct of the case. The work
10 conducted include, but are not limited to:

- 11 • Meetings with the Plaintiff and review of documents provided by him;
- 12 • Legal research and investigation regarding the Defendant's practices at various
13 points in the litigation; preparation and submission of Plaintiff's PAGA notice letter;
- 14 • Preparation of the Complaint and case management conferences;
- 15 • Analyzing Plaintiff's arbitration agreement and stipulation to arbitrate;
- 16 • Preparation of Demand for Arbitration;
- 17 • Research and preparation of arbitrator strike list;
- 18 • Extensive meet and confer correspondence and discussions with Defendant's counsel
19 regarding case management, mediation, and informal discovery for mediation;
- 20 • Analysis of the informal discovery production and preparation of a damages model
21 with the aid of an expert data analyst;
- 22 • Research and preparation of Plaintiff's mediation brief and participation in
23 mediation; drafting, negotiating, and reviewing multiple drafts of the Agreement and attachments
24 thereto;
- 25 • Preparation, finalization, and filing of the motion for approval and accompanying
26 filings;
- 27 • Anticipated preparation for and attendance at the hearing on motion for approval;
- 28 • Anticipated monitoring approval of the Settlement and requested award;

- Anticipated overseeing the administration process and distribution of funds; and
- Communications with Plaintiff regarding the case.

33. In assessing the reasonableness of the billing rates for the attorneys at Justice for Workers, P.C., I referred to the “Laffey Matrix” to set our hourly billing rates. *See* <http://www.laffeymatrix.com/>. The Laffey Matrix is a fee schedule used by many courts throughout the United States, including some California state courts and California Federal District Courts. The Laffey Matrix is a well-established objective source that California courts have relied on in assessing hourly rates since 2005. (*See In Re HPL Technologies, Inc. Securities Litigation* (N.D. Cal. 2005) 366 F.Supp.2d 912, 921 (confirming use of the Laffey Matrix adjusted to account for locality pay differentials); *Rubalcaba v. Albertson's, LLC* (Cal. Super. Ct. May 25, 2017) No. BC528755, 2017 WL 4330597, at *4 reversed on other grounds.) My associates and I at Justice for Workers, P.C. have extension experience providing class action services, both as defense attorneys and now as plaintiff’s attorneys. When comparing the billing rates for attorneys at my firm with the Laffey Matrix, my associates and I bill **below** the rate for similarly skilled and tenured legal professionals:

Name	Laffey Matrix Fee	Actual Billing Rate	Hours Billed	Lodestar
William C. Sung (14 th Year Attorney)	\$948	\$850	63.30	\$53,805
Tiffany L. Luu (5 th Year Attorney)	\$581	\$500	26.40	\$13,200

34. My fee requests based on a percentage of the gross settlement amount, a lodestar hourly rate of \$850 per hour to me and \$500 to Tiffany Luu have been approved by multiple courts, including *Jose Regalado v. United Markets*, Marin County Superior Court Case No. CV0001169, final approval of class/PAGA settlement granted on August 29, 2025; *Mushfiqur Chowdhury v. CWT US, LLC*, Los Angeles Superior Court Case No. 23STCV25373, final approval of class/PAGA settlement granted on August 22, 2025; *Pedro Hernandez v. Edmund A. Gray Co.*, Los Angeles Superior Court Case No. 24STCV04118, final approval of class/PAGA settlement granted on August 19, 2025; and *Alexis Bartram v. Lakeshore Learning Materials, LLC*, Los Angeles Superior

1 Court Case No. 23STCV21174, final approval of class/PAGA settlement granted on July 3, 2025.

2 35. Additionally, Plaintiff's counsel estimate they will devote no less than 10 hours,
3 although likely more time, to additional tasks, which are hours not included in the foregoing
4 lodestar total. These additional hours will include time spent to obtain and monitor approval of the
5 Settlement and requested awards, oversee the settlement administration process and distribution of
6 funds, respond to inquiries, and communicate with Plaintiff regarding the case.

7 36. Plaintiff seeks an enhancement award of \$5,000.00 and I submit that this request is
8 reasonable given Plaintiff's efforts in this case and the risks Plaintiff undertook on behalf of the
9 State and Aggrieved Employees. As a result of Plaintiff's efforts, he has helped the State recover
10 over \$71,000.00 in civil penalties and 141 Aggrieved Employees recover on average \$169.28 in
11 civil penalties per person.

12 37. Prior to the filing of this Motion, Defendant's counsel provided Plaintiff's counsel a
13 declaration confirming the number of PAGA Pay Periods. Based on this declaration, the Escalator
14 Clause in ¶ III.3 of the Agreement will not be triggered and the PAGA Period will not need to be
15 modified. Enclosed as **Exhibit 6** is a true and correct copy of the Declaration of Christine Baran Re:
16 Number of Pay Periods for Aggrieved Employees Through PAGA Period.

17 38. On September 21, 2025, I caused a copy of the Motion for Approval of PAGA
18 Settlement and the fully executed Agreement to be uploaded to the LWDA's website. Enclosed as
19 **Exhibit 7** is a true and correct copy of the LWDA's filing confirmation.

20 I declare, under penalty of perjury under the laws of the State of California, that the
21 foregoing is true and correct.

22 Executed on September 21, 2025 at Los Angeles, California.

23
24 

25 _____
William C. Sung

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This Private Attorney General Act (PAGA) Settlement Agreement and Release (“Settlement” or “Agreement”) is made and entered into between Plaintiff Juan Arias (“Plaintiff”), individually and in his representative capacity on behalf of the State of California and the Aggrieved Employees (as defined in Section I(2) below), on the one hand, , and Defendant Contactability.com LLC (“Defendant”) on the other hand, subject to approval by the Court.

I. DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. “Action” means (1) Plaintiff’s written notice to the Labor Workforce Development Agency (LWDA) dated July 26, 2023 and amended on August 15, 2023, as well as any additional amendments, pursuant to Labor Code section 2699.3 of the specific provisions of the California Labor Code alleged to have been violated by Defendant, LWDA-CM-970876-23 and (2) the Complaint filed by Plaintiff on September 29, 2023, as well as any amendments to that Complaint, entitled *Juan Arias v. Contactability.com LLC, et al*, in the Orange County Superior Court, Case No. 30-2023-0135200-CU-OE-CXC asserting a single cause of action for violation of the California Private Attorneys General Act (Labor Code sections 2698 et seq.) for Defendant’s alleged violations of the Labor Code and relevant provisions of the applicable Wage Order(s).

2. “Aggrieved Employees” all persons currently or formerly employed by Defendant as non-exempt or hourly-paid employees in the State of California including those who fall under the salespersons exemptions, during the PAGA Period. Defendant represents that at the time of mediation there were approximately 141 Aggrieved Employees.

3. “Complaint” means the Representative Action Complaint for Violation of the California Private Attorneys General Act (Labor Code § 2698, *et seq.*) in the Action filed on September 29, 2023.

4. “Court” means the Superior Court of California for the County of Orange.

5. “Defense Counsel” means Fisher & Phillips, LLP

6. “Effective Date” means when all of the following events have occurred: (1) the Settlement Agreement has been executed by all Parties, Plaintiff’s Counsel, and Defense Counsel; (2) Notice of the Settlement has been sent to the LWDA via online filing of this Agreement and Plaintiff’s motion for approval of this Settlement; (3) the Court has given approval of the Settlement; and (4) the Court has entered the Court’s Final Order and Judgment.

7. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

8. “LWDA” means the California Labor and Workforce Development Agency.

9. “Gross Settlement Amount” is the non-reversionary sum of One Hundred Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00), which represents the total all-in amount

payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff's Counsel's fees and costs, payment of Plaintiff's enhancement award, payment to the Settlement Administrator for administration costs in exchange for Aggrieved Employees release of all PAGA Released Claims as well as a comprehensive release of all claims by Plaintiff.

10. "Net Settlement Amount" is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount and as approved by the Court: (a) Plaintiff's Counsel's fees up to one-third (33 1/3%) of the Gross Settlement Amount, currently estimated at \$58,333.33; (b) Plaintiff's verified costs up to \$20,000.00; (c) Plaintiff's enhancement award of \$5,000.00; and (d) verified administration costs up to \$3,975.00.

11. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code §§ 2698, *et seq.*

12. "PAGA Period" means the time period from July 26, 2022 through May 20, 2025.

13. "PAGA Released Claims" means any and all claims for civil penalties pursuant to PAGA under the California Labor Code, Wage Orders, regulations, and/or other provisions of law that were alleged or reasonably could have been alleged to have been violated based on the facts set forth in the Action with respect to Aggrieved Employees which arose during the PAGA Period, including alleged violations of Labor Code claims for failure to pay overtime wages; failure to pay minimum wages including straight time and paid sick leave wages; any claims for additional wages owed due to "off the clock" work, rounding, and/or regular rate; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due including failure to timely pay final wages upon termination; failure to pay all wages earned at least twice during each calendar month; waiting time penalties; failure to pay timely wages during employment; wage statement violations including failure to furnish accurate itemized wage statements; failure to keep and maintain accurate payroll records including hours worked and meal breaks; failure to reimburse expenses; failure to incorporate non-discretionary pay, bonuses, and commissions (i.e. incentive pay, production pay, performance pay, and/or shift differentials) into the regular rate; unlawful non-compete and non-solicitation agreements in violation of Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 256, 432.5, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698, 2699, 2699.3 2800, 2802, 2804, and the applicable Wage Order and/or claims for attorneys' fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 3287(b) and 3289. The release also includes any allegations brought in the Action or any amended Complaint, including a release from the State of California (to the extent Plaintiff is permitted to provide such a release for the State of California for the PAGA Period) of all PAGA claims alleged or could have been alleged in the Action which occurred during the PAGA Period. The Parties agree to take all necessary steps to make sure that a release covering all of the foregoing claims is approved by the Court, including, if necessary and requested by the court, amending the Complaint.

14. "Parties" means Plaintiff and Defendant, collectively.

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

16. “Plaintiff” means Juan Arias.

17. “Plaintiff’s Counsel” means William C. Sung and Tiffany L. Luu of Justice for Workers, P.C.

18. “Released Parties” means Defendant Contactability.com LLC and its past, present, and future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their current and former employees, agents, directors, officers, members, and attorneys.

19. “Settlement Administrator” or “Administrator” means Phoenix Settlement Administrators.

II. RECITALS

1. Plaintiff alleges that with regard to the Aggrieved Employees, Defendant: (1) failed to pay all minimum, overtime, and paid sick leave wages due; (2) failed to provide meal and rest periods or payment of all meal or rest period premiums due; (3) failed to pay all wages due upon separation of employment; (4) failed to timely pay wages; (5) failed to furnish accurate, itemized wage statements; (6) failed to maintain accurate employment records; (7) failed to pay all reporting time and call-back premiums due; (8) failed to reimburse all necessary business expenses; (9) required Aggrieved Employees to sign unlawful non-compete agreements, all of which result in liability for civil penalties under the PAGA.

2. On July 26, 2023 and August 15, 2023, Plaintiff provided the LWDA Letters to the LWDA and Defendant asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described in Paragraph II.1 above.

3. On September 29, 2023, Plaintiff filed the Complaint in the Action.

4. Based on the Parties stipulation, on or around November 17, 2023 the Honorable Lon F. Hurwitz entered an order submitting Plaintiff’s individual PAGA claims to arbitration and staying Plaintiff’s representative PAGA claims pending final resolution of Plaintiff’s individual claims by binding arbitration; On May 2, 2024, Plaintiff filed a demand for arbitration.

5. During the pendency of the Action, the Parties engaged in an informal discovery exchange prior to mediation. In response to Plaintiff’s Counsel’s informal discovery requests, Defendant provided Plaintiff’s Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees in relation to the claims in the Action in order for Plaintiff’s Counsel to investigate Plaintiff’s allegations and value the PAGA claim, including but not limited to Defendants’ policies, timekeeping and payroll data.

6. On March 21, 2025, the Parties participated in mediation of the Action before mediator Tagore Subramaniam, Esq. With the assistance of Mr. Subramaniam, the Parties agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission of Liability or Representative Manageability.** 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 Action 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. Defendant generally and specifically denies any and all liability or wrongdoing with any of the claims alleged in the Action or that it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Defendant further makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Action is not appropriate for representative treatment. Defendant asserts several defenses to the claims and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. There has been no final determination by any court as to the merits of the claims asserted. Except as necessary in a proceeding to enforce the terms of this Settlement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law. Nor shall anything in this Agreement be construed or deemed an admission that the Action was properly brought as Private Attorney General Action under PAGA. Finally, nothing in this Agreement or in the Court's approval of the Settlement and/or Final Judgment shall be deemed a waiver of Defendant's right to enforce the arbitration agreements of Aggrieved Employees in the future.

2. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, Defendant shall pay One Hundred Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00) as the **non-reversionary** Gross Settlement Amount to resolve the Action and the PAGA Released Claims. Defendant will not pay more than the Gross Settlement Amount (subject to the options set forth in Escalator Clause below). The payment of the Gross Settlement Amount shall be made within sixty (60) calendar days of the Effective Date. The Settlement Administrator will be solely responsible for establishing a qualified settlement fund ("QSF"), issuing payments and providing appropriate tax forms to Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. Defendant shall deposit the Gross Settlement Amount into the QSF to be established by the Settlement Administrator who will then distribute all payments.

3. **Escalator Clause.** Defendant represents that as of March 21, 2025 there are no more than approximately 2,564 Pay Periods worked during the PAGA Period. In the event the number of Pay Periods worked increases by more than 10%, or more than 2,820 Pay Periods worked, then Defendant shall, at its option, either (a) increase the Gross Settlement Amount

proportionally by the Pay Periods in excess of the 10%; or (b) cap the end date of the PAGA Period as of the date the number of Pay Periods reaches but does exceed 10% (the “Escalator Clause”) Under option (a) an increase by more than 10% shall mean should the number of pay periods increase by more than 10% through the PAGA Period, this will increase the Gross Settlement Amount proportionally over the 10% increase. For example, if the number of Pay Periods increase by 11% through the PAGA Period, and Defendant elects option (a) set forth above, then the Gross Settlement Amount shall increase by 1%. No later than June 3, 2025 and before Plaintiff files its motion for approval of the Settlement, Defendant’s counsel shall provide to Plaintiff’s counsel either a declaration attesting to the number of Pay Periods worked during the PAGA Period or provide an Aggrieved Employee list without names with either their Pay Periods worked during the PAGA Period or dates of employment so that the number of Pay Periods can be calculated. Once the number of Pay Periods have been confirmed by both Parties, if the Escalator Clause is triggered, Defendant shall advise Plaintiff of which option it will choose.

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiffs Counsel’s Fees and Costs.** Defendant will not oppose Plaintiffs request for attorneys’ fees in the amount up to one-third (33 1/3%) of the Gross Settlement Amount (currently estimated at \$58,333.33), and costs incurred in prosecuting this Action up to \$20,000.00. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount; Defendant will not be responsible for making up the difference to Plaintiff’s Counsel. Defendant, via the Settlement Administrator, will report these payments on IRS Form 1099 issued to Plaintiff’s Counsel.

b. **Administration Costs.** Defendant will not oppose the Settlement Administrator’s costs in the amount up to \$3,975.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount; Defendant will not be responsible for making up the difference to the Settlement Administrator. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

c. **Plaintiff’s Enhancement Award.** Defendant will not oppose Plaintiff’s request for an enhancement award in the amount of \$5,000.00 for Plaintiff’s service to the LWDA and the Aggrieved Employees, and the risk Plaintiff undertook by attaching Plaintiff’s name to the Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount; Defendant will not be responsible for making up the difference to Plaintiff. If the Court believes the enhancement award should be reduced, the other terms of the Settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to Plaintiff.

5. **Allocation of Net Settlement Amount.** The Net Settlement Amount shall be distributed pursuant to Labor Code§ 2699(i) as follows:

a. 75% of the Net Settlement Amount shall be distributed to the LWDA. 25%

of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of Pay Periods worked by each Aggrieved Employee for Defendant in California during the PAGA Period. To determine an Aggrieved Employee's potential claim, the settlement administrator will divide the amount of the Aggrieved Employees' 25% share of the Net Settlement Amount by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period and multiply the result by the number of pay periods worked by that Aggrieved Employee.

b. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to re-negotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.

c. Because this is a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One hundred percent (100%) of the payments for Attorneys' Fees and Costs, Enhancement Award, and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees will be treated and reported for tax purposes as non-wage payments and the Settlement Administrator will be responsible for issuing IRS Forms 1099, as required.

6. **PAGA Released Claims.** Plaintiff agrees that upon the Effective Date of this Agreement and full payment by Defendant of the Gross Settlement Amount, all Aggrieved Employees, including Plaintiff, and the State of California (to the extent Plaintiff is permitted to provide such a release for the State of California for the PAGA Period), will release and discharge any and all PAGA Released Claims against Defendant and the Released Parties that arose during the PAGA Period. Upon the Effective Date of this Agreement, as well as full payment by Defendant of the Gross Settlement Amount, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against Defendant and the Released Parties.

7. **No Right to Opt-Out.** Aggrieved Employees do not have the right to object or opt out of or otherwise exclude themselves from the settlement of claims for civil penalties under PAGA, and upon approval of the Settlement by the Court, each Aggrieved Employee will have released Defendant and each of the Released Parties of and for claims for civil penalties under PAGA released herein and each Aggrieved Employee will be entitled to receive payment, in conformity with the Settlement. Aggrieved Employees will be bound by the terms of the Agreement, upon its approval by the Court, regardless of whether an Aggrieved Employee cashes any payment received as a result of this Settlement.

8. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that Plaintiff has read this Settlement, that Plaintiff

fully understands Plaintiff's rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that Plaintiff had the opportunity to consult with Plaintiff's attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

9. **Notification to LWDA.** Plaintiff's counsel will notify the LWDA of the settlement at the time the settlement is submitted to the court for approval, seek approval of the settlement, and perform any and all statutory tasks as required by law.

10. **Approval and Implementation of the Agreement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the Settlement and terminate the Action pursuant to settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement.

(c) The Parties shall seek to obtain Court approval of this Agreement by way of an unopposed motion to be filed by Plaintiff's Counsel. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with the motion to approve this Agreement to Defense Counsel for review. Defense Counsel will be given an opportunity to comment on the papers prior to their being filed with the Court, and such comments will be implemented to the extent reasonable.

(d) The Parties expressly acknowledge that the Court's approval of the Agreement is a condition precedent to any payments described in this Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Agreement and/or should the Court refuse to grant judgment or dismissal of the Action and close the Action based on the Settlement, the entirety of this Agreement shall be null and void, and the Parties will have no obligations under it. The sum of the Plaintiffs Counsel's Fees and Costs and Administration Costs shall be determined by the Court. The Court's approval or denial of any amount requested for these items is not a condition of this Agreement and shall be considered separate and apart from the fairness, reasonableness, and adequacy of this Agreement. Any order or proceeding relating to an application for the Plaintiffs Counsel's Fees and Costs, or Administration Costs shall not operate to terminate or cancel this Agreement.

11. **Termination of Settlement.** Notwithstanding any other provision of this Agreement, if the Court does not approve the Settlement, or if this Agreement does not become Effective as defined in this Settlement, or if the Court makes or orders material changes to the Basic Settlement Terms (defined as the amount of the Gross Settlement Amount; the time period

of the Released PAGA Claims; the covered PAGA Period; the Escalator Clause; and/or the Parties' respective right to terminate the settlement as provided herein), or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the material terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement. However, before exercising this option, a Party contemplating terminating the Settlement will attempt to work with the other Party in good faith to modify the Settlement in order to obtain Court approval or to otherwise cure any defect in the Settlement.

12. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement, and the Court retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement pursuant to Cal. Code Civ. Proc. § 664.6. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. **ADMINISTRATION OF SETTLEMENT**

1. **Settlement Administrator.** The Parties agree to use Phoenix Settlement Administrator to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within five (5) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of Pay Periods or dates of employment, and Social Security number. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within twenty-one (21) calendar days of the Settlement being fully funded as provided above in Section III.2, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A** and to be

translated into Spanish by the Settlement Administrator, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address, using a skip-trace or other similar search, using the name, address and/or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing if a new address is located.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b)

5. **Payment of Remainder.** Within twenty-one (21) calendar days of the Settlement being fully funded, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorney's fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** No later than ten (10) business days prior to the Court's Final Accounting Hearing, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement and/or uncashed.

7. **Tax Consequences.** Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. No portion of the Settlement is allocated to unpaid wages and the Settlement Administrator will be solely responsible for issuing the IRS Forms 1099, as required. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

8. **Separate Non-PAGA Settlement Agreement.** The Parties have separately entered into a confidential settlement agreement regarding the non-PAGA claims by Plaintiff against Defendant arising out of Plaintiff's employment with Defendant and the termination of that employment. Nothing in this Agreement shall be construed to limit the Parties' rights under the separate agreement.

9. **No Credit Toward Benefit Plans.** Payments to Aggrieved Employees as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

V. **MISCELLANEOUS PROVISIONS**

1. **Mutual Preparation and Drafting.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

2. **Successors.** This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, assigns, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees and other fees incurred in connection with this Settlement and Plaintiff's PAGA claim, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement shall be construed under and governed by the laws of the state of California. This Settlement shall be deemed to have been entered into in the County of Orange, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of Orange.

5. **Complete Agreement.** The Parties each acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by counsel for the Parties hereto.

6. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and

the Parties will be returned to their original respective positions unless otherwise required under this Agreement.

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the PAGA claim in the Action.

8. **Authorization to Enter into Settlement.** Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including electronic signature, facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument.

10. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the PAGA claim in the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel and with the assistance of an experienced mediator. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement. the same instrument.

11. **Waiver of Certain Appeals.** The Parties agree to waive appeals; except, however, that Plaintiff may appeal any reduction to the Plaintiff's Counsel's Fees and Costs below the amount they request from the Court, and either party may appeal any court order that materially alters the Settlement's terms.

12. **Invalidity of Any Provision.** Before declaring any provision of this Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement valid and enforceable.

13. **Captions.** The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

14. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be

performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

15. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

16. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

17. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms under California Code of Civil Procedure § 664.6 and any other applicable statute or law, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

18. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

19. **Confidential.** The Parties agree that this Settlement is confidential (except for purposes of enforcement) and that no Party will issue any press release nor other public or non-public representation regarding the settlement other than as necessary to obtain Court approval and effectuate the terms of the Settlement. The Parties and their counsel agree that they will not initiate or have any contact with the press, respond to any press inquiry, or have any communication with the press about this case.

20. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action, motion, or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the prevailing Party or Parties will be entitled to recover from the non-prevailing Party or Parties reasonable attorneys' fees and costs incurred in connection with any action, motion, or other proceeding.

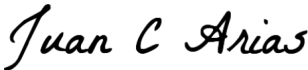
21. **Interim Stay of Proceedings.** The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

HAVING ELECTED TO EXECUTE THIS AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

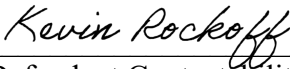
ACCEPTED AND AGREED:

07 / 25 / 2025
Dated: _____, 2025



Plaintiff Juan Arias

Dated: 7/30/25, 2025



Defendant Contactability.com LLC

Kevin Rockoff

Printed Name

General Counsel

Title

AGREED AS TO FORM AND CONTENT:

Dated: July 25, 2025



William C. Sung
Tiffany L. Luu
JUSTICE FOR WORKERS P.C
Attorneys for Plaintiff

Dated: July 29, 2025



Christine Baran
FISHER & PHILLIPS LLP
Attorneys for Defendant

EXHIBIT A

Re: *Payment from Juan Arias v. Contactability.com LLC*
Superior Court of California for County of Orange
Case No. 30-2023-0135200-CU-OE-CXC

SIMID
Name
Address

Dear NAME:

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Juan Arias v. Contactability.com LLC*, Case No. 30-2023-0135200-CU-OE-CXC, pending in the Superior Court of California for the County of Orange (the “Action”).

The Action was filed against Contactability.com LLC (“Defendant”) and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). The Action was brought by Plaintiff Juan Arias (“Plaintiff”), a former employee of Defendant, on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiff claimed that Defendant owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiff’s claims, and on DATE, the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of Defendant who were allegedly affected by the alleged violations of the Labor Code. By agreeing to this settlement, Defendant does not admit and expressly denies that it is liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiff’s claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller’s Unclaimed Property Fund in your name. If you are still employed by Defendant, your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The release includes all claims for civil penalties under the PAGA that were alleged or reasonably could have been alleged based on the facts alleged in Plaintiff’s governing complaint in the Action and/or notices submitted to the California Labor and Workforce Development Agency which arose from July 26, 2022 through May 20, 2025 (the “PAGA Period”), including claims for failure to pay overtime wages; failure to pay minimum wages including straight time and paid seek leave wages; any claims for

additional wages owed due to “off the clock” work, rounding, and/or regular rate; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due including failure to timely pay final wages upon termination; failure to pay all wages earned at least twice during each calendar month; waiting time penalties; failure to pay timely wages during employment; wage statement violations and failure to furnish accurate wage statements; failure to keep and maintain accurate payroll records and records of hours worked and meal breaks; failure to reimburse expenses; failure to incorporate non-discretionary bonuses, incentive pay, production pay, performance pay, and/or shift differentials and commissions into the regular rate; unlawful non-compete and non-solicitation agreements in violation of Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 256, 432.5, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698, 2699, 2699.3 2800, 2802, 2804, and the applicable Wage Order and/or claims for attorneys’ fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 3287(b) and 3289, California Industrial Commission Wage Orders, and all claims for attorneys’ fees and costs and statutory interest in connection therewith.

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at (____) ____ - ____.

EXHIBIT 2



JUSTICE FOR WORKERS

3600 WILSHIRE BOULEVARD, SUITE 1815, LOS ANGELES, CA 90010

TEL: (323) 922-2000

FAX: (323) 922-2000

www.JusticeForWorkers.com

July 26, 2023

VIA PAGA ONLINE FILING ONLY:

California Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

<https://dir.tfaforms.net/308>

**Re: *Juan Arias v. Contactability.com LLC*
Notice of Private Attorneys General Act Claim**

Dear PAGA Administrator:

This office has been retained by aggrieved employee Juan Arias concerning a representative action pursuant to the Private Attorneys Agent Act of 2004, Labor Code sections 2698, *et seq.* ("PAGA") against Contactability.com LLC (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as "Contactability") for violations of California wage and hour laws. Mr. Arias seeks civil penalties for violations of the California Labor Code and all other remedies available under PAGA.

Mr. Arias seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the notice requirements of California Labor Code section 2699.3.

Contactability owns, operates, or otherwise manages a call center. Contactability employed Mr. Arias as an hourly-paid, non-exempt employee within the last 12 months as a call center representative in the State of California. The "aggrieved employees" that Mr. Arias seeks civil penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Contactability has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 245-248.5, 256, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and IWC Wage Orders including, *inter alia*, Wage Orders 4-2001 and 5-2001.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. The applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. During the relevant time period, Contactability required Mr. Arias and other aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks, and failed to compensate aggrieved employees for this time.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Arias and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week but were not paid for all hours worked before their scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks. Mr. Arias and other aggrieved employees were not paid overtime compensation at the regular rate of pay because Contactability failed to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of pay.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Contactability required Mr. Arias and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods, and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of compensation.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above. These violations subject Contactability to civil penalties under Labor Code sections 203, 210, and/or 256.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month,

other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 245-248.5 mandates employers to comply with various requirements with respect to the provision of paid sick leave to employees. Throughout the relevant time period, Contactability failed to provide proper paid sick leave to Mr. Arias and other aggrieved employees. Contactability either failed to provide paid sick leave at all or improperly calculated the sick leave accrual or the sick leave rate of pay owed to Mr. Arias and other aggrieved employees by failing to base the accrued sick leave hours on the correct number of hours worked and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the sick leave pay rate calculation. Contactability further failed to provide notice of the correct sick leave amount balance available to Mr. Arias and other aggrieved employees on their wage statements or other written statements.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Contactability did not provide Mr. Arias and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Contactability were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Arias and other aggrieved employees, including time spent working off- the-clock and during meal and rest periods, and the correct rate of pay for overtime, meal and rest period premiums, and paid sick leave, as discussed above.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Contactability failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Arias and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 1198 provides: "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an

employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Arias and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Arias and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Arias and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Contactability, including, but not limited to, reimbursement of home internet expenses incurred in the performance of Mr. Arias' job duties.

Therefore, on behalf of all aggrieved employees, Mr. Arias seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this letter) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate. If the LWDA elects not to take any action with respect to any of the foregoing claims, Mr. Arias will seek these penalties in a civil action on behalf of all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

William C. Sung
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard
Suite 1815
Los Angeles, CA 90010
Office: 323-922-2000
Fax: 323-922-2000
Email: william@justiceforworkers.com

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "William C. Sung", written over a horizontal line.

JUSTICE FOR WORKERS, P.C.
William C. Sung

Cc: Via U.S. Certified Mail – Return Receipt Requested

Contactability.com LLC
c/o CT Corporation System
Agent for Service of Process
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

Subject: Thank you for submission of your PAGA Case.

Date: Wednesday, July 26, 2023 at 8:53:30 AM Pacific Daylight Time

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY

To: William Sung

7/26/2023

LWDA Case No. LWDA-CM-970876-23

Law Firm : Justice for Workers, P.C.

Plaintiff Name : Juan Arias

Employer: Contactability.com LLC

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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



CERTIFIED MAIL®



7022 2410 0002 0463 1985

Contactability.com LLC
c/o CT Corporation System
Agent for Service of Process
330 N. Brand Blvd., Suite 700
Glendale, CA 91203

FIRST-CLASS



US POSTAGE IMB PITNEY BOWES



ZIP 90010
02 7H
0006101956 **\$ 008.53⁰**
JUL 26 2023

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Contactability.com LLC
c/o CT Corporation System
Agent for Service of Process
330 N Brand Blvd, Ste 700
Glendale, CA 91203



9590 9402 7314 2028 2780 86

2. Article Number (Transfer from service label)

7022 2410 0002 0463 1985

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery

(over \$500)

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

7022 2410 0002 0463 1985

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$ _____
☐ Return Receipt (electronic) \$ _____
☐ Certified Mail Restricted Delivery \$ _____
☐ Adult Signature Required \$ _____
☐ Adult Signature Restricted Delivery \$ _____

Postage

\$

8.53

Total Postage and Fees

\$

Postmark
Here

Sent To

Contactability.com LLC c/o CT Corporation System

Street and Apt. No., or PO Box No.

350 N Brand Blvd Ste 700

City, State, ZIP+4®

Glendale, CA 91203

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

EXHIBIT 3



JUSTICE FOR WORKERS

3600 WILSHIRE BOULEVARD, SUITE 1815, LOS ANGELES, CA 90010

TEL: (323) 922-2000

FAX: (323) 922-2000

www.JusticeForWorkers.com

August 15, 2023

VIA PAGA ONLINE FILING ONLY:

California Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
<https://dir.tfaforms.net/308>

**Re: *Juan Arias v. Contactability.com LLC*
Amended Notice of Private Attorneys General Act Claim**

Dear PAGA Administrator:

This office has been retained by aggrieved employee Juan Arias concerning a representative action pursuant to the Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.* ("PAGA") against Contactability.com LLC (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as "Contactability") for violations of California wage and hour laws. Mr. Arias seeks civil penalties for violations of the California Labor Code and all other remedies available under PAGA.

Mr. Arias seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the notice requirements of California Labor Code section 2699.3.

Contactability owns, operates, or otherwise manages a call center. Contactability employed Mr. Arias as an hourly-paid, non-exempt employee within the last 12 months as a call center representative in the State of California. The "aggrieved employees" that Mr. Arias seeks civil penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Contactability has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 245-248.5, 256, 432.5, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and IWC Wage Orders including, *inter alia*, Wage Order 4-2001.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. The applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. During the relevant time period, Contactability required Mr. Arias and other aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks, and failed to compensate aggrieved employees for this time.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Arias and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week but were not paid for all hours worked before their scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks. Mr. Arias and other aggrieved employees were not paid overtime compensation at the regular rate of pay because Contactability failed to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of pay.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Contactability required Mr. Arias and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods, and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the regular rate of compensation.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above. These violations subject Contactability to civil penalties under Labor Code sections 203, 210, and/or 256.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month,

other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 245-248.5 mandates employers to comply with various requirements with respect to the provision of paid sick leave to employees. Throughout the relevant time period, Contactability failed to provide proper paid sick leave to Mr. Arias and other aggrieved employees. Contactability either failed to provide paid sick leave at all or improperly calculated the sick leave accrual or the sick leave rate of pay owed to Mr. Arias and other aggrieved employees by failing to base the accrued sick leave hours on the correct number of hours worked and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration into the sick leave pay rate calculation. Contactability further failed to provide notice of the correct sick leave amount balance available to Mr. Arias and other aggrieved employees on their wage statements or other written statements.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Contactability did not provide Mr. Arias and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Contactability were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Arias and other aggrieved employees, including time spent working off- the-clock and during meal and rest periods, and the correct rate of pay for overtime, meal and rest period premiums, and paid sick leave, as discussed above.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Contactability failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Arias and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 1198 provides: "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an

employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Arias and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Contactability failed to pay Mr. Arias and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Arias and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Arias and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Contactability, including, but not limited to, reimbursement of home internet expenses incurred in the performance of Mr. Arias' job duties.

California Labor Code section 432.5 provides that "no employer . . . shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer . . . to be prohibited by law." California Business and Professions Code Section 16600 further provides any contract that restricts an individual from "engaging in a lawful profession, trade, or business" is null and void. During the relevant time period, Contactability required Mr. Arias and other aggrieved employees to sign an Employee Confidentiality, Non-Solicitation, and Non-Competition Agreement which contains non-compete and non-solicitation covenants known to Contactability to be prohibited by Business and Professions Code Section 16600.

Therefore, on behalf of all aggrieved employees, Mr. Arias seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

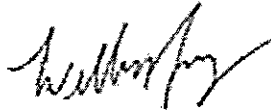
Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this letter) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate. If the LWDA elects not to take any action with respect to any of the foregoing claims, Mr. Arias will seek these penalties in a civil action on behalf of all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

William C. Sung
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard
Suite 1815
Los Angeles, CA 90010
Office: 323-922-2000
Fax: 323-922-2000
Email: william@justiceforworkers.com

Thank you for your attention to this matter.

Very truly yours,



JUSTICE FOR WORKERS, P.C.
William C. Sung

Cc: Via U.S. Certified Mail – Return Receipt Requested

Contactability.com LLC
Attn: Lev Barinskiy
Agent for Service of Process
4041 Macarthur Blvd., Ste. 210
Newport Beach, CA 92660

270 0862 5329 55

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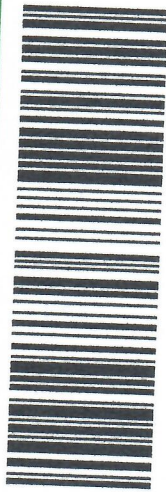
Extra Services & Fees (check box, add fee as appropriate)

- | | | |
|---|----|--|
| ☐ Return Receipt (hardcopy) | \$ | |
| ☐ Return Receipt (electronic) | \$ | |
| ☐ Certified Mail Restricted Delivery | \$ | |
| ☐ Adult Signature Required | \$ | |

Postmark
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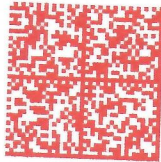


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FIRST-CLASS



US POSTAGE PAID PITNEY BOWES

ZIP 90010
02 7H
0006101956
\$ 008.530
AUG 04 2023

contactability.com LLC
Attn: Lev Barinskiy
Agent for Service of Process
4041 MacArthur Blvd., Ste. 210
Newport Beach, CA 92660

9589 0710 5270 0882 5329 55

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Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$

Postage	\$
Total Postage and Fees	\$ 8.53

Sent To
Contactability LLC/Lev Bannsky
4041 MacArthur Blvd., Ste. 210
Newport Beach, CA 92660

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark
Here

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT NOTCH FOR

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

contactability.com LLC
ATTN: LEV BANNISKY
AGENT FOR SERVICE OF PROCESS
4041 MACARTHUR BLVD., STE. 210
NEWPORT BEACH, CA 92660



9590 9402 5456 9189 9274 27

2. Article Number (Transfer from service label)

9589 0710 5270 0882 5329 55

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☒ Agent

☐ Addressee

B. Received by (Printed Name)

☐ Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

- ☒ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail[®]
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express[®]
- ☐ Registered Mail[™]
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation[™]
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

Subject: Thank you for your Amended PAGA Claim Notice Submission.

Date: Tuesday, August 15, 2023 at 9:15:58 AM Pacific Daylight Time

From: DIR PAGA Unit

To: William Sung

08/15/2023 09:15:35 AM

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

Item submitted: Amended PAGA Claim Notice

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

JUSTICE FOR WORKERS, P.C.
Young K. Park, SB# 287589
E-Mail: young@justiceforworkers.com
William C. Sung, SB# 280792
E-Mail: william@justiceforworkers.com
3600 Wilshire Boulevard, Suite 1815
Los Angeles, CA 90010
Tel: 323-922-2000
Fax: 323-922-2000

Assigned for All Purposes
Judge Lon F. Hurwitz
Dept. CX103

Attorneys for Plaintiff JUAN ARIAS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, INSERT DISTRICT

JUAN ARIAS, an aggrieved employee and on
behalf of other aggrieved employees;

Plaintiff,

vs.

CONTACTABILITY.COM LLC, an Ohio
limited liability company; and DOES 1 through
50,

Defendants.

Case No.: 30-2023-01352000-CU-OE-CXC

REPRESENTATIVE ACTION
COMPLAINT FOR VIOLATION OF THE
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §§ 2698,
***et seq.*)**

Plaintiff JUAN ARIAS (“Plaintiff”), on behalf of himself as an aggrieved employee, the State of California, and other aggrieved employees, hereby brings this Representative Action Complaint (“Complaint”) against Defendants CONTACTABILITY.COM LLC, an Ohio limited liability company, and DOES 1 to 50 inclusive (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff brings this Complaint for recovery of civil penalties under the California Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* (“PAGA”), for Defendants’ violations of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order 4-2001 (“Wage Order 4”), including Labor Code §§ 201-204, 210, 226, 226.7, 246, 256, 432.5, 510, 512,

1 516, 558, 1174, 1194, 1198, and 2802. This Court has jurisdiction over Defendants' violations of
2 the Labor Code because the amount in controversy exceeds \$25,000.

3 2. Venue is proper in this judicial district because Defendants maintain offices, have
4 agents, and/or transact business in the State of California, including Orange County, and some of
5 the acts and omissions complained of herein occurred in Orange County. Furthermore, Plaintiff was
6 employed by Defendants within Orange County.

7 **PARTIES**

8 3. Plaintiff is, and at all times relevant herein was, an individual over the age of
9 eighteen (18) and is a California resident. Within the statute of limitations periods applicable to
10 each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.
11 Plaintiff was, and is, a victim of Defendants' policies, practices, and/or customs complained of
12 herein and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 210, 226, 226.7,
13 246, 432.5, 256, 510, 512, 516, 558, 1174, 1194, 1198, 2802, and Wage Order 4.

14 4. Plaintiff is informed and believes, and based thereon alleges, that during the
15 applicable statute of limitations for each cause of action pled herein and continuing to the present,
16 Defendants engage in and continue to engage in business, and employed Plaintiff and other
17 aggrieved non-exempt employees within Orange County, and the State of California and, therefore,
18 were (and are) doing business in Orange County and the State of California.

19 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
20 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
21 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
22 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
23 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
24 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
25 and proximately caused Plaintiff and aggrieved employees to be subject to the unlawful
26 employment practices, wrongs, injuries, and damages complained of herein.

27 6. At all times herein mentioned, each of said Defendants participated in the doing of
28 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,

1 Defendants, and each of them, were the agents, servants, and employees of each of the other
2 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
3 within the course and scope of said agency and employment.

4 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
5 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
6 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
7 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
8 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
9 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

10 8. At all times herein mentioned, Defendants, and each of them, were members of, and
11 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
12 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

13 9. At all times herein mentioned, the acts and omissions of various Defendants, and
14 each of them, concurred and contributed to the various acts and omissions of each and all of the
15 other Defendants in proximately causing the injuries and damages as herein alleged.

16 **FACTUAL ALLEGATIONS**

17 10. Defendants own and operate a call center business in Newport Beach, California.
18 Plaintiff was employed by Defendants as a non-exempt call center agent since approximately
19 February 1, 2019.

20 11. Labor Code §§ 510, 1198, and Wage Order 4, § 3, which provide that non-exempt
21 employees are entitled to all overtime wages at the regular rate of pay. Throughout Plaintiff's
22 employment with Defendants, Defendants' payroll policies and practices resulted in Plaintiff and
23 other aggrieved employees not being compensated for all overtime hours actually worked. Plaintiff
24 and other aggrieved employees regularly worked more than eight hours in a workday or 40 hours in
25 a workweek. However, Defendants failed to incorporate multiple rates of pay and/or all non-
26 discretionary remuneration, including bonuses, into the regular rate of pay. As a result, Plaintiff and
27 other aggrieved employees were not compensated for all earned overtime wages.

28 ///

1 12. Labor Code §§ 226.7, 512, and Wage Order 4, §§ 11 and 12 establish the right of
2 employees to be provided with compliant meal periods and authorized and permitted to take
3 compliant rest periods or be paid premiums at their regular rate of compensation. However,
4 Defendants failed to incorporate multiple rates of pay and/or all non-discretionary remuneration,
5 including bonuses, into the regular rate of compensation. As a result, Plaintiff and other aggrieved
6 employees were not compensated for all earned premium wages.

7 13. Defendants also violated Labor Code § 246 by failing to incorporate multiple rates of
8 pay and/or all non-discretionary remuneration, including bonuses, into the paid sick leave pay rate,
9 which Defendants coded as “PTO” in payroll.

10 14. As a result of Defendants’ unlawful timekeeping and payroll practices, they violated
11 Labor Code section 204, which mandates the timing of payment of wages, including overtime
12 wages, to employees, and Labor Code section 1174(d), which requires an employer to keep, at a
13 central location, accurate payroll records.

14 15. Labor Code § 2802 provides that “an employer shall indemnify his or her employees
15 for all necessary expenditures or losses incurred by the employee in direct consequence of the
16 discharge of his or her duties, or of his or obedience to the directions of the employer.” Defendants
17 required Plaintiff and other aggrieved employees to work from home and use their personal internet
18 to perform their job duties. Despite requiring employees to incur these necessary business expenses,
19 Defendants failed to reimburse Plaintiff and other aggrieved employees for the cost of usage of their
20 home internet.

21 16. Labor Code section 432.5 provides that “no employer . . . shall require any employee
22 or applicant for employment to agree, in writing, to any term or condition which is known by such
23 employer . . . to be prohibited by law.” California Business and Professions Code Section 16600
24 further provides any contract that restricts an individual from “engaging in a lawful profession,
25 trade, or business” is null and void. During the relevant time period, Defendants required Plaintiff
26 and other aggrieved employees to sign an Employee Confidentiality, Non-Solicitation, and Non-
27 Competition Agreement which contains non-compete and non-solicitation covenants, such as a
28 conscience-shocking covenant to not compete with Defendants for 18 months following the

1 separation of employment, known to Defendants to be prohibited by Business and Professions Code
2 Section 16600.

3 17. On or about July 26, 2023, Plaintiff notified Defendants via certified mail, and
4 notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of
5 Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties
6 under Labor Code § 2698, *et seq.* with respect to the violations of the Labor Code identified in the
7 preceding paragraphs. Now that sixty-five (65) days have passed from Plaintiff notifying
8 Defendants and the LWDA of these violations, and the LWDA has not provided notice that it
9 intends to investigate the violations, Plaintiff has exhausted administrative requirements for
10 bringing a claim under the Private Attorneys General Act with respect to these violations.

11 **FIRST CAUSE OF ACTION**

12 **PRIVATE ATTORNEYS GENERAL ACT**

13 **(Against All Defendants)**

14 18. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
15 fully set forth herein.

16 19. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698, *et*
17 *seq.*, acting on behalf of himself and other aggrieved employees (collectively, “Aggrieved
18 Employees”), brings this representative action against Defendants to recover the civil penalties due
19 to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant
20 to Labor Code § 558 and § 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
21 violation for each failure to pay each employee and \$200 for each subsequent violation or willful or
22 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25%
23 of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each
24 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100 for each
25 initial violation and \$250 for each subsequent violation pursuant to Labor Code § 1197.1 per
26 employee per pay period; (4) \$250 for each initial violation and \$1,000 for each subsequent
27 violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code
28 section 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting

1 time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and \$200 for
2 each subsequent violation per employee per pay period for those violations of the Labor Code for
3 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 4 a. Failing to pay Aggrieved Employees all earned overtime compensation in violation
5 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 6 b. Failing to provide all legally required meal periods, and failure to pay meal period
7 premium wages, to Aggrieved Employees at the regular rate of compensation in
8 violation of Labor Code §§ 226.7, 512, 558, and 1198;
- 9 c. Failing to authorize and permit all legally required rest periods, and failure to pay
10 rest period premium wages, to Aggrieved Employees at the regular rate of
11 compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- 12 d. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage
13 statements in violation of Labor Code § 226;
- 14 e. Failing to timely pay all final wages and compensation earned by Aggrieved
15 Employees at the time of separation in violation of Labor Code §§ 201-202;
- 16 f. Failure to reimburse Aggrieved Employees for all necessary business expenses in
17 violation of Labor Code § 2802;
- 18 g. Failing to pay Aggrieved Employees all earned wages at least twice during each
19 calendar month in violation of Labor Code § 204;
- 20 h. Failing to maintain accurate records on behalf of Aggrieved Employees in violation
21 of Labor Code §§ 1174 and 1198; and
- 22 i. Requiring Aggrieved Employees to sign unlawful non-compete and non-solicitation
23 agreements in violation Labor Code section 432.5.

24 20. Plaintiff has incurred attorneys' fees and costs, which Plaintiff is entitled to receive
25 under California Labor Code § 2699(g).

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
28 this suit is brought against Defendants, as follows:

1 1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other Aggrieved
2 Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
3 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to
4 pay each employee and \$200 for each subsequent violation or willful or intentional violation
5 pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount
6 unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation
7 pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation
8 and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay
9 period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant
10 to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code section 256, a civil
11 penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of
12 Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each subsequent
13 violation per employee per pay period for those violations of the Labor Code for which no civil
14 penalty is specifically provided;

15 2. On all causes of action, for attorneys' fees and costs as provided by Labor Code §
16 2699(g) and Code of Civil Procedure § 1021.5; and

17 3. For such other and further relief, the Court may deem just and proper.

18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands a trial by jury on all claims.

20
21 DATED: September 29, 2023

JUSTICE FOR WORKERS, P.C.

22
23 By: 

24 Young K. Park
25 William C. Sung
26 Attorneys for Plaintiff JUAN ARIAS
27
28

EXHIBIT 5



Juan Arias v. Contactability.Com LLC
Orange County Superior Court, Case No. 30-2023-01352000-CU-OE-CXC

Date	Description of Cost Item	Invoice #	Amount
7/26/2023	Filing Fee for Initial PAGA Notice	LWDA-CM-970876-23	\$75.00
8/15/2023	Certified Mail of Initial PAGA Notice	9589071052700882532955	\$8.53
10/2/2023	eFiling, First Appearance, and Complex Fees for Complaint	8324476-01	\$1,490.62
10/4/2023	Service of Process of Complaint	8324476-02	\$92.70
10/6/2023	eFiling Fee for Proof of Substitute Service	8360000	\$12.57
1/31/2024	eFiling Fee for Stipulation to Arbitrate	06077Q	\$7.50
5/2/2024	AAA Arbitration Administrative Filing Fee	N/A	\$360.50
10/10/2024	Plaintiff's Share of Mediation Fees	24-00892	\$9,250.00
3/25/2025	Plaintiff's Expert Data Analyst Fees	1440	\$750.00
5/6/2025	eFiling Fee for Stipulation and Proposed Order Continuing Status Conference	11874377	\$33.17
8/29/2025	eFiling Fee for Stipulation and Proposed Order Continuing Status Conference	12774603	\$33.17
Estimated Future Cost	eFiling Fee for Motion for Approval of PAGA Settlement	N/A	\$75.91
Estimated Future Cost	eFiling Fee for Supplemental Filings for Motion for Approval of PAGA Settlement	N/A	\$14.11
Estimated Future Cost	eFiling Fee for Declaration of Compliance by Administrator	N/A	\$14.11
		TOTAL	\$12,217.89

EXHIBIT 6

CHRISTINE D. BARAN (SBN 158603)
cbaran@fisherphillips.com
SPENCER W. WALDRON (SBN 284029)
swaldron@fisherphillips.com
FISHER & PHILLIPS LLP
2050 Main Street, Suite 1000
Irvine, California 92614
Telephone: (949) 851-2424
Facsimile: (949) 851-0152

Attorneys for Defendant
Contactability.com LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER

JUAN ARIAS, an aggrieved employee
and on behalf of other aggrieved
employees,

Plaintiff,

v.

CONTACTABILITY.COM LLC, an Ohio
limited liability company; and DOES 1
through 50,

Defendants.

CASE NO.: 30-2023-01352000-CU-OE-CXC
[Unlimited Jurisdiction]

*Assigned for all purposes to the
Honorable Layne H. Melzer, Dept. CX102*

**DECLARATION OF CHRISTINE BARAN
RE: NUMBER OF PAY PERIODS FOR
AGGRIEVED EMPLOYEES THROUGH
PAGA PERIOD**

DATE: Date
TIME: Time
RES ID: Res ID

Complaint Filed: September 29, 2023
Trial Date: [Date]

I, Christine Baran, hereby declare and state as follows:

1. I am an attorney at law duly licensed to practice before all courts in the State of California. I am a partner with Fisher & Phillips LLP, counsel of record for Defendant Contactability.com LLC (“Contactability” or “Defendant”) in above-entitled action which was filed as a representative action on September 29, 2023 for alleged violations of the California Private Attorneys General Act (“PAGA Action”). I assert the facts set forth herein at accurate to the best of my knowledge and, if called as a witness, I could and would competently testify

1 thereto.

2 2. On March 21, 2025, the Parties to the PAGA Action attended a mediation with
3 Tagore Subramaniam, Esq., and reached a resolution on a PAGA basis for all persons currently
4 or formerly employed by Contactability as non-exempt or hourly paid employees in the state of
5 California including those who fall under the sales persons exemptions (“Aggrieved Employees”)
6 during the PAGA period of July 26, 2022 through May 20, 2025.

7 3. In review of Contactability’s list of Aggrieved Employees in relation to their
8 employment dates, Defendant represents that there is a total of 2596 pay periods worked by the
9 Aggrieved Employees during the PAGA Period, which is under the threshold of 2820 pay periods
10 for purposes of triggering the escalator as set forth in the parties PAGA Settlement Agreement.

11 I declare under penalty of perjury, under the laws of the State of California, that the
12 foregoing is true and correct. Executed on September 8, at Yorba Linda, California.

13
14 DATE: September 8, 2025

FISHER & PHILLIPS LLP

15
16 

17 By:

18 CHRISTINE D. BARAN
19 SPENCER W. WALDRON
Attorneys for Defendant
Contactability.com LLC

EXHIBIT 7

Subject: Thank you for your Proposed Settlement Submission
Date: Sunday, September 21, 2025 at 4:35:01 PM Pacific Daylight Time
From: no-reply@formassembly.com
To: William Sung

09/21/2025 04:34:26 PM

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

Item submitted: Proposed Settlement

On 09/21/2025 04:34:26 PM your Proposed Settlement was successfully processed for case number LWDA-CM-970876-23

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