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

10 **FOR THE COUNTY OF KERN**

11 JESUS MARTINEZ RAMIREZ, an
12 individual, on behalf of himself, others
13 similarly situated,

14 PLAINTIFF,

15 v.

16 JAGUAR FARM LABOR CONTRACTING,
17 INC., a California Corporation, and DOES 1
18 thru 50, inclusive,

19 DEFENDANTS.

CASE NO: BCV-23-102358-BCB

[Assigned for all purposes to the Hon. Bernard
C. Barmann, Jr., Division H]

**DECLARATION OF DAVID S. WINSTON
IN SUPPORT OF APPROVAL OF PAGA
SETTLEMENT**

Date: June 16, 2025

Time: 8:30 a.m.

Division.: H

Complaint Filed: July 21, 2023

FAC Filed: September 26, 2023

Trial Date Set: None

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1. I am an attorney licensed to practice before all of the courts of the State of California. I am the attorney of record for Plaintiff JESUS MARTINEZ RAMIREZ in the above-entitled action. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and would testify competently thereto.

THE EXPERIENCE AND VIEWS OF PAGA COUNSEL

3. Prior to starting the Winston Law Group, P.C. in 2017, I regularly litigated class and representative actions as an Associate at Kingsley & Kingsley and also represented employers in class, representative, and individual actions.

5. Since founding Winston Law Group, P.C. I have also been appointed Class or PAGA Counsel in numerous class action and PAGA cases including:

b. *Porras et al. vs. Chipotle Services, LLC, Stanislaus County Superior Court (Case No. CV-19-000937)*. This PAGA settlement was approved by the Hon. Sonny S. Sadhu on June 16, 2020 in the gross amount of \$4,900,000.

1 c. *Miller et al. vs. Mattress Firm, Inc., Santa Clara County Superior Court (Case No.*
2 *17CV313148)*. This PAGA settlement was approved by the Hon. Thomas E. Kunle on December 17,
3 2018 in the gross amount of \$3,750,000.

4 d. *Smart & Final Wage and Hour Cases, Sacramento County Superior Court (JCCP*
5 *Number 5089)*. This PAGA settlement was approved by the Hon. Richard K. Sueyoshi on July 9, 2021
6 in the gross amount of \$3,470,000.

7 e. *Zirpolo vs. UAG Stevens Creek, Inc. (Penske), Santa Clara County Superior Court*
8 *(Case No. 17CV313457)*. The matter was finally approved for settlement by the Honorable Brian C.
9 Walsh on July 10, 2018 in the gross amount of \$3,275,000.

10 f. *Espindola et al. vs. Panda Express, LLC et al., San Bernardino County Superior Court*
11 *(Case No. CIVDS1931455)*. This PAGA settlement was approved by the Hon. David Cohn on April 13,
12 2021 in the gross amount of \$3,125,000.

13 g. *Westbrook vs. Winco Holdings Inc. et al., Riverside County Superior Court (Case No.*
14 *RIC1710168)*. The matter was finally approved for settlement by the Hon. Raquel A. Marquez on
15 January 15, 2019 in the gross amount of \$3,000,000.

16 h. *Amster et al. vs. Starbucks Corporation, San Bernardino County Superior Court (Case*
17 *No. CIVDS1922016)*. This PAGA settlement was approved by the Hon. Donald Alvarez on July 14,
18 2020 in the gross amount of \$3,000,000.

19 i. *Chavez and Melendez vs. CAM-BAS, INC. et al., Santa Clara County Superior Court*
20 *(Case No. 20CV372311)*. The matter was finally approved on April 13, 2023 by the Hon. Theodore C.
21 Zayner in the gross amount of \$3,000,000.

22 j. *Antonov et al. vs. GL HHR, LLC (Ken Garff Automotive) et al., San Bernardino County*
23 *Superior Court (Case No. CIVDS1724725)*. The matter was finally approved for settlement by the Hon.
24 David Cohn on December 11, 2018 in the gross amount of \$2,850,000.

25 k. *De Cruz and Irias vs. Cardenas Markets LLC, Alameda County Superior Court (Case*
26 *No. 22CV005906)*. This PAGA settlement was approved by the Hon. Jenna Whitman on February 22,
27 2024 in the gross amount of \$2,500,000.
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1 l. *Acevedo et al. vs. Deanco Healthcare, LLC, Los Angeles County Superior Court (Case*
2 *No. 21STCV34724)*. The matter was finally approved for settlement by the Hon. William F. Highberger
3 on April 11, 2023 in the gross amount of \$2,350,000.

4 m. *Scoggins et al. vs. Crossmark, Inc. et al., Ventura County Superior Court (Case No. 56-*
5 *2017-00492936-CU-OE-VTA)*. The matter was finally approved for settlement by the Hon. Matthew P
6 Guasco on January 23, 2020 in the gross amount of \$2,100,000.

7 n. *Smith et al. vs. Burlington Merchandising Corporation et al., San Bernardino County*
8 *Superior Court (Case No. CIVIDS1929684)*. This PAGA settlement was approved by the Hon. David
9 Cohn on October 23, 2020 in the gross amount of \$2,000,000.

10 o. *Castaing et al. vs. Hendrick Automotive Group et al., Alameda County Superior Court*
11 *(Case No. RG17879115)*. The matter was finally approved for settlement by the Hon. Brad Seligman on
12 June 24, 2019 in the gross amount of \$1,850,000.

13 p. *Romero Ramirez and Contreras vs. Yin Management, Inc., Sacramento County Superior*
14 *Court (Case No. 34-2021-00301530-CU-OE-GDS)*. The matter was finally approved for settlement by
15 the Hon. Lauri A. Damrell on September 9, 2022 in the gross amount of \$1,800,000.

16 q. *Westphal vs. New York Life Insurance Company, Placer County Superior Court (Case*
17 *No. S-CV-0040532)*. The matter was finally approved for settlement by the Hon. Michael Jones on
18 September 11, 2018 in the gross amount of \$1,701,366.

19 r. *Williams vs. Kaiser Foundation Health Plan, Inc., Alameda County Superior Court*
20 *(Case No. RG 18917898)*. The matter was finally approved for settlement by the Hon. Stephen Klaus
21 on August 19, 2020 in the gross amount of \$1,250,000.

22 s. *Vega vs. Cen Cal Plastering, Inc., San Joaquin County Superior Court (Case No. STK-*
23 *CV-UOE-2021-0005440)*. The PAGA Settlement was approved by the Hon. George J. Abdallah on
24 April 13, 2022 in the gross amount of \$1,200,000.

25 t. *Berbano and Centeno vs. Ingram Micro, Inc., San Bernardino County Superior Court*
26 *(Case No. CIVDS1826805)*. The matter was finally approved for settlement by the Hon. David Cohn on
27 September 17, 2019 in the gross amount of \$1,180,000.
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1 u. *Chieffer and Goldenberg vs. WHGM, Inc. (Keyes Motors), Los Angeles County Superior*
2 *Court (Case No. LC106505)*. The matter was finally approved for settlement by the Hon. Rupert A.
3 Byrdsong on September 21, 2018 in the gross amount of \$1,150,000.

4 v. *Hollis vs. Union Pacific Railroad Co., Central District of California No. 5:17-Cv-*
5 *02449-JGB (SHKx)*). The matter was finally approved for settlement by the Hon. Jesus G. Bernal on
6 September 19, 2018 in the gross amount of \$1,083,965.

7 w. *Myers vs. Mor Furniture for Less, Inc., San Diego County Superior Court (Case No. 37-*
8 *2018-00055055-CU-OE-NC)*. The PAGA Settlement was approved by the Hon. Ronald Frazier on
9 November 27, 2018 in the amount of \$1,062,000.

10 x. *Grotte vs. Normal Life of California, Inc. et al., San Luis Obispo County Superior Court*
11 *(Case No. 18CV-0672)*. The matter was finally approved for settlement by the Hon. Tana L. Coates in
12 the gross amount of \$1,050,000 on June 24, 2020.

13 y. *Wilson et al. vs. DGDG 1, LLC et al. (Del Grande Automotive Group), Santa Clara*
14 *County Superior Court (Case No. 2018-1-CV-331434)*. The matter was finally approved by the Hon.
15 Thomas E. Kuhnle on January 17, 2020 in the gross amount of \$1,024,963.71.

16 z. *Chachavac vs. Kumar Management Corporation, San Mateo County Superior Court*
17 *(Case No. 22-CIV-03110)*. The matter was finally approved by the Hon. Nancy L. Fineman on April
18 16, 2024 in the gross amount of \$1,000,000.

19 aa. *Perea vs. Drybar Holdings LLC, Los Angeles County Superior Court (Case*
20 *No.BC703413)*. The matter was finally approved for settlement by the Hon. Yolanda Orosco on
21 September 9, 2019 in the amount of \$1,000,000.

22 bb. *Ali vs. Auto Nation, Inc. et al., San Diego County Superior Court (Case No. 37-2018-*
23 *00037616-CU-OE-CTL)*. The PAGA settlement was approved by the Hon. Ronald Frazier on
24 November 14, 2019 in the gross amount of \$851,000.

25 cc. *Qunicho vs. Café Rio, San Bernardino County Superior Court (Case No.*
26 *CIVDS2011822)*. The PAGA settlement was approved by the Hon. Janet Frangie on December 14,
27 2021 in the gross amount of \$835,000.

1 *dd. Zamudio vs. Changing Lives Staffing et al, San Bernardino County Superior Court*
2 (*Case No. CIVSB2120359*). The matter was finally approved for Settlement by the Hon. Joseph T. Ortiz
3 on September 13, 2023 in the gross amount of \$820,041.32.

4 *ee. Ashe vs. Farmers Insurance Exchange et al., Los Angeles County Superior Court (Case*
5 *No. 18STCV00453)*. This Fair Credit Reporting Act class action was finally approved by the Hon.
6 Steven J. Kleifield on August 6, 2020 in the gross amount of \$800,000.

7 *ff. Anderson vs. ABC Phones of North Carolina, Inc., Contra Costa County Superior Court*
8 (*Case No. MSC20-00957*). The PAGA settlement was approved by the Hon. Edward G. Weil on
9 August 31, 2021 in the gross amount of \$790,000.

10 *gg. Martinez vs. Vieira Agricultural Enterprises, LLC, Merced County Superior Court*
11 (*Case No. 19CV-04603*). The matter was finally approved for settlement by the Hon. Brian McCabe on
12 February 26, 2021 in the gross amount of \$775,000.

13 *hh. Pia vs. 5G's Automotive, Inc., Tulare County Superior Court (Case No. VCU274628)*.
14 The matter was finally approved for settlement by the Hon. Brett Hillman on September 6, 2019 in the
15 gross amount of \$750,000.

16 *ii. Herrera vs. Inland Staffing et al., San Bernardino County Superior Court (Case No.*
17 *CIVDS2924284)*. The matter was finally approved for settlement by the Hon. David S. Cohn on March
18 10, 2021 in the gross amount of \$750,000.

19 *jj. Kennedy vs. 99 Cents Only Stores, LLC, Los Angeles County Superior Court (Case No.*
20 *19STCV09311)*. The PAGA settlement was approved by the Hon. Anthony Mohr on November 19,
21 2019 in the gross amount of \$700,000.

22 *kk. Ramirez vs. Hall Management Corp., San Luis Obispo County Superior Court (Case No.*
23 *22CVP-0065)*. Judgment was entered on the finally approved settlement by the Hon. Craig van Rooyen
24 on September 19, 2024 in the gross amount of \$698,734.73.

25 *ll. Sumlin vs. BNSF Railway Company, San Bernardino County Superior Court (Case No.*
26 *CIVDS1724126)*. The matter was finally approved for settlement by the Hon. David Cohn on
27 September 5, 2018 in the gross amount of \$675,000.

1 *mm. Brown vs. Saks and Company, LLC, Central District of California (CV 17-04210*
2 *SJO (JEM)).* This matter was finally approved for settlement by the Hon. S. James Otero on March 22,
3 2018 in the gross amount of \$638,800.

4 *nn. De La Hoya vs. Sierra West Finish, Inc., San Bernardino County Superior Court (Case*
5 *No. CIVSB2107351).* The matter was finally approved for settlement by the Hon. David Cohn on July
6 13, 2022 in the gross amount of \$625,000.

7 *oo. Myers vs. LBC Limited Partnership, San Bernardino County Superior Court (Case No.*
8 *CIVDS 1715068).* The matter was finally approved for settlement by the Hon. Janet Frangie on July 25,
9 2018 in the gross amount of \$600,000.

10 *pp. Bunkley vs. DMSD Foods et al., San Diego County Superior Court (Case No. 37-2020-*
11 *00017973-CU-OE-CTL).* This PAGA settlement was approved on July 9, 2021 by the Hon. Richard E.
12 L. Strauss in the gross amount of \$595,000.

13 *qq. Garcia vs. Grower Direct Nut Company, Inc, Stanislaus County Superior Court (Case*
14 *No. CV-21-005425).* This matter was finally approved by the Hon. John D. Freeland on May 19, 2023
15 in the gross amount of \$553,520.

16 *rr. Garcia vs. Optima Tax, Orange County Superior Court (Case No. 30-2019-01082473-*
17 *CU-OE-CXC).* This PAGA settlement was approved on July 31, 2020 by the Hon. William Claster in
18 the gross amount of \$550,000.

19 6. In my opinion, I am experienced and qualified to evaluate the PAGA claims and
20 viability of the defenses. I have extensive experience with employment litigation, and have focused my
21 practice primarily on cases regarding wage and hour class actions and representative PAGA actions.

22 7. Based upon my experience and after factoring in the risks explained herein, I believe
23 that the proposed settlement is fair and reasonable based upon the unique circumstances of this case.

24 8. The Parties vehemently dispute the strength of the claims and the likely outcome, if
25 Plaintiff prevailed in this Action. Defendant's Counsel has advised me that Defendant alleges that they
26 have complied with California law, that this settlement exceeds their maximum potential exposure to
27 civil penalties, and was agreed to merely to avoid costs of litigation and potential fee shifting. Plaintiff
28 alleges that if Plaintiff prevailed in this Action and unless the Court declined to exercised a

1 considerable degree of discretion when awarding PAGA penalties, Plaintiff could obtain a multi-
2 million dollar judgment at trial. However, even if Plaintiff were to decline the settlement and endure the
3 risks and costs to obtain such a judgment, it is unlikely that the State or Aggrieved Employees would
4 actually see a more favorable recovery than that provided by the settlement due to Defendant's
5 financial condition.

6 **PROCEDURAL AND FACTUAL HISTORY**

7 9. On July 21, 2023, Plaintiff Jesus Martinez Ramirez filed a Class Action Complaint in
8 Kern County Superior Court and also filed a PAGA Notice with the LWDA.

9 10. Shortly thereafter, Defendant retained Counsel who advised Plaintiff of the existence of
10 an arbitration agreement and the Parties began discussing the possibility of dismissing the class claims.

11 11. Plaintiff filed a First Amended Complaint adding the PAGA claims on September 26,
12 2023.

13 12. Due to the existence of the arbitration agreement, the Parties stipulated to dismiss the
14 class claims without prejudice. The Court granted the stipulation to dismiss the class claims without
15 prejudice and dismissed the class claims on December 6, 2023.

16 13. The Parties mediated this matter with respected mediator the Hon. Howard Broadman
17 (Ret.) on January 13, 2025.

18 14. As part of the Mediation process, Defendant provided Plaintiff with information about
19 the number of allegedly aggrieved employees (11,498) through December 31, 2024, the number of pay
20 periods at issue during the PAGA period (176,323), pay records for 4,835 allegedly aggrieved
21 employees, time records for 4,933 allegedly aggrieved employees, and relevant policy documents.

22 15. Plaintiff hired a third-party damages expert to analyze the time and pay records
23 produced by Defendant in advance of the Mediation in order to ascertain the violation rates and the
24 value of the claims.

25 16. At the Mediation on January 13, 2025, the Hon. Howard Broadman (Ret.) helped to
26 manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both
27 sides. With significant assistance from the Mediator and based upon a mediator's proposal for
28

1 \$485,000.00, the Parties agreed to the proposed non-reversionary, checks-mailed PAGA Settlement.
2 Attached hereto as **Exhibit 1** is a true and correct copy of the Parties' Proposed Settlement.

3 17. Since both the Mediation and release period extend beyond the pre-Mediation data pull,
4 Defendant provided supplemental informal discovery that indicated that there are 11,902 aggrieved
5 employees and 187,757 pay periods covered by the Parties' Proposed Settlement.

6 18. Plaintiff also negotiated a separate settlement of his individual claims currently pending
7 before the Court that exist separate and apart from PAGA claims and that is being disclosed in the
8 interest of transparency. *Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73, 80 (2020) (the "[s]ettlement of
9 individual claims does not strip an aggrieved employee of standing, as the state's authorized
10 representative, to pursue PAGA remedies" nor resolve the PAGA claims). My firm and I are not
11 receiving any attorneys' fees or cost reimbursement associated with Plaintiff's individual settlement.

12 19. The Proposed Settlement was provided to the LWDA as required by PAGA. Attached
13 hereto as **Exhibit 2** is a true and correct copy of the email confirmation received from the LWDA for
14 the submission of the Proposed Settlement.

15 **THE PROPOSED SETTLEMENT**

16 20. The Parties' Proposed Settlement provides for a Gross Settlement Amount of
17 \$485,000.00 subject to the following proposed allocation:

18	Gross Settlement Amount:	\$485,000.00
19	Attorneys' Fees: (1/3)	up to \$161,666.67
20	Case Costs:	\$15,138.88
21	Settlement Administration Costs:	\$28,000.00
22	Service Award for Plaintiff Ramirez:	up to \$5,000.00

23
24 Estimated Net PAGA Penalties: \$275,194.45

25 21. The Net PAGA Payment is the amount to be distributed to the LWDA and the aggrieved
26 employees and consists of the Gross Settlement Amount minus Court Approved PAGA Counsel's
27 attorneys' fees and litigation costs, the settlement administrator costs charged by third-party settlement
28 administrator ILYM Group, and Plaintiff Ramirez's proposed service award. The Net PAGA Payment

1 Amount will be allocated pursuant to the version of Labor Code section 2699(i) that applies to this pre-
2 PAGA reform action with 75% paid to the LWDA (\$206,395.84) and 25% paid to the aggrieved
3 employees on a pro-rata basis (\$68,798.61).

4 22. The portion of PAGA penalties distributed to each PAGA Aggrieved Employee shall be
5 calculated by dividing the number of PAGA periods worked by an aggrieved employee during the
6 covered period by the total number of pay periods worked by all aggrieved employees during the
7 covered period (187,757) and multiplying that amount by the 25% of the net PAGA penalties awarded
8 to the aggrieved employees (*i.e.* \$68,798.61).

9 23. Based on the data provided by Defendant, the Proposed Settlement itself represents an
10 average estimated gross settlement award per aggrieved employee is approximately \$40.75
11 (\$485,000.00 gross settlement amount/11,902 aggrieved employees) and the average estimated net
12 settlement award when taking into account the proposed attorneys' fees, case expenses, Plaintiff's
13 proposed service award, and PAGA's 75%/25% split between the state and aggrieved employees is
14 approximately \$5.78 (\$68,798.61 Net PAGA Penalties for the aggrieved employees/11,902 aggrieved
15 employees). The proposed method of allocation, which reflects the amount of time an aggrieved
16 employee worked during the PAGA Period relative to the other employees, is fair and reasonable.

17 24. In my opinion, the proposed method of allocation, which reflects the amount of time an
18 aggrieved employee worked during the PAGA Period relative to the other employees, is fair and
19 reasonable.

20 **SETTLEMENT CONSIDERATIONS**

21 25. As an initial matter, as previously explained, if Plaintiff were to decline the settlement
22 and endure the risks and costs to obtain such a judgment, it is unlikely that the State or Aggrieved
23 Employees would actually see a more favorable recovery than that provided by the settlement due to
24 Defendant's financial condition.

25 26. With the assistance of the mediator the Hon. Howard Broadman (Ret.), I weighed the
26 strengths and risks of this case as well as the Defendant's considerable financial challenges, the risk
27 that Plaintiff might not prevail on all claims, that even if Plaintiff prevailed the Court could exercise
28 its discretion and decline to award as much relief obtained through this Settlement, that even if

1 Plaintiff achieved a more favorable outcome it could still result in a paper or pyrrhic victory due to
2 Defendant's financial constraints.

3 27. Ultimately, this Settlement reflects the independent proposal of a third-party mediator
4 as to what is possible under these circumstances given the significant risks associated with the claims
5 and potential outcomes even if Plaintiff prevails and Defendant's financial condition.

6 28. Plaintiff alleged that Defendant failed to pay him and the other aggrieved employees
7 for all hours worked, rounded employees' time entries, adopted an automatic deduction policy and
8 practice whereby it automatically deducted thirty (30) minutes' worth of aggrieved employees' pay
9 regardless of whether or not the employee took a meal period and/or the full amount of their meal
10 period. Based upon the unique facts of this case, significant risk existed that the Court might find that
11 the claims were not manageable at trial.

12 29. I have reviewed the Order Granting Defendant's Motion for Partial Summary Judgment
13 and Denying Plaintiff's Motion for Class Certification. Attached hereto as **Exhibit 3** is the Order
14 Granting Defendant's Motion for Partial Summary Judgment and Denying Plaintiff's Motion for Class
15 Certification from *Troester vs. Starbucks Corporation*, U.S.C.D. Case No. CV 12-07677-CJC(PJWx).

16 30. While the standard for certification is not the same as what's required in a PAGA case,
17 it was still likely that Plaintiff would encounter difficulties when seeking to establish liability on a per
18 pay period basis for each aggrieved employee for the off-the-clock related PAGA claims meaning that
19 the Court might seek to limit the claims at trial to those who responded to voluntary surveys or only
20 ultimately permit Plaintiff to proceed at trial if he could establish that the survey results were
21 statistically significant.

22 31. As with the minimum wage claims, Plaintiff alleged that some of the hours that
23 Defendant failed to pay him and the other aggrieved employees for due to the rounding and auto-
24 deduction policies qualified as overtime hours. As previously explained, based upon the unique facts
25 of this case, significant risk existed that the Court might find that the claims were not manageable.

26 32. In addition to the off-the-clock and rounding claims, Plaintiff also alleged that
27 Defendant failed to include piece rate compensation, incentive payments, and other non-discretionary
28 bonuses when calculating and paying Plaintiff and the other aggrieved employees' overtime wages.

1 This includes, but is not limited to, failing to include the compensation associated with the pay code
2 “Incentive” when calculating and paying overtime.

3 33. Defendant’s Counsel advised me that Defendant intended to argue that although
4 labeled as an incentive payment, the compensation included within the incentive pay code was
5 actually a form of piece rate compensation. However, in my opinion, it is immaterial whether such
6 compensation constituted a piece rate or an incentive payment as both must be included when
7 calculating and paying overtime wages.

8 34. Plaintiff’s data expert analyzed the pay records for 4,835 aggrieved employees and
9 determined using this sample that aggrieved employees received piece rate or incentive compensation
10 during the same pay period that they also earned overtime during 1,669 of the 176,323 pay periods at
11 issue. As such, while I believe it was likely that Plaintiff would prevail on the regular rate related
12 overtime PAGA claims, significant risk existed that Defendant might prevail on this claim if the Court
13 found that the off-the-clock and rounding overtime PAGA penalty claims would not be manageable at
14 trial.

15 35. Based upon the unique facts of this case, even if Plaintiff prevailed on the off-the-clock
16 related overtime PAGA penalty claim, the Court might still exercise significant discretion when
17 awarding these PAGA penalties as it is largely derivative of and based upon the same factual predicate
18 as the PAGA claim for failure to pay minimum wages.

19 36. Plaintiff alleged that Defendant failed to provide timely first meal periods, improperly
20 rounded the time entries associated with meal periods, and failed to authorize employees who worked
21 shifts in excess of ten (10) hours to take second meal periods.

22 37. Defendant’s Counsel advised me that Defendant intended to argue that, unlike other
23 industries, the Wage Orders applicable to the agricultural industry do not require an employer to
24 record the actual start and stop times of meal periods if all operations cease, but rather, only that a
25 meal period took place.

26 38. Plaintiff’s data expert reviewed the time records of 4,933 allegedly aggrieved
27 employees. According to Plaintiff’s data expert, Defendant’s time records indicated that employees
28 never received a late first meal period when working shifts of six (6) hours or more, never received a

1 meal period less than 30 minutes, and that there were only 1,965 shifts—not pay periods—where the
2 allegedly aggrieved employees may not have received a timely first meal period when working a shift
3 in excess of five (5) hours, but less than six (6) hours when extrapolating from the sample to all pay
4 periods at issue. The data expert also determined that there were approximately 320 shifts during the
5 PAGA period where aggrieved employees did not receive second meal periods, but that Defendant
6 also paid a meal period premium for each of these instances.

7 39. Since the *Donohue v. Amn Servs.*, 11 Cal.5th 58, 81 (2021) presumption does not apply
8 to agricultural employers, Plaintiff would need to establish the underlying violations and cannot rely
9 upon the near perfect nature of the time records to establish the existence of late or short meal periods
10 especially since the Wage Orders expressly allow agricultural employers not to record meal periods
11 where all operations cease.

12 40. In my opinion, real risk existed that the Court might accept Defendant’s argument that
13 the time records substantiate its argument that their policy and practice was to record when all
14 operations ceased, and that any rounding of time not only benefitted the employees since they had at
15 least 30 minutes for their meal periods, and sometimes more. Given the extremely low violation rates
16 and Defendant’s general practice of paying meal period premiums it was likely that the Court would
17 exercise considerable discretion when imposing meal period related PAGA penalties.

18 41. In my opinion, given the extremely low meal period violation rates observed in the
19 time records, and Defendant’s general practice of paying meal period premiums, it was likely that the
20 Court would exercise considerable discretion when imposing meal period related PAGA penalties

21 42. Plaintiff alleged that Defendant failed to provide him and the other aggrieved
22 employees with any lawful rest periods.

23 43. As part of the informal discovery process, Defendant produced employee handbooks
24 that were in effect during the PAGA period. The employee handbooks contained a facially deficient
25 rest period policy that incorrectly advised that “Non-exempt employees will be given two 10-minute
26 (paid) rest periods, for each 4 hour [sic] of work or major fraction thereof.”
27
28

1 44. California law does not require employers to maintain records of rest periods; however,
2 unlike most employers, Defendant actually maintained records of rest periods for at least part of the
3 PAGA period.

4 45. Plaintiff's data expert determined that the aggrieved employees records did not show a
5 required lawful rest period during 41.7% of pay periods.

6 46. Plaintiff alleged that Defendant failed to maintain accurate records of the total hours
7 worked by employees, including but not limited to off-the-clock work and rounded time entries.
8 Defendant's Counsel advised me that Defendant alleged that it maintained records showing the hours
9 worked and that it was not obligated to maintain records when meal period operations cease. It is
10 uncertain whether or not the Court would rule in either Parties favor on this specific issue. Moreover,
11 as discussed in detail above, since this claim arises from the same factual predicate as other claims and
12 given Defendant's precarious financial position, it is likely that the Court would decline to award a
13 non-negligible amount of PAGA penalties for this claim.

14 47. Plaintiff alleged that Defendant failed to include non-discretionary bonuses and
15 incentive payments when calculating and paying sick pay wages. Plaintiff's data expert determined
16 that there were only 2 pay periods in the 4,835 pay record sample where Defendant failed to include
17 incentive compensation when calculating sick pay. Accordingly, the value of this claim was less than
18 \$1,000 without taking into account any of Defendant's potential defenses or the Court's ability to
19 exercise its discretion to reduce the award of PAGA penalties.

20 48. In order to prevail on the wage statement related PAGA claim, Plaintiff would have
21 had to establish that Defendant failed to pay minimum wages, overtime wages, meal period premiums,
22 rest period premiums, and/or sick pay. As discussed above, Plaintiff was confident that he would
23 prevail on at least some of the underlying claims, and therefore would prevail on the derivative wage
24 statement claims. Nevertheless, real risk existed that the Court could decline to stack—meaning award
25 multiple PAGA penalties for the same underlying conduct—and/or exercise significant discretion
26 when awarding these derivative PAGA penalties.

27 49. Plaintiff also brought derivative PAGA claims for the late payment of wages during
28 employment under Labor Code §§ 204 and 210. Since these claims were derivative in nature, Plaintiff

1 first had to prevail on his other underlying PAGA claims. *Id.* While Plaintiff was confident that he
2 would prevail on this claim if he could establish any of the other PAGA claims, significant risk
3 existed that the Court could decline to stack—meaning award multiple PAGA penalties for the same
4 underlying conduct—and/or exercise significant discretion when awarding these derivative PAGA
5 penalties.

6 50. Plaintiff also brought non-derivative and derivative PAGA claims alleging that
7 Defendant failed to timely pay the aggrieved employees upon separation within the time constraints of
8 Labor Code § 201-203. After factoring in the risks associated with the claims, the discretionary nature
9 of the PAGA penalties, the questionable viability of stacking and the unique circumstances of this
10 case, I believed that this claim possessed negligible value.

11 51. Plaintiff alleged that Defendant required Plaintiff and the other aggrieved employees to
12 use their own cell phone for work purposes, required their employees to use their own tools, and/or
13 required them to use their own vehicle for work purposes. As part of the informal exchange of
14 documents, Defendant produced a written document that “employees are not to be charged for their
15 job, their ride to work, or their equipment/tools as a condition of employment.” As such, significant
16 risk existed that Defendant might prevail on this claim.

17 52. There are also always risks attendant to wage and hour cases given the evolving nature
18 of such claims. Given the ever-evolving landscape of wage and hour law, there are always risks that a
19 new case will come out that will clarify and/or potentially limit employees’ claims. For example,
20 although generally it was well-established that employees could recover both wage statement and
21 waiting time penalties based upon an employer’s failure to provide lawful meal/rest periods, a recent
22 appellate case held that such penalties are not recoverable before it was later overturned. *Naranjo v.*
23 *Spectrum Security Services, Inc.*, 40 Cal. App. 5th 444 (2019); *aff’d in part, rev’d in part and*
24 *remanded* 13 Cal. 5th 93, (2022). Similarly, in another recent decision, the California Court of Appeal
25 held that employers could pay employees meal/rest period premiums at the employee’s hourly base
26 rate instead of at their regular rate before that decision was also overturned by the California Supreme
27 Court. *Ferra v. Loews Hollywood Hotel, LLC*, 40 Cal. App. 5th 1239 (2019) rev’d, 11 Cal. 5th 858
28 (2021). While Plaintiff was confident that he would prevail on his claims based upon present law, the

1 plaintiffs in *Ferra* and *Naranjo* likely believed they would have as well, and actually did on their
2 derivative claims prior to the California Court of Appeal's recent ruling and before each matter was
3 eventually reversed by the California Supreme Court. As the California Court of Appeal explained in
4 the now overturned *Naranjo* decision, "[a]lthough wage and hour lawsuits are ubiquitous in state
5 courts, most settle before trial. Consequently, our appellate courts have not had much opportunity to
6 publish decisions addressing the derivative wage claim issue[s]." *Naranjo*, 40 Cal. App. 5th at 468.
7 While Plaintiff acknowledges that the California Supreme Court reversed in both cases, each
8 nevertheless are emblematic of the inherent risk associated with litigating wage and hour cases and the
9 fact that a new appellate decision can dramatically alter the strength of the employees' claims at any
10 time. Indeed, *Naranjo* was appealed again to the California Supreme Court where the Court ruled in
11 the employer's favor. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1064 (2024). And,
12 PAGA itself was amended during the pendency of this Action.

13 53. Further, this Settlement is the product of a mediator's proposal from a retired judge
14 following consideration of not only the strength of the Parties' legal positions, but also the realities of
15 Defendant's financial limitations.

16 54. If Plaintiff were to decline the settlement and endure the risks and costs to obtain such
17 a judgment, it is unlikely that the State or Aggrieved Employees would actually see a more favorable
18 recovery than that provided by the settlement due to Defendant's financial condition.

19 55. In my opinion, this Settlement affords the aggrieved employees and the State of
20 California with genuine and meaningful relief despite Defendant's financial condition.

21 56. It was very difficult for the Parties to reach this Settlement. Defendant denied that
22 Plaintiff's claims had any merit, and that Plaintiff could prevail on the PAGA claims or that California
23 law had been violated.

24 57. I did not believe that this constituted a remotely plausible approximation of the actual
25 expected recovery given Defendant's significant defenses to several of the claims, the significantly
26 lower actual violation rates, the Court's ability to decline to award stacked PAGA penalties and/or
27 exercise its discretion to reduce the amount of PAGA penalties awarded, and Defendant's financial
28 condition.

58. When taking into account the stacking of PAGA penalties and assuming a 100% violation rate on every single claim, and without taking into account any of Defendant's significant defenses or the discretionary nature of PAGA penalties, Plaintiff and PAGA Counsel determined the maximum exposure on the PAGA claims to be \$138,563,700.00 calculated as follows:

Labor Code § 2699 Penalties For Alleged Minimum Wage Violations

- PAGA penalties assessed at the \$100 per pay period initial violation rate = 187,757 pay periods x \$100=\$18,775,700.00

Labor Code § 2699 Penalties For Alleged Overtime Violations

- PAGA penalties assessed at the \$100 per pay period initial violation rate = 187,757 pay periods x \$100=\$18,775,700.00

Labor Code § 2699 Penalties For Alleged Meal Period Violations

- PAGA penalties assessed at the \$100 per pay period initial violation rate = 187,757 pay periods x \$100=\$18,775,700.00

Labor Code § 2699 Penalties For Alleged Rest Period Violations

- PAGA penalties assessed at the \$100 per pay period initial violation rate = 187,757 pay periods x \$100=\$18,775,700.00

Labor Code § 2699 Penalties For Alleged Reimbursement Violations

- PAGA penalties assessed at the \$100 per pay period initial violation rate = 187,757 pay periods x \$100=\$18,775,700.00

Labor Code § 210 Penalties Recoverable Pursuant to PAGA for Defendant's Violations of Labor Code Section 204

- Labor Code § 210 PAGA penalties are assessed at the rate of \$100 per pay period = 187,757 pay periods x \$100=\$18,775,700.00

Labor Code § 2699 Penalties Recoverable Pursuant to PAGA for Defendant's Violations of Labor Code Sections 201-203

- Labor Code §§ 201-203 PAGA penalties are assessed at the rate of \$100 per pay period = 11,828 pay periods associated with a termination or resignation x \$100=\$1,182,800.00

Labor Code § 1174.5 Penalties Recoverable Pursuant to PAGA for Defendant's Violations of Labor Code section 1174

- Labor Code § 1174.5 PAGA penalties are assessed at the rate of \$500 per employee = 11,902 aggrieved employees x \$500=\$5,951,000.00

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1 **Labor Code § 226 PAGA Penalties Related to the Issuance of Itemized Wage**
2 **Statements**¹

- 3 • PAGA penalties assessed at the \$100 per pay period initial violation rate = 187,757
4 pay periods x \$100=\$18,775,700.00

5 **ATTORNEYS FEES' AND COSTS**

6 59. I am familiar with the contingent fee market throughout California, particularly as it
7 pertains to complex employment, wage and hour, class action, and PAGA litigation. During this
8 litigation, my firm litigated this case without receiving any payment for our services or reimbursement
9 of the costs incurred for the benefit of the Class, the state of California, and the aggrieved employees.

10 60. On behalf of my firm, I have negotiated numerous contingency fee agreements with
11 plaintiffs, both as individuals and as representatives in class action and PAGA suits. I am also familiar
12 with the amounts charged by other firms and many Plaintiff's contingency fee agreements for
13 employment cases provide that counsel will receive a fee that is between 33.33% and 45% of any
14 recovery that is obtained or more, and, in addition, that counsel be reimbursed for the costs they
15 incurred out of the recovery amount.

16 61. Winston Law Group, P.C. has never been paid any money for attorneys' fees in this
17 case and has advanced costs.

18 62. There are always risks attendant to billing cases on a contingency basis. It is not a
19 foregone conclusion that every case taken on a contingency fee basis will result in a recovery or that
20 the attorneys' fees recovered will actually compensate my firm for the amount of time expended in an
21 action. Moreover, even when successful, a class action/PAGA contingency law firm may only receive
22 a small percentage of the amount of attorneys' fees incurred during the prosecution of a case. Where
23 Plaintiff's counsel does succeed, therefore, it is appropriate to compensate the firm for the risks the
24 firm regularly undertakes. There is also always the possibility that the Plaintiff will not prevail and
25 _____

26 ¹ There is currently a split of authority regarding which PAGA penalties apply to violations of Labor Code § 226(a) under
27 the pre-amendment PAGA statutory scheme that applies to this Action. *Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th
28 334, 355 (2021) (holding that such violations give rise to a 2699.3 penalty) *cf.*; *Raines v. Coastal Pacific Food Distributors, Inc.*, 23 Cal.App.5th 667, 675 (2018) (holding that such violations give rise to a Labor Code § 226.3 penalty). Plaintiff performed the calculations in accordance with the decision in *Gunther* as Plaintiff believes it is better reasoned.

PAGA Counsel will not receive any compensation for its services and/or that the Defendant will declare bankruptcy or lack the assets necessary to satisfy any judgment obtained against it.

63. When awarding attorneys' fees, courts have discretion to choose among two different methods for calculating a reasonable attorney's fees award: 1) the common fund approach; or 2) the lodestar approach. *See Laffitte v. Robert Half Int'l Inc.*, 1 Cal.5th 480, 504 (2016) ("The choice of a fee calculation method is generally one within the discretion of the trial court, the goal under either the percentage or lodestar approach being the award of a reasonable fee to compensate counsel for their efforts.") In *Laffitte*, the California Supreme Court held that "[t]he recognized advantages of the percentage method – including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging litigation – convince us the percentage method is a valuable tool that should not be denied by our trial courts." *Id.* (emphasis added). Similarly, the Ninth Circuit has found that counsel should not "receive a lesser fee for settling a case quickly." *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043 (9th Cir. 2002). Such an award is especially appropriate, whereas here, PAGA Counsel efficiently prosecuted the action and reached a settlement without unnecessarily exhausting Defendant's resources.

64. I am familiar with the amounts awarded by other courts where there is a common fund recovery, including in similar matters. For instance, the California Court of Appeal in *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) recently recognized "'fee awards in class actions average around one-third of the recovery'" regardless of "'whether the percentage method or the lodestar method is used.'" *Id.* (quoting *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66, fn. 11 (2008)). This is consistent with findings made by other courts. *McCrary v. Elations Co., LLC*, No. EDCV 13-0242 JGB (SPx), 2016 U.S. Dist. LEXIS 24050, at *2 (C.D. Cal. Feb. 25, 2016) ("California Courts have consistently recognized 'that most fee awards based on either a lodestar or percentage calculation are 33%.'); *McClellan v. Chase Home Fin. LLC*, No. SACV 12-1331-JGB (JEMx) 2015 U.S. Dist. LEXIS 118005, at *20 (C.D.Cal. Aug. 31, 2015) (explaining that while the attorneys' fee award that approximated 32% of all sums paid under the Settlement Agreement was

1 reasonable after citing numerous other cases finding that an award of 33% of the common fund was
2 common in class actions).

3 65. In my opinion, the common fund method represents a fair means of calculating
4 attorneys' fees in this Action because it recognizes not just the time spent on the case, but also the
5 additional contributions and skill of Counsel in identifying issues.

6 66. My firm's diligent and efficient litigation of this action resulted in the creation of an
7 ascertainable common fund of \$485,000.00 that will benefit the state of California and the aggrieved
8 employees despite the significant risks associated with the claims. In my opinion, a request for an
9 award of 1/3 of the monetary value of the Settlement Fund should be approved.

10 67. In *Laffitte v. Robert Half Int'l Inc.*, 1 Cal.5th 480, 506 (2016), the California Supreme
11 Court held that a trial court need not even conduct a lodestar cross-check. *Id.* at 506 ("We hold further
12 that trial courts...retain the discretion to forgo a lodestar cross-check.") (emphasis added). Therefore,
13 in my opinion consistent with *Laffitte*, a cross-check is not necessary nor would a lodestar award
14 reflect the market conditions for the negotiation of contingency fee agreements as such arrangements
15 are by-and-large done on a percentage basis.

16 68. I understand that the California Court of Appeal recognized in a published appellate
17 decision that attorneys' fees can be awarded under California law in a wage and hour class action to
18 an attorney who did not perform any work on behalf of the class and that even a quantum meruit
19 award "is not measured strictly by hours times hourly rate." *Hance vs. Super Store Industries*, 44 Cal.
20 App. 5th 676, 694 (2020). In my opinion this suggests that even under the lodestar approach a court
21 must also ascribe and/or consider the non-quantitative value provided by counsel when awarding fees.
22 Notably, in *Hance* one of the attorneys received a portion of the fees despite only having referred the
23 case. The Court noted that the trial court found that a 15% referral or \$645,000 was appropriate for an
24 attorney (William Margolin) who did nothing but refer the case. The *Hance* court also found that
25 another attorney (Steven Waisbren) who did not disclose his lack of malpractice insurance in violation
26 of the ethical rules was entitled to a quantum meruit award that reflected his non-monetary
27 contributions in referring the case to yet another attorney (Steve Miller) and for his work on the
28 matter. In reaching its decision, the Court of Appeal rejected Miller's argument that a quantum meruit

1 recovery is measured strictly by the hours times hourly rate. *Hance*, 44 Cal. App. 5th at 693
2 (“Miller...seems to conclude that, if a quantum meruit recovery is appropriate, Waisbren’s recovery of
3 fees must be limited to the hours reflected in his time records, multiplied by a reasonable hourly rate.
4 We do not believe the trial court is bound by such a strict rule.”). The Court of Appeal further noted
5 that “[i]f the class benefitted from Waisbren’s referral of the case to Miller, that referral would appear
6 to constitute part of Waisbren’s contribution to services rendered in support of, the class action, the
7 value of which should be considered in determining the amount of attorneys’ fees to award to
8 Waisbren.” This was despite the fact that another attorney had already received \$645,000 in attorneys’
9 fees or 15% for referring the case to Waisbren who then referred it to Miller.

10 69. In my opinion, in light of *Hance vs. Super Store Industries*, 44 Cal. App. 5th 676, 694
11 (2020), the choice that California Court’s face when awarding attorneys’ fees is whether to make a
12 pure common fund award under the percentage method or a lodestar plus approach that takes into
13 account the non-quantitative contributions of counsel to an action. Simply put, it cannot be that an
14 attorney who violates the ethical rules is entitled to a greater award on a quantum meruit basis than an
15 attorney who follows the rules. Nor would such a result comport with *Hance*, which recognized that
16 Waisbren’s lower quantum meruit award that was not limited to hours worked on the case despite the
17 fact that it was intended to be a punishment for failing to comply with the ethical rules. *Hance*, 44 Cal.
18 App. 5th at 690 (“Although the law firm may be entitled to some compensation for its work, its ethical
19 breach will ordinarily require it to relinquish some or all of the profits for which it negotiated.”).

20 70. While I believe that the Court should make an award of attorneys’ fees under the
21 common fund doctrine, I nevertheless wish to provide information concerning my hourly rate and time
22 expended on the case to permit the Court to run a lodestar cross-check if it desires.

23 71. My hourly rate reflects both my experience with Class and PAGA litigation including
24 participating in the litigation of numerous PAGA matters at the appellate levels. It also reflects the fact
25 that I am a partner at Winston Law Group, P.C. and not an associate and oversaw this litigation. I have
26 been lead or co-lead counsel in numerous multi-million dollar cases.

27 72. My hourly rate was used by the Hon. Brad Seligman of the Alameda County Superior
28 Court when performing a lodestar cross-check on February 28, 2023. Attached hereto as **Exhibit 4** is a

1 true and correct copy of the Minute Order Granting Approval of the Class Action Settlement in
2 *Santillanes vs. 1st Class Laundry*, Alameda County Superior Court Case No. RG21107711.

3 73. My hourly rate has been specifically approved of in other cases including in April 2024
4 in *Chachavac vs. Kumar Management*, San Mateo County Superior Court Case No. 22-CIV-03110
5 where the Court performed a lodestar cross check and found that my hourly rate was reasonable. See
6 pages 3-4 of **Exhibit 5** (“Winston spent about 70 hours for a total lodestar of about \$61,000. (Winston
7 Decl., ¶ 30.) Based upon the court’s knowledge and experience in San Mateo County, the court finds
8 the hourly rate reasonable for San Mateo County. Plaintiffs contend that the court should take into
9 account the reasonable rate for Los Angeles, but this court disagrees. In any event, that argument is
10 irrelevant because the court has found the hourly rates reasonable for comparable work performed in
11 San Mateo County.”). Attached hereto as **Exhibit 5** is a true and correct copy of the April 2, 2024
12 Minute Order re: Motion for Final Approval of Class Action Settlement from *Chachavac vs. Kumar*
13 *Management*, San Mateo County Superior Court Case No. 22-CIV-03110.

14 74. In my opinion, Counsel who choose to pursue class actions or PAGA actions assist
15 employees in accessing justice where justice would not otherwise be attainable given the relatively
16 small amounts at issue on a per person basis. In order to encourage first rate attorneys to represent
17 plaintiffs on a contingent basis in this type of important litigation, attorneys’ fees awarded should
18 reflect this goal. This issue is even more pronounced where Courts use lodestar rates and don’t
19 account for the other added benefits provided by Class or PAGA Counsel and risks undertaken or
20 acknowledge that the rates used in lodestars are often well below that of the market rates.

21 75. Although I played a significant role in prosecuting this case, drafting documents, and
22 negotiating the settlement, my contributions also are not merely quantifiable on an hourly basis as I
23 used my expertise to identify claims and issues that catalyzed this significant recovery. See *e.g. Hance*
24 *vs. Super Store Industries*, 44 Cal. App. 5th 676, 694 (2020) (recognizing that attorneys’ fees can be
25 awarded under California law in a wage and hour class action to an attorney who did not perform any
26 work on behalf of the class and that even a quantum meruit award “is not measured strictly by hours
27 times hourly rate.”).

76. During the prosecution of this action, my firm has also spent time extensively investigating, researching, and litigating this matter, including but not limited to performing the following tasks:

- a. drafting the PAGA Notice;
- b. drafting the Amended PAGA Notice;
- c. drafting the Complaint and related documents;
- d. conducting informal discovery;
- e. drafting a Mediation Brief;
- f. attending the Mediation and negotiating the terms of settlement with Defendant;
- g. drafting CMC Statements;
- h. drafting stipulations;
- i. drafting the Settlement Agreement and Settlement related documents (letter to the employees and proposed judgment);
- j. communicating with Opposing Counsel;
- k. drafting the Motion for Approval and supporting documents;

77. Although a percentage common fund is both common and universally accepted in wage and hour representative action litigation, I also performed a lodestar analysis for my firm in support of the attorneys' fees request in case the Court wishes to review it:

<u>ATTORNEY</u>	<u>HOURS AS OF</u> <u>MAY 5, 2025</u>	<u>HOURLY</u> <u>RATE</u>	<u>TOTALS</u>
David S. Winston	99.80	\$875.00	\$87,325.00
TOTAL ATTORNEYS' FEES for Winston Law Group, P.C.	99.80		\$87,325.00

78. Under the lodestar approach, a base amount is calculated by "multiplying the reasonable hours expended by a reasonable hourly rate." *In re Washington Pub. Power Supply Sys.*

Secs. Litig., 19 F.3d 1291, fn. 2 (9th Cir.1994); *Wershba*, 91 Cal.App.4th at 254; *Serrano III*, 20 Cal.3d at 48. The reasonable hourly rate is that prevailing in the community for similar work. *Margolin v. Regional Planning Com.*, 134 Cal.App.3d 999, 1004–1005 (1982). Typically, the lodestar is merely the starting point of the calculation of a reasonable fee, and courts often multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work, and the novelty and difficulty of the issues involved. *See, e.g., Ketchum v. Moses*, 24 Cal.4th at p. 1132; *see also Serrano III*, 20 Cal.3d at 49; *Radar v. Thrasher*, 57 Cal.2d 244, 253 (1962); *Beasley v. Wells Fargo Bank.*, 235 Cal.App.3d 1407, 1419 (1991); *Coalition for L.A. County Planning v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977). Multipliers can range from two to four, or even higher. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 255 (2001).

79. The Ninth Circuit has held that district courts “*must* apply a risk multiplier to the lodestar ‘when (1) attorneys take a case with the expectation they will receive a risk enhancement if they prevail, (2) their hourly rate does not reflect that risk, and (3) there is evidence that the case was risky. Failure to apply a risk multiplier in cases that meet these criteria is an abuse of discretion.’” *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (*quoting Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016).

80. To date my firm has incurred or expects to incur the following expenses in association with this action for which it is seeking reimbursement:

<u>COST</u>	<u>AMOUNT</u>
PAGA Filing Fee	\$75.00
Postage Associated with Service of PAGA Notice to Two of Defendant’s Addresses by Certified Mail	\$10.50
First Legal Charge for Filing Complaint and Related Documents (includes the \$435 Complaint Fee and \$1,000 Complex Fee Charged by the Court)	\$1,531.90
First Legal Charge for Service of Complaint and Related Documents	\$216.88

1	One Legal Charge for Filing Proof of Service of Summons	\$17.04
2	One Legal Charge for Filing the First Amended Complaint	\$17.04
3	Postage Associated with Service of Amended PAGA Notice	\$18.54
4	to Multiple Addresses	
5	Mediation Fees to the Hon. Howard Broadman (Ret.)	\$7,500.00
6	One Legal Charge for Filing September 2024 Case	\$19.31
7	Management Conference Statement	
8	Expert Fees for Data Analysis of Time and Pay Records and	\$4,640.00
9	Damage Modeling for Mediation by Employment Research	
10	Corporation	
11	One Legal Charge for Filing March 2025 Case Management	\$21.37
12	Statement	
13	One Legal Charge for Filing Joint Stipulation and	\$43.06
14	[Proposed] Order to Continue the Case Management	
15	Conference (including \$20 Stipulation Fee Charged by the	
16	Court)	
17	ASTA-USA Certified Translation of PAGA Settlement	\$783.60
18	Agreement	
19	Anticipated – First Legal Charge for Filing Motion for	\$105.90
20	Approval of PAGA Settlement and Related Documents in	
21	Kern County — based upon estimated provided by First	
22	Legal (includes \$60 Motion Fee charged by the Court)	
23	Anticipated – One Legal Charge for Filing the Settlement	\$21.37
24	Administrator’s Declaration in Advance of the Code of Civ.	
25	Proc. § 384 Compliance Hearing – based upon the charge	
26	from One Legal for filing CMC Statements	
27	Anticipated – One Legal Charge for Filing Proposed	\$21.37

Amended Judgment in advance of the Code of Civ. Proc. § 384 Compliance Hearing	
Copies as of March 25, 2025	(240 copies x \$0.40 per page = \$96.00)
TOTAL CURRENT COSTS	\$15,138.88

81. Although the aggrieved employees do not possess property rights in a PAGA action and this action is not subject to the class action approval or notice process, the aggrieved employees will receive an explanatory letter, in English and Spanish. *Arias v. Superior Court*, 46 Cal.4th 969 (2009) (explaining that in a PAGA action “nonparty employees...[are] not given notice of the action or afforded an opportunity to be heard.”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1122 (9th Cir. 2014) (“PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action.”); *see also O’Connor v. Uber Technologies, Inc.*, No. 13-CV-03826-EMC, 2016 WL 4398271, at *18 (N.D. Cal. Aug. 18, 2016), (“PAGA does not require class action procedures, such as notice and opt-out rights.”) *citing Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal. 4th 348, 381 (2014) (emphasis added). Attached hereto as **Exhibit 6** is a true and correct copy of the explanatory letter that the Parties have agreed to send to the aggrieved employees.

82. Plaintiff already provided Defendant with a draft of the Proposed Order and Final Judgment. Defendant, through its Counsel, approved the form of the Proposed Order and Judgment.

83. In the interest of transparency, I also wish to disclose to the Court that Plaintiff and Defendant settled Plaintiff’s separate individual claims including the individual wage and hour claims pending before the Court in addition to a general release in exchange for \$15,000. PAGA Counsel is not receiving any compensation or cost reimbursement associated with Plaintiff’s individual settlement. Attached hereto as **Exhibit 7** is a true and correct copy of Plaintiff’s individual settlement with Defendant.

84. Code of Civ. Proc. § 384 requires that any funds associated with uncashed voided checks issued as part of this settlement be paid to “nonprofit organizations or foundations to support

1 projects that will benefit the class or similarly situated persons, or that promote the law consistent with
2 the objectives and purposes of the underlying cause of action, to child advocacy programs, or to
3 nonprofit organizations providing civil legal services to the indigent.” In accordance with Code of
4 Civ. Proc. § 384, the Parties propose to designate CASA of Kern County as the proposed *cy pres*
5 beneficiary. Neither I nor my firm have any interest and/or involvement with the governance of CASA
6 of Kern County.

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

10 Executed this 7th day of May 2025, in Los Angeles, California.

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12 
13 DAVID S. WINSTON
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Exhibit 1

PAGA SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiff Jesus Martinez Ramirez (hereinafter “Plaintiff”) as a private attorney general on behalf of the State of California pursuant to Labor Code section 2698 *et seq.*, the Private Attorneys General Act (“PAGA”) on the one hand, and Defendant Jaguar Farm Labor Contracting, Inc. (“Defendant”) on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

This Settlement shall be binding on Plaintiff and the State of California to the extent permitted under PAGA and on Defendant subject to the terms and conditions hereof and the approval of the Court.

I. NATURE OF ACTION

1. On July 21, 2023, Plaintiff filed a PAGA notice with the Labor and Workforce Development Agency (“LWDA”) giving notice of his intent to pursue a representative PAGA action on behalf of the State of California as well as on behalf of other aggrieved employees.

2. On July 21, 2023, Plaintiff filed a Class Action Complaint in the Kern County Superior Court.

3. On September 26, 2023 Plaintiff filed a First Amended Complaint adding the representative PAGA claims in the Kern County Superior Court.

4. On December 6, 2023 the Court dismissed the Class Claims without prejudice because Plaintiff signed an arbitration agreement leaving Plaintiff’s individual claims and the representative PAGA claims.

5. For purposes of this settlement, the Aggrieved Employees or PAGA Members are defined as: all individuals who were employed by Defendant in California as a non-exempt employee at any point between July 21, 2022 and the earlier of March 14, 2025 or the date that the Court approves the Settlement. Through informal discovery, Defendant represented to Plaintiff and PAGA Counsel that the number of potentially aggrieved employees was 11,902 and that there

were 187,757 during the PAGA Covered Period. Defendant also provided relevant policy documents as well as a sample of time and pay records for 3,049 Aggrieved Employees.

6. WHEREAS, on January 13, 2025, the Parties attended a full-day mediation with the Hon. Howard Broadman (Ret.), and reached a settlement of all remaining claims in the Lawsuit, including the PAGA claim and any and all of Plaintiff's individual claims against Defendants based upon a Mediator's Proposal.

II. REPRESENTATIONS AND DEFINITIONS

1. "Aggrieved Employee," "Aggrieved Employees," "PAGA Member" or "PAGA Members" shall mean all individuals who were employed by Defendant in California as a non-exempt employee at any point between July 21, 2022 and the earlier of March 14, 2025 or the date that the Court approves the Settlement.

2. "PAGA Representative" or "Plaintiff" shall refer to the named Plaintiff Jesus Martinez Ramirez.

3. "Defendant" shall mean and refer to Jaguar Farm Labor Contracting, Inc.

4. "Released Parties" shall mean and refer to Defendant and each of their former and present, subsidiaries, owners, officers, supervisors, clients, successors or predecessors in interest, shareholders, partners, and employees.

5. "Lawsuit" refers to the civil action pending in Kern County Superior Court titled, *JESUS MARTINEZ RAMIREZ, an individual, on behalf of himself, others similarly situated, PLAINTIFF, v. JAGUAR FARM LABOR CONTRACTING, INC., a California Corporation, and DOES 1 thru 50, inclusive, DEFENDANTS*, Kern County Superior Court, Case No. BCV-23-102358-BCB.

6. "PAGA Counsel" shall refer to David S. Winston of the Winston Law Group, P.C.

7. "Counsel for Defendant" and "Defense Counsel" shall refer to Erica Rosasco and Michael G. Blankinship of Rosasco Law Group, APC.

8. “Covered Period” or “PAGA Period” shall mean the period from July 21, 2022 and the earlier of March 14, 2025 or the date that the Court approves the Settlement.

9. “Court” refers to the Kern County Superior Court.

10. “Aggrieved Employee Share” shall mean and refer to each PAGA Aggrieved Employees’ share of the 25% of PAGA penalties allocated to the Aggrieved Employees in accordance with Labor Code section 2699(i).

11. “Settlement Administrator” shall refer to ILYM Group, Inc.

12. “Covered Claims” means any and all claims, rights, or causes of action seeking civil penalties under PAGA that were alleged or reasonably could have been alleged against the Released Parties based on the facts alleged in the July 21, 2023 PAGA Notice, the September 29, 2023 PAGA Notice, and the September 26, 2023 First Amended Complaint including, but not limited to, PAGA claims for violations of California Labor Code §§ 200, 201, 202, 203, 204, 206.5, 210, 226, 226.2, 226.3, 226.7, 246-248, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 (including seating), 1198.5, 1199, 2802, 2810.5, and IWC Wage Order Nos. 13-2001 and 14-2001. (the “Settled Claims” or “Released Claims”). This settlement does not cover any employees’ individual claims.

13. “Individual Settlement” shall mean and refer to Plaintiff Jesus Martinez Ramirez’s separate individual settlement of \$15,000.00 for his separately pending individual claims in this Action that is being disclosed to the Court as part of the approval process.

14. “Eligible Pay Periods” means the total number of pay periods that each Aggrieved Employee received a wage statement during the Covered Period.

15. “Settlement” shall mean this Settlement and Release Agreement.

16. “Effective Date” and “Final” means the later of: (i) if no aggrieved employee files an objection (to the extent permitted by law) then the date the Court enters an order granting approval of the PAGA Settlement¹; (ii) if an Aggrieved Employee objects then sixty-one (61) days following the date the Court enters an order granting approval, assuming no appeal is filed;

¹ Nothing in this Settlement Agreement is intended to authorize and/or permit an aggrieved employee to take any actions prohibited by or inconsistent with *Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664, 675 (2024).

or (iii) if an Aggrieved Employee objects and either timely intervenes or timely files a motion to vacate the Judgment despite the prohibition against such actions recognized in *Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664, 675 (2024) and nevertheless files a timely appeal, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible. In this regard, the Parties intend that the Effective Date of the PAGA Action settlement shall not be a date before the Court's order approving the PAGA Action settlement has become completely final and there is no timely recourse by any person who seeks to contest the PAGA Action settlement.

17. "Service Award" means a monetary amount of up to \$5,000.00 for Plaintiff Jesus Martinez Ramirez, which, subject to Court approval, will be paid as provided for below.

18. "Gross Settlement Amount" or "GSA" shall mean and refer to the \$485,000.00 that Defendant is obligated to pay under the terms of the proposed settlement. The Gross Settlement Amount consists of the settlement payment to PAGA Members, settlement administration fees and costs, Plaintiff's service award as to the PAGA Action, payment to the Labor and Workforce Development Agency of its share under the Labor Code Private Attorneys' General Act of 2004 ("PAGA", codified at Labor Code section 2698, *et seq.*), and attorneys' fees and costs. The Gross Settlement Amount is non-reversionary, such that the entire amount will be disbursed and none will revert to Defendant.

19. Plaintiff alleged on behalf of the State of California that Defendant failed to pay the aggrieved employees all minimum wages, all overtime wages, failed to provide lawful meal periods and pay meal period premiums at the proper rate, failed to provide lawful paid rest periods and pay rest period premiums at the proper rate, failed to pay all piece rate wages owed and/or include such wages when calculating and paying overtime, failed to provide complete or accurate itemized wage statements (pay stubs), failed to provide sick pay and/or pay sick pay at the correct rate, failed to timely pay all wages owed during and after employment, failed to maintain accurate time records, failed to reimburse business expenses, required employees to

and failed to provide required notices. Plaintiff alleges that this underlying conduct gives rise to a claim pursuant to Labor Code Section 2698, *et seq.*

20. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit, and denies any liability or intentional wrongdoing. Defendant contends, among other things, that it has complied at all times with the California Labor Code, the related California Wage Orders, and all other state and federal wage laws, and further contends that the Lawsuit is without merit and that Plaintiff cannot pursue claims, if any, against Defendant. Defendant denied and continues to deny each and every material factual allegation and alleged claim asserted against it in the Lawsuit. Defendant further contends that the imposition of any penalties would be unjust, arbitrary, oppressive, and confiscatory. Nevertheless, Defendant is willing to resolve this matter in accordance with the terms set forth herein.

21. The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation and the claims in this Action.

22. Plaintiff and PAGA Counsel contend that they have diligently pursued an investigation of the state of California's claims under PAGA against Defendant.

23. Based on their own independent investigations and evaluations, Plaintiff and PAGA Counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement is fair, reasonable, and adequate and that it is in the best interests of the Plaintiff, the Aggrieved Employees, and the State of California in light of all known facts and circumstances and the risks inherent in litigation.

24. The purpose of this Settlement is to settle and compromise the Lawsuit and all Covered Claims that Plaintiff, the State of California and the Aggrieved Employees have under PAGA against Defendant and the Released Parties. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability,

culpability, negligence, or wrongdoing on the part of Defendant. Nothing herein shall constitute an admission by Defendant that the Lawsuit was properly brought as a representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendant in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification, or administration other than for purposes of administering this Settlement.

25. In order to comply with the requirements of Labor Code Section 2699(I), Plaintiff shall submit a Motion for Approval of Representative PAGA Settlement to the Court identifying the key terms of this Settlement and Release agreement and requesting that the Court approve the Settlement (“Approval Motion”). The Settlement is contingent upon the approval by the Court. If the Court denies a Motion for Approval of Representative PAGA Settlement due to concerns that the Parties cannot address through non-material modifications of this Agreement, (i) this Settlement shall be considered null and void; (ii) neither this Settlement Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if this Settlement had been neither entered into nor filed with the Court. Invalidity of any material portion of this Settlement, except for the amount of attorneys’ fees and costs or Plaintiff’s service award, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. The Parties agree to abide by all of the terms of the Settlement in good faith and to support the Settlement fully and to use their best

efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack. The Parties shall make all possible good faith efforts to resolve any issues raised by the Court during the approval process.

26. In the event that the Court does not grant a Motion for Approval of Representative PAGA Settlement after several attempts and after exhausting all good faith efforts to address any concern raised by the Court, the Parties will be restored to their positions prior to the execution of this Settlement Agreement and the Settlement Agreement shall be null and void and all materials related to seeking approval of the Settlement shall be inadmissible.

III. TERMS OF SETTLEMENT

27. In consideration of the mutual covenants, promises and representations set forth in this Settlement, Plaintiff, on behalf of the State of California as a Private Attorney General, and Defendant agree to settle and compromise the Lawsuit and the Covered Claims, subject to the terms and conditions set forth in this Settlement.

28. The Amount of the Settlement. As consideration for the settlement described herein and the release contained in this Settlement, Defendant agrees to pay the Gross Settlement Amount of \$485,000.00 in connection with the PAGA Settlement. The Gross Settlement Amount shall consist of and will be allocated as follows:

- (a) PAGA Counsel's attorney fee request of 1/3 of the Gross Settlement Amount (\$161,666.67);
- (b) PAGA Counsel's request for costs in the amount of up to \$20,000.00;
- (c) A PAGA service award in the amount of up to \$5,000.00 to Plaintiff Jesus Martinez Ramirez for his services on behalf of the state of California and aggrieved employees;
- (d) Administration costs of up to \$30,000.00 to be paid to the Settlement Administrator ILYM Group, Inc.; and
- (e) the remainder of the Settlement Payment after deducting the items (a), (b), (c), and (d) herein shall be designated as PAGA Penalties or PAGA Penalty Fund

and is estimated to be \$268,333.33 and will be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i) with 75% paid to the LWDA (\$201,250.00) and 25% paid to the Aggrieved Employees on a pro-rata basis (\$67,083.33) based upon the number of pay periods worked during the Covered Period also referred to as the PAGA Period.

Defendant shall pay the Gross Settlement Amount to the Settlement Administrator in a series of monthly installment payments (the "Installment Payment(s)"). The first payment shall be due the later of thirty (30) days after approval of the Settlement or July 31, 2025. The first payment due on July 31, 2025 shall be \$26,666.74. Thereafter, on the last day of each subsequent calendar month, Defendant shall deposit 11 equal payments of \$41,666.66. However, if the Settlement is not approved by July 31, 2025 then the first installment shall include the initial \$26,666.74 that would have been due on July 31, 2025 in addition to each additional installment payment that would have been due under the original installment payment plan if the Court had entered approval by July 31, 2025. By way of example if the Settlement is not approved until September 15, 2025 then Defendant would be required to fund the payments for July 2025, August 2025, and September 2025 by October 15, 2025. Under the terms of the installment payment plan, Defendant shall finalize funding the Settlement no later than June 30, 2026 unless the Settlement is not approved by June 30, 2026, in which case the entire settlement shall be funded no later than 30 days after the Settlement is approved.

29. Allocation and Calculation of the PAGA Penalties. The anticipated total PAGA Penalty Fund will be approximately \$268,333.33. Seventy-five percent of the PAGA Penalty Fund will be paid to the LWDA as required by Labor Code section 2699(i). The remaining 25% of the PAGA Penalty Fund will be distributed to Aggrieved Employees on a pro-rata basis based upon the number of pay periods worked during the Covered Period also referred to as the PAGA Period. The allocation amongst the Aggrieved Employees shall be determined by dividing the entire PAGA Fund allocated to the Aggrieved Employees by the number of pay periods in the PAGA Period. The resulting amount shall be the Pay Period Amount. Each Aggrieved Employee,

including Plaintiff, shall receive a pro rata value equal to the number of pay periods worked during the PAGA Period multiplied by the Pay Period amount (the “Individual Settlement Payments”). All Individual Settlement Payments made to Aggrieved Employees will be reported on an IRS Form 1099-MISC to the extent required by law. Each Aggrieved Employee’s pro-rata share of the PAGA Penalty Fund represents their share of the 25% in PAGA penalties distributable to the aggrieved employees.

30. PAGA Representative Service Award. Plaintiff Jesus Martinez Ramirez may request a service award of up to \$5,000.00 in recognition for his services on behalf of the State of California and the aggrieved employees. Any service award awarded by the Court shall be paid out of the Gross Settlement Amount and will be reported on an IRS Form 1099-MISC basis. The PAGA Representative Service Award shall be an amount in addition to Plaintiff Jesus Martinez Ramirez’s pro-rata share of the PAGA Penalty Fund penalties awarded to the aggrieved employees. Defendant will not object to nor oppose a service award request for PAGA representative Jesus Martinez Ramirez in the amount of up to \$5,000.00. Should the Court decline to provide a service award or approve a lesser amount, any amount not awarded by the Court shall be reallocated to the Net PAGA Penalty fund and distributed to the Aggrieved Employees.

31. PAGA Counsel’s Fees and Costs. As part of the request for approval of this Settlement, PAGA Counsel will request court approval of 1/3 of the Gross Settlement Amount, which is \$161,666.67. PAGA Counsel will also request cost reimbursement in the amount of up to \$20,000.00 for costs incurred and/or expected to be incurred by PAGA Counsel in the prosecution of this Action. Should PAGA Counsel request a lesser amount of attorneys’ fees and costs and/or the Court approve a lesser amount, the difference shall be allocated to the PAGA Penalty Fund and distributed accordingly. Any attorneys’ fees and costs awarded to PAGA Counsel, hereinafter referred to as “PAGA Counsel Fees & Costs,” shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit, including but not limited to securing Court approval of the settlement, appearing at any hearings,

making sure that the settlement is fairly and properly administered, defending the settlement in any appeal or other post-approval matter, all other work that PAGA Counsel has performed or will perform, and all costs that PAGA Counsel has incurred or will incur. Defendant will not object to nor oppose a request for attorneys' fees in the amount of up to 1/3 of the Gross Settlement Amount nor any request for reimbursement for costs that do not exceed \$20,000.00.

32. Tax Treatment of Settlement Amounts. With regard to settlement payments to PAGA Aggrieved Employees reflecting each Aggrieved Employees' share of PAGA penalties, IRS Form 1099-MISCs will be issued if required by the Settlement Administrator. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that he has obtained no tax advice from Defendant and that neither Defendant nor its attorneys have made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement or any payment to be made pursuant to this Agreement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any Aggrieved Employees' tax obligations regarding the allocation of the settlement payments. Payment of PAGA Counsel Fees & Costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

IV. RELEASE

33. Release By All Aggrieved Employees. Upon the approval by the Court of this Settlement, Plaintiff, the State of California and each Aggrieved Employee, for the period from July 21, 2022 and the earlier of March 14, 2025 or the date that the Court approves the Settlement, shall fully release and forever discharge the Released Parties from any and all Covered Claims.

34. Release by Plaintiff. In addition to his participation in the Release By all Aggrieved Employees and except as otherwise provided herein, upon the Effective Date of this

Settlement, Plaintiff has agreed to a separate individual settlement that is intended to compensate Plaintiff for all additional claims, whether known or unknown, against Defendant and the Released Parties, including but not limited to, his separately pled individual wage and hour claims pending in this Action and a general release that also covers any claims for employment discrimination, retaliation, or other individual claims that are not being litigated in this case.

35. Plaintiff is providing a full release of individual claims to the extent permitted by law, other than non-releasable claims such as and including workers' compensation claims, as part of his individual Settlement. PAGA Counsel is not receiving any attorneys' fees or cost reimbursement associated with Plaintiff's individual settlement.

V. APPROVAL OF THE SETTLEMENT

36. The Parties recognize that in accordance with Labor Code Section 2699(I) Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal.4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement *through* a motion for preliminary or final approval. *See also Mendoza vs. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) ("PAGA authorizes a representative action without the need for class certification."); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) ("a PAGA suit is fundamentally different than a class action" in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action."); *Williams vs. Sup. Ct.*, 3 Cal.5th 531, 546-547 (2017) ("PAGA does not make other potentially aggrieved employees parties or clients of plaintiff's counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class.").

37. In order to comply with the requirements of Labor Code Section 2699(I), Plaintiff shall file a Motion for Approval of Representative PAGA Settlement identifying the key terms of this Settlement and Release agreement and requesting that the Court approve the Settlement ("Approval Motion"). Plaintiff shall send a draft to Defendant, who shall have 5 business days to

either approve the draft or propose changes to the Motion.

VI. THE SETTLEMENT PAYMENT PLAN AND ADMINISTRATION OF THE SETTLEMENT

38. Within 30 calendar days after the Effective Date, Defendant will compile and transmit an Aggrieved Employee list (“Aggrieved Employee List”) containing: (1) the name; (2) last known home address and telephone number; (3) the number of pay periods worked by an Aggrieved Employee during the Covered Period; and (4) the Aggrieved Employees’ social security numbers. This information shall be kept confidential by the Settlement Administrator and will not be shared with Plaintiff’s Counsel; however, the Settlement Administrator will provide any information needed to account to the Court and/or report the amount and disposition of uncashed checks. The Settlement Administrator shall not share any contact information for the Aggrieved Employees with Plaintiff

39. Defendant shall pay to the Settlement Administrator the Installment Payments representing the Gross Settlement Amount in accordance with paragraph 28. Once Defendant has complied with its obligation set forth in paragraph 38 and this paragraph, it shall be deemed to have satisfied all of the terms and conditions of this Agreement, shall be entitled to all the protections afforded it under the Agreement, and shall have no further obligations under the Agreement. Without prejudice to any other remedies, both the Settlement Administrator and PAGA Counsel shall hold Defendant harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any failure to timely or properly compensate PAGA Members as provided in this Agreement. The Settlement Administrator shall distribute each Aggrieved Employee Share to the Aggrieved Employees, any service award and the attorneys’ fees and costs awarded by the Court within thirty (30) calendar days after Defendant deposits the entirety of the Gross Settlement Amount.

40. The Settlement Payment checks for each Aggrieved Employee’s Share shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee’s address with directions to the Postmaster to forward the payment checks and return all undeliverable

payment checks to the Settlement Administrator. A letter approved by the Parties, in advance of filing the Approval Stipulation, explaining this Settlement will be included in the mailing of each Aggrieved Employee's check and submitted to the Court for its review and approval. The explanatory letter shall not include Plaintiff's Counsel's contact information, but will include contact information for the Settlement Administrator. The date of the initial mailing of the payment check shall be conclusively determined according to the records of the Settlement Administrator.

41. The Settlement Administrator shall ensure that 75% of the PAGA Penalty Fund is paid to the LWDA.

42. Aggrieved Employee Share checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. Any funds associated with checks for the Aggrieved Employees Share of PAGA penalties that have not been cashed within 180 days, will become void and the amounts associated with the un-cashed check shall be paid out in accordance with Civil Code section 384 to a *cy pres* agreed to by the Parties as required by Code of Civil Procedure section 384 or any other method of distribution consistent with Code of Civil Procedure section 384 approved by the Court. If the Court were to find that Code of Civil Procedure section 384 does not apply to this Settlement, then any unclaimed funds would be sent to the California State Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. The *cy pres* recipient shall be CASA of Kern County. Upon the expiration of the 180 days, the Settlement Administration shall pay all remaining settlement funds to the designated *cy pres* recipient or as otherwise ordered by the Court. The Parties hereby expressly agree to this specific distribution for any and all unclaimed funds; however, the distribution of any uncashed checks is not a material term of the Settlement and may be modified by the Court during the approval process consistent with this Paragraph without necessitating an amendment to the Settlement Agreement.

43. Escalator Clause. Defendant represented as part of the informal discovery process that there were approximately 11,498 Aggrieved Employee as of December 31, 2024 and

176,323 PAGA pay periods during the PAGA covered period. If the number of pay periods increases by more than ten percent (10%) above the estimated number of 176,323 PAGA pay periods (*e.g.* if there are more than 193,955 pay periods then Defendant shall have the option of either: (1) increasing the amount of the Gross Settlement Amount on a pro-rata basis equal to the increase in number of pay periods relative to the its representations in association with the Mediation. By way of example, if there turn out to be 202,772 PAGA pay periods, the settlement shall be increased by 5% (202,772 actual PAGA pay periods/ 176,323 estimated PAGA pay periods-10% buffer), which is the amount of increase relative to the initial estimate; or (2) modifying the end date of the PAGA Covered Period to an earlier date, but in no event shall the earlier date be earlier than January 15, 2025, which was the date of the Mediation. In either event, if the number of Aggrieved Employees exceeds the number of Aggrieved Employees (11,498) disclosed in the informal discovery by more than (10%, which would be 12,648 Aggrieved Employees), then Defendant shall pay any additional Settlement Administration costs associated with distributing the PAGA penalties to the Aggrieved Employees. Defendant understands that a material consideration for Plaintiff entering into this Settlement was the accurateness of the informal discovery and information provided by Defendant including the number of Aggrieved Employees and number of pay periods during the PAGA period, and as such, has agreed to this Escalator Clause.

VII. DUTIES OF THE PARTIES PRIOR TO APPROVAL

44. Promptly upon execution of this Settlement, Plaintiff shall file a Motion for Approval of Representative PAGA Settlement. The Parties shall apply to the Court for the entry of an order and final judgment approving this Settlement as required by Labor Code section 2699(l). Plaintiff shall prepare and file a Motion for Approval of Representative PAGA Settlement. The Approval Motion will request Court approval of the following:

- a. Approving the terms of this Settlement and Release Agreement;
- b. Approving the amount of PAGA Counsel Fees & Costs;
- c. Appointing ILYM Group, Inc. as the Settlement Administrator and

approving the amount of Settlement Administration Costs;

- d. Approving the amount of Plaintiff's Service Award; and
- e. Entering Final Judgment.

45. In conjunction with the Motion for Approval of PAGA Settlement, the Parties will submit a proposed Final Judgment requesting the entry of judgment in the amount of \$500,000.00—which includes this \$485,000 PAGA Settlement and Plaintiff's separate individual settlement of \$15,000—in favor of Plaintiff and the State of California.

46. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

VIII. MUTUAL FULL COOPERATION

47. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein.

X. NO ADMISSION

48. Nothing contained herein nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendant denies that it has engaged in any unlawful activity, that it failed to comply with the law in any material respect, or that it has any liability to anyone under the claims asserted in the Lawsuit. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendant.

XI. NON-EVIDENTIARY USE

49. Whether or not the Effective Date occurs, neither this Agreement nor any of its terms, nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement, enforcing the Settlement and all of its terms, or for Defendant to establish that an Aggrieved Employee has resolved any of his/her claims released through this Agreement nor against Plaintiff in this Action.

XI. NULLIFICATION

50. If (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys' fees, costs, settlement administration costs, or the proposed service award), or (b) the Court's approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Agreement, except for the amount of attorneys' fees and costs, settlement administration expenses, or the Plaintiff's proposed service award, shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

XII. ATTORNEYS' FEES, COSTS AND EXPENSES

51. Except as specifically set forth herein, each party shall bear their own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by her/ them arising out of the Lawsuit,

and shall not seek reimbursement thereof from any other party to this Agreement.

XIII. CONSTRUCTION

52. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arms-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff (on behalf of himself and the State of California) and Defendant regarding actual or potential claims asserted by Plaintiff against Releasees. Excluding the Arbitration Agreement entered into by the Parties prior to the commencement of this lawsuit and the Individual Settlement Agreement that covers Plaintiff's individual claims and will be disclosed to the Court, this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims. Consequently, no other agreement, statement, or promise made by one Party to another as to any matter addressed in this Agreement shall be binding or valid.

XIV. CAPTIONS AND INTERPRETATIONS

53. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

XV. MODIFICATION

54. This Settlement may not be amended, changed, altered, or modified, except in writing and signed by the Parties (or their successors-in-interest) hereto. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XVI. MISCELLANEOUS

55. Non-Publicity Clause. Plaintiff's Counsel shall not issue any press releases regarding this case or the Settlement nor advertise this Settlement (including but not limited to posting anything on his website about this Settlement) without the consent of Defendant. Plaintiff

shall also not issue any press releases related to this Settlement.

56. This Settlement contains the entire agreement between the Parties relating to the Settlement of the Covered Claims and Plaintiff's Released Claims, and all prior or contemporaneous agreements (except any Arbitration Agreement and Plaintiff's disclosed Individual Settlement Agreement), understandings, representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters that would alter or change the terms of this Agreement. No representations, warranties, or inducements have been made to any party concerning this Agreement other than those expressly set forth or referred to herein.

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

58. This Settlement may be executed in counterparts either via a wet written signature or an electronic signature (such as via Dropbox Sign or DocuSign). When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

59. This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

60. The Parties have cooperated in the negotiation and preparation of this Agreement.

This Agreement shall not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement. As such, both Parties agree that they bear the risk of mistake and that they each agree to bear such risks, including all potential risks associated with this Settlement, equally.

61. The Kern County Superior Court shall retain jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

DATED: 04 / 17 / 2025, 2025

*Jesus
Martinez*

JESUS MARTINEZ RAMIREZ
as PAGA Representative

DATED: 4/28/2025, 2025

DocuSigned by:

Joe Garcia
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FOR JAGUAR FARM LABOR CONTRACTING,
INC.

By: Joe Garcia

Its: Chief Executive Officer

ACUERDO DE ARREGLO Y EXENCIÓN DE RESPONSABILIDAD PAGA

Las partes de este Arreglo y Exención de Responsabilidad (de aquí en más, el “Arreglo” o el “Acuerdo”) son el Demandante Jesús Martínez Ramírez (de aquí en más, el “Demandante”) como un procurador general privado en representación del Estado de California de conformidad con la sección 2698 y subsiguientes del Código de Trabajo, la Ley de Procurador General Privado (“PAGA”, por sus siglas en inglés), y el Demandado Jaguar Farm Labor Contracting, Inc. (el “Demandado”). Al Demandante y al Demandado nos referiremos colectivamente en el presente como las “Partes”.

Este Arreglo será vinculante para el Demandante y el Estado de California en la medida en que lo permita la PAGA y para el Demandado, sujeto a los términos y condiciones del presente y a la aprobación del Tribunal.

I. NATURALEZA DE LA ACCIÓN LEGAL

1. El 21 de julio de 2023, el Demandante presentó un aviso ante la Agencia de Desarrollo de Trabajo y Fuerza Laboral (“LWDA”, por sus siglas en inglés) informando su intención de iniciar una acción legal PAGA representativa en representación del Estado de California, así como en nombre de otros empleados agraviados.

2. El 21 de julio de 2023, el Demandante presentó una Demanda Colectiva ante el Tribunal Superior del Condado de Kern.

3. El 26 de septiembre de 2023, el Demandante presentó una Primera Demanda Enmendada agregando los reclamos PAGA representativos ante el Tribunal Superior del Condado de Kern.

4. El 6 de diciembre de 2023, el Tribunal desestimó los Reclamos de la Clase sin perjuicio debido a que el Demandante firmó un acuerdo de arbitraje que dejó los reclamos individuales del Demandante y los reclamos PAGA representativos.

5. Para los fines de este Arreglo, los Empleados Agraviados o Miembros PAGA se definen como: todas las personas que eran empleados del Demandando en California como un empleado no exento en cualquier momento del 21 de julio de 2022 a lo que tenga lugar primero

del 14 de marzo de 2025 o la fecha en que el Tribunal aprueba el Arreglo. Mediante la presentación de pruebas informal, el Demandado declaró al Demandante y al Abogado PAGA que la cantidad potencial de empleados agraviados era de 11,902 y que existían 187,757 durante el Período PAGA Cubierto. El Demandante también proporcionó los documentos de política pertinentes, además de una muestra de registros de horas y salarios de 3,049 Empleados Agraviados.

6. POR CUANTO, el 13 de enero de 2025, las Partes asistieron a una mediación de un día completo con el Honorable Howard Broadman (Jubilado) y llegaron a un arreglo sobre todos los reclamos restantes en la Demanda, lo que incluye el reclamo PAGA y todos y cada uno de los reclamos individuales del Demandante contra el Demandado en base a la Propuesta del Mediador.

II. DECLARACIONES Y DEFINICIONES

1. “Empleado Agraviado”, “Empleados Agraviados”, “Miembro PAGA” o “Miembros PAGA” significará todas las personas que eran empleados del Demandando en California como un empleado no exento en cualquier momento del 21 de julio de 2022 a lo que tenga lugar primero del 14 de marzo de 2025 o la fecha en que el Tribunal aprueba el Arreglo.

2. “Representante PAGA” o “Demandante” se referirá al Demandante identificado Jesús Martínez Ramírez.

3. “Demandado” significará y se referirá a Jaguar Farm Labor Contracting, Inc.

4. “Partes Eximidas” significará y se referirá al Demandado y cada una de sus subsidiarias, propietarios, funcionarios, supervisores, clientes, sucesores o antecesores en interés, accionistas, socios y empleados anteriores y actuales.

5. “Demanda” se refiere a la acción legal civil pendiente ante el Tribunal Superior del Condado de Kern titulada, *JESUS MARTINEZ RAMIREZ, an individual, on behalf of himself, others similarly situated, PLAINTIFF, v. JAGUAR FARM LABOR CONTRACTING, INC., a California Corporation, and DOES 1 thru 50, inclusive, DEFENDANTS*, Tribunal Superior del Condado de Kern, No. de Caso BCV-23-102358-BCB.

6. “Abogado PAGA” se referirá a David S. Winston de Winston Law Group, P.C.

7. “Abogados de los Demandados” y “Abogados Defensores” se referirá a Erica Rosasco y Michael G. Blankinship de Rosasco Law Group, APC.

8. “Período Cubierto” o “Período PAGA” significará el período del 21 de julio de 2022 a lo que tenga lugar primero del 14 de marzo de 2025 o la fecha en que el Tribunal aprueba el Arreglo.

9. “Tribunal” se refiere al Tribunal Superior del Condado de Kern.

10. “Parte de los Empleados Agraviados” significará y se referirá a la parte de cada Empleado Agraviado PAGA del 25% de las sanciones PAGA asignadas a los Empleados Agraviados de conformidad con la sección 2699(i) del Código de Trabajo.

11. “Administrador del Arreglo” se referirá a ILYM Group, Inc.

12. “Reclamos Cubiertos” significa todos y cada uno de los reclamos, derechos o causas de acción legal que solicitan sanciones civiles conforme a la PAGA que se alegaron o que podrían haberse alegado razonablemente contra las Partes Eximidas en función de los hechos que se alegaron en el Aviso PAGA del 21 de julio de 2023, el Aviso PAGA del 29 de septiembre de 2023, y la Primera Demanda Enmendada del 26 de septiembre de 2023 lo que incluye, de forma enunciativa y no limitativa, reclamos PAGA por infracciones de §§ 200, 201, 202, 203, 204, 206.5, 210, 226, 226.2, 226.3, 226.7, 246-248, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 (que incluye asientos), 1198.5, 1199, 2802, 2810.5, y Orden de Salario de la IWC Nos. 13-2001 y 14-2001 (los “Reclamos Arreglados” o los “Reclamos Eximidos”). Este arreglo no cubre los reclamos individuales de ningún empleado.

13. “Arreglo Individual” significará y se referirá al arreglo individual por separado del Demandante Jesús Martínez Ramírez de \$15,000.00 por sus reclamos individuales pendientes por separado en esta Acción Legal que se divulga al Tribunal como parte del proceso de aprobación.

14. “Períodos de Pago que Califican” significa la cantidad total de períodos de pago en los que cada Empleado Agraviado recibió un recibo de sueldo durante el Período Cubierto.

15. “Arreglo” significará este Acuerdo de Arreglo y Exención de Responsabilidad.

16. “Fecha de Vigencia” y “Definitivo” significa lo que tenga lugar primero de: (i) si ningún Empleado Agraviado presenta una objeción (en la medida de lo permitido por la ley), la fecha en que el Tribunal dicte una orden otorgando la aprobación del arreglo PAGA¹; (ii) si un Empleado Agraviado presenta una objeción, sesenta y un (61) días después de la fecha en que el Tribunal dicte una orden otorgando la aprobación, suponiendo que no se presente una apelación; o (iii) si un Empleado Agraviado presenta una objeción e interviene dentro de los plazos previstos o presenta dentro de los plazos previstos una moción para anular la Sentencia a pesar de la prohibición de tales medidas reconocida en *Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664, 675 (2024) y de todas maneras presenta una apelación dentro de los plazos previstos, la fecha de resolución definitiva de dicha apelación (lo que incluye toda solicitud de nueva audiencia y/o peticiones de revisión de sentencia), que den lugar a la aprobación judicial definitiva y plena del Arreglo en su totalidad, sin que sea posible ninguna otra impugnación del Arreglo. En este sentido, la intención de las Partes es que la Fecha de Vigencia del arreglo de la Acción Legal PAGA no sea una fecha anterior a la fecha en que la orden del Tribunal que aprueba el arreglo de la Acción Legal PAGA se convierta en completamente definitiva y no exista recurso oportuno por parte de ninguna persona que pretenda impugnar el arreglo de la Acción Legal PAGA.

17. “Pago por Servicios” significa un monto monetario de un máximo de \$5,000.00 para el Demandante Jesús Martínez Ramírez que, sujeto a la aprobación del Tribunal, se pagará tal como se indica más abajo.

18. “Monto Bruto del Arreglo” o “GSA” significará y se referirá a los \$485,000.00 que el Demandado está obligado a pagar conforme a los términos del arreglo propuesto. El Monto Bruto del Arreglo consiste en el pago del arreglo a los Miembros PAGA, los honorarios y costos de administración del arreglo, el pago por servicios del Demandante en cuanto a la Acción Legal PAGA, el pago a la Agencia de Desarrollo de Trabajo y Fuerza Laboral de su parte conforme a la Ley de Procurador General Privado de 2004 (“PAGA”, codificada en la sección 2698 y subsiguientes del Código de Trabajo) del Código de Trabajo, y los honorarios y costos de los

¹ Ninguna de las secciones de este Acuerdo de Arreglo tiene como objeto autorizar y/o permitir que un empleado agraviado tome medidas prohibidas o incompatibles con *Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664, 675 (2024).

abogados. El Monto Bruto del Arreglo no es reversible, de tal manera que se desembolsará la totalidad del monto y ninguna parte será devuelta al Demandado.

19. El Demandante alegó en representación del Estado de California que el Demandado no pagó a los Empleados Agraviados todos los salarios mínimos, todos los salarios por horas extra, no proporcionó períodos para comer legales y no pagó las primas de los períodos para comer a la tarifa adecuada, no proporcionó períodos de descanso con sueldo legales y no pagó las primas de los períodos de descanso con sueldo a la tarifa adecuada, no pagó todos los salarios a destajo debidos y/o no incluyó dichos salarios al calcular y pagar horas extra, no proporcionó recibos de sueldo (talones de pago) detallados completos o correctos, no proporcionó pago por enfermedad y/o no pagó pago por enfermedad a la tarifa correcta, no pagó oportunamente todos los salarios adeudados durante y después del empleo, no mantuvo registros de horas correctos, no reembolsó gastos de negocios, exigió a los empleados que firmaran una exención de responsabilidad de sus reclamos salariales para poder recibir sus salarios, y no proporcionó los avisos exigidos. El Demandante alega que esta conducta subyacente da lugar a un reclamo de conformidad con el artículo 2698 y subsiguientes del Código de Trabajo.

20. El Demandado rechaza toda responsabilidad o acto indebido de ningún tipo relacionado con los reclamos alegados en la Demanda, y rechaza toda responsabilidad o acto indebido intencional. El Demandado sostiene, entre otras cosas, que cumplió en todo momento con el Código de Trabajo de California, las Órdenes de Salario de California relacionadas, y todas las demás leyes salariales estatales y federales, y sostiene además que la Demanda carece de mérito y que el Demandante no puede hacer valer reclamos, si existen, contra el Demandado. El Demandado rechaza y sigue rechazando todas y cada una de las alegaciones de hecho materiales y los presuntos reclamos hechos valer en su contra en la Demanda. El Demandado sostiene además que la imposición de toda sanción sería injusta, arbitraria, opresiva y confiscatoria. No obstante, el Demandado está dispuesto a resolver este tema de acuerdo con los términos que se establecen en el presente.

21. Las Partes reconocen que es probable que los temas planteados en la Demanda solo se resuelvan con extensos y costosos procedimientos prejudiciales y judiciales, y que la continuación del proceso judicial causará inconvenientes, distracciones, trastornos, retrasos y gastos desproporcionados en relación con los beneficios potenciales del proceso judicial. Las Partes tuvieron en cuenta el riesgo y la incertidumbre del resultado inherentes a todo proceso judicial y los reclamos en esta Acción Legal.

22. El Demandante y el Abogado PAGA sostienen que llevaron a cabo de forma diligente una investigación de los reclamos del estado de California conforme a la PAGA contra el Demandado.

23. En base a sus propias investigaciones y evaluaciones independientes, la opinión del Demandante y del Abogado PAGA es que el arreglo por la contraprestación y según los términos que se establecen en este Arreglo es justo, razonable y adecuado, y que favorece los intereses del Demandante, los Empleados Agraviados y el Estado de California teniendo en cuenta todos los hechos y circunstancias conocidos y los riesgos inherentes en un proceso judicial.

24. El objeto de este Arreglo es resolver y conciliar la Demanda y todos los Reclamos Cubiertos que el Demandante, el Estado de California y los Empleados Agraviados puedan tener conforme a la PAGA contra el Demandado y las Partes Eximidas. Ni la existencia de este Arreglo ni nada de lo incluido en este Arreglo se interpretará o considerará como una admisión de responsabilidad, culpabilidad, negligencia o acto indebido por parte del Demandado. Ninguna de las secciones del presente constituirá una admisión por parte del Demandado de que la Demanda fue presentada de forma adecuada como una acción legal representativa más allá de los fines de un arreglo. El Arreglo de la Demanda, la negociación y suscripción de este Arreglo, y todos los actos realizados o documentos suscritos de conformidad o para perfeccionar este Arreglo o el arreglo de la Demanda: (a) no constituyen, no se considerarán y no podrán utilizarse como admisión o prueba de ningún acto indebido o responsabilidad por parte del Demandado, ni de la veracidad de ninguna de las alegaciones de hecho en la Demanda operativa en la Demanda; (b) no constituyen, no se considerarán y no podrán utilizarse como admisión o prueba de ninguna

falta u omisión por parte del Demandado en ningún proceso civil, penal o administrativo ante ningún tribunal, agencia administrativa u otro tribunal; y (c) no constituyen, no se considerarán y no podrán utilizarse como admisión o prueba de la pertinencia de estos reclamos u otros similares para el tratamiento representativo, la certificación de clase o la administración más allá de para fines de la administración de este Arreglo.

25. Con el objeto de cumplir con los requisitos de la Sección 2699(I) del Código de Trabajo, el Demandante presentará una Moción de Aprobación del Arreglo PAGA Representativo ante el Tribunal identificando los términos clave de este Acuerdo de Arreglo y Exención de Responsabilidad y solicitando que el Tribunal apruebe el Arreglo (la “Moción de Aprobación”). El Arreglo está supeditado a la aprobación del Tribunal. Si el Tribunal rechaza una Moción de Aprobación del Arreglo PAGA Representativo debido a inquietudes de que las Partes no pueden hacer frente a modificaciones no materiales de este Acuerdo, (i) este Arreglo se considerará nulo y sin efecto; (ii) ni este Acuerdo de Arreglo ni ninguna de las negociaciones o procesos relacionados tendrán vigencia ni efecto; y (iii) todas las Partes de este Acuerdo de Arreglo se encontrarán en la misma postura, sin perjuicio, como si este Arreglo no se hubiera suscrito ni presentado ante el Tribunal. La invalidación de toda sección material de este Arreglo, a excepción del monto de los honorarios de abogados y costos o el pago por servicios del Demandante, invalidará este Arreglo en su totalidad, a menos que las Partes acuerden posteriormente por escrito que las disposiciones restantes permanecerán en plena vigencia y efecto. Las Partes acuerdan cumplir con todos y cada uno de los términos del Arreglo de buena fe y apoyar plenamente el Arreglo y hacer todo lo posible para defender este Arreglo de toda impugnación legal, ya sea durante una apelación o mediante ataque indirecto. Las Partes harán todo lo posible de buena fe para resolver todo tema planteado por el Tribunal durante el proceso de aprobación.

26. Si el Tribunal no concede la Moción de Aprobación del Arreglo PAGA Representativo después de varios intentos y después de agotar todas las iniciativas de buena fe para corregir toda inquietud planteada por el Tribunal, las Partes volverán a sus posturas anteriores a la suscripción de este Acuerdo de Arreglo y el Acuerdo de Arreglo será nulo y sin

efecto y todos los materiales relacionados con la solicitud de aprobación del Arreglo serán inadmisibles.

III. TÉRMINOS DEL ARREGLO

27. En contraprestación de los pactos, promesas y declaraciones mutuas establecidas en este Arreglo, el Demandante, en representación del Estado de California como un Procurador General Privado, y el Demandado acuerdan llegar a un arreglo y conciliar la Demanda y los Reclamos Cubiertos, sujeto a los términos y condiciones establecidos en este Arreglo.

28. El monto del Arreglo. Como contraprestación por el arreglo que se describe en el presente y la exención de responsabilidad incluida en este Arreglo, el Demandado acuerda pagar el Monto Bruto del Arreglo de \$485,000.00 en relación con el Arreglo PAGA. El Monto Bruto del Arreglo consistirá y se asignará de la siguiente manera:

- (a) La solicitud de honorarios de abogados del Abogado PAGA de 1/3 del Monto Bruto del Arreglo (\$161,666.67);
- (b) La solicitud de costos del Abogado PAGA de un monto de un máximo de \$20,000.00;
- (c) Un pago por servicios PAGA de un monto de un máximo de \$5,000.00 al Demandante Jesús Martínez Ramírez por sus servicios en representación del estado de California y los Empleados Agraviados;
- (d) Los costos de administración de un máximo de \$30,000.00 que se pagarán al Administrador del Arreglo ILYM Group, Inc.; y
- (e) El resto del Pago del Arreglo después de deducir los puntos (a), (b), (c) y (d) del presente se designará como Sanciones PAGA o Fondo de Sanciones PAGA y se estima que será de \$268,333.33 y se distribuirá a la LWDA y los Empleados Agraviados de conformidad con la sección 2699(i) del Código de Trabajo, pagándose el 75% a la LWDA (\$201,250.00) y el 25% a los Empleados Agraviados de forma prorrateada (\$67,083.00) conforme a la cantidad de períodos de pago trabajados durante el Período Cubierto, que también se denomina Período

PAGA.

El Demandado pagará el Monto Bruto del Arreglo al Administrador del Arreglo en una serie de pagos en cuotas mensuales (el/los “Pago(s) en Cuotas”). El primer pago debe realizarse en lo que tenga lugar primero de treinta (30) días después de la aprobación del Arreglo o el 31 de julio de 2025. El primer pago que debe realizarse el 31 de julio de 2025 será de \$26,666.74. Posteriormente, el último día de cada mes calendario subsiguiente, el Demandado debe depositar 11 pagos iguales de \$41,666.66. Sin embargo, si el Arreglo no es aprobado a más tardar el 31 de julio de 2025, la primera cuota incluirá los \$26,666.74 iniciales que hubiera correspondido pagar el 31 de julio de 2025, además de cada pago de cuotas adicional que hubiera correspondido pagar conforme al plan de pago en cuotas original si el Tribunal hubiera dictado su aprobación a más tardar el 31 de julio de 2025. A modo de ejemplo, si el Arreglo no se aprueba hasta el 15 de septiembre de 2025, el Demandado debe aportar los fondos para los pagos de julio de 2025, agosto de 2025 y septiembre de 2025 a más tardar el 15 de octubre de 2025. Conforme a los términos del plan de pago en cuotas, el Demandado debe finalizar el aporte de fondos al Arreglo a más tardar el 30 de junio de 2026, a menos que el Arreglo no se apruebe a más tardar el 30 de junio de 2026, en cuyo caso la totalidad del Arreglo contará con fondos a más tardar 30 días después de que se apruebe el Arreglo.

29. Asignación y cálculo de las Sanciones PAGA. El Fondo de Sanciones PAGA total previsto será de aproximadamente \$268,333.33. El setenta y cinco por ciento del Fondo de Sanciones PAGA se pagará a la LWDA, como lo exige la sección 2699(i) del Código de Trabajo. El 25% restante del Fondo de Sanciones PAGA se distribuirá a los Empleados Agraviados de forma prorrateada en función de la cantidad de períodos de pago trabajados durante el Período Cubierto, que también se denomina Período PAGA. La asignación a los Empleados Agraviados se determinará dividiendo la totalidad del Fondo PAGA asignado a los Empleados Agraviados por la cantidad de períodos de pago en el Período PAGA. El monto resultante será el Monto de Período de Pago. Cada Empleado Agraviado, lo que incluye al Demandante, recibirá un valor

prorrateado igual a la cantidad de períodos de pago trabajados durante el Período PAGA multiplicado por el Monto de Período de Pago (los “Pagos Individuales del Arreglo”). Todos los Pagos Individuales del Arreglo realizados a los Empleados Agraviados se informarán en un Formulario 1099-MISC del IRS en la medida en que lo exija la ley. La parte prorrateada de cada Empleado Agraviado del Fondo de Sanciones PAGA representa su parte del 25% de sanciones PAGA distribuibles a los empleados agraviados.

30. Pago por Servicios al Representante PAGA. El Demandante Jesús Martínez Ramírez puede solicitar un pago por servicios de un máximo de \$5,000.00 en reconocimiento por sus servicios en representación del Estado de California y de los Empleados Agraviados. Todo pago por servicios otorgado por el Tribunal se pagará del Monto Bruto del Arreglo y se informará en un formulario 1099-MISC del IRS. El Pago por Servicios al Representante PAGA será un monto adicional a la parte prorrateada de las sanciones del Fondo de Sanciones PAGA otorgadas a los Empleados Agraviados que corresponde al Demandante Jesús Martínez Ramírez. El Demandado no objetará ni se opondrá a una solicitud de pago por servicios para el representante PAGA Jesús Martínez Ramírez de un monto de un máximo de \$5,000.00. Si el Tribunal rechaza conceder un pago por servicios o aprueba un monto menor, todo monto no otorgado por el Tribunal se reasignará al fondo de Sanciones Netas PAGA y se distribuirá a los Empleados Agraviados.

31. Honorarios y Costos del Abogado PAGA. Como parte de la solicitud de aprobación de este Arreglo, el Abogado PAGA solicitará la aprobación del Tribunal de 1/3 del Monto Bruto del Arreglo, que asciende a \$161,666.67. El Abogado PAGA también solicitará el reembolso de costos de un monto de un máximo de \$20,000.00 por los costos en que haya incurrido y/o prevea que vaya a incurrir el Abogado PAGA en el procesamiento de esta Acción Legal. Si el Abogado PAGA solicita un monto menor en concepto de honorarios y costos y/o el Tribunal aprueba un monto menor, la diferencia se asignará al Fondo de Sanciones PAGA y se distribuirá en consecuencia. Los honorarios de abogados y costos otorgados al Abogado PAGA, a los que nos referiremos de aquí en más como los “Honorarios y Costos del Abogado PAGA”,

compensarán y reembolsarán íntegramente al Abogado PAGA por todo el trabajo ya realizado en relación con la Demanda y todo el trabajo que quede por realizar para resolver completa y definitivamente la Demanda lo que incluye, de forma enunciativa y no limitativa, obtener la aprobación del arreglo por parte del Tribunal, comparecer en toda audiencia, asegurarse de que el arreglo se administre de forma justa y adecuada, defender el arreglo en toda apelación u otro tema posterior a la aprobación, todo otro trabajo que el Abogado PAGA haya realizado o vaya a realizar, y todos los costos en los que el Abogado PAGA haya incurrido o vaya a incurrir. El Demandado no objetará ni se opondrá a una solicitud de honorarios de abogados de un monto máximo de 1/3 del Monto Bruto del Arreglo ni a ninguna solicitud de reembolso de costos que no supere los \$20,000.00.

32. Tratamiento de impuestos de los montos del Arreglo. Con respecto a los pagos del arreglo a los Empleados Agraviados PAGA que reflejen la parte de cada Empleado Agraviado de las sanciones PAGA, se emitirá un Formulario 1099-MISC del IRS si así lo exige el Administrador del Arreglo. Ninguna de las secciones en este Arreglo tiene por objeto constituir asesoramiento legal en relación con las obligaciones de impuestos federales, estatales y/o locales. El Demandante reconoce que no obtuvo asesoramiento de impuestos del Demandado y que ni el Demandado ni sus abogados realizaron ninguna declaración en relación con las consecuencias de impuestos, si existen, del Monto del Arreglo en este Acuerdo o de ningún pago que se realice de conformidad con este Acuerdo. En la medida en que se interprete que este Arreglo o cualquiera de sus anexos contiene o constituye asesoramiento en relación con toda cuestión de impuestos estatal o federal, dicho asesoramiento no tiene por objeto ni fue escrito para ser utilizado, y no puede ser utilizado, por ninguna persona con el fin de evitar sanciones conforme al Código de Impuestos Internos. El Demandado no es responsable de las obligaciones de impuestos de ningún Empleado Agraviado en relación con la asignación de los pagos del arreglo. El pago de los Honorarios y Costos del Abogado PAGA se reflejará en un Formulario 1099 para el Abogado PAGA, quien asumirá plena responsabilidad por el pago de los impuestos adeudados sobre dichos pagos.

IV. EXENCIÓN DE RESPONSABILIDAD

33. Exención de responsabilidad por parte de todos los Empleados Agraviados.

Después de que el Tribunal apruebe este Arreglo, el Demandante, el Estado de California y cada Empleado Agraviado, durante el período del 21 de julio de 2022 a lo que tenga lugar primero del 14 de marzo de 2025 o la fecha en que el Tribunal apruebe el Arreglo, eximirá de responsabilidad plenamente y para siempre a las Partes Eximidas por todos y cada uno de los Reclamos Cubiertos.

34. Exención de responsabilidad por parte del Demandante. Además de su participación en la exención de responsabilidad por parte de todos los Empleados Agraviados y a menos que se disponga lo contrario en el presente, en la Fecha de Vigencia de este Arreglo, el Demandante acordó un arreglo individual por separado que tiene como objeto compensar al Demandante por todos los reclamos adicionales, ya sean conocidos o desconocidos, contra el Demandado y las Partes Eximidas lo que incluye, de forma enunciativa y no limitativa, sus reclamos salariales y de carga horaria individuales presentados por separado pendientes en esta Acción Legal y una exención de responsabilidad general que también cubre reclamos por discriminación en el empleo, represalias, u otros reclamos individuales que no se estén litigando en este caso.

35. Como parte de su Arreglo individual, el Demandante proporciona una exención de responsabilidad total de los reclamos individuales en la medida permitida por la ley, más allá de los reclamos que no se pueden eximir, como reclamos de compensación al trabajador. El Abogado PAGA no recibe ningún honorario de abogado ni reembolso de costos relacionado con el arreglo individual del Demandante.

V. APROBACIÓN DEL ARREGLO

36. Las Partes reconocen que, de conformidad con la Sección 2699(l) del Código de Trabajo, se requiere la aprobación del Tribunal en caso de llegar a un arreglo sobre una acción legal PAGA sobre una base representativa. Sin embargo, como se explica en *Arias v. Superior Court*, 46 Cal.4th 969 (2009), las Partes no tienen la obligación de seguir las normas procesales

de las demandas colectivas en los casos PAGA y, por lo tanto, no tienen necesidad de obtener la aprobación del arreglo PAGA a través de una moción de aprobación preliminar o definitiva. *Véase también Mendoza vs. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) (“PAGA autoriza una acción legal representativa sin necesidad de certificación de clase”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) (“una demanda PAGA es fundamentalmente diferente de una demanda colectiva” en el sentido de que la PAGA no tiene requisitos de aviso para los empleados agraviados no identificados, y dichos empleados no pueden excluirse de una acción legal PAGA.”); *Williams vs. Sup. Ct.*, 3 Cal.5th 531, 546-547 (2017) (“la PAGA no convierte a otros empleados potencialmente agraviados en partes o clientes del abogado del demandante, no impone a un demandante o abogado ninguna obligación fiduciaria expresa, y no somete a un demandante o abogado a escrutinio con respecto a la capacidad de representar a una clase numerosa”).

37. Con el objeto de cumplir con los requisitos de la Sección 2699(l) del Código de Trabajo, el Demandante presentará una Moción de Aprobación del Arreglo PAGA Representativo identificando los términos clave de este acuerdo de Arreglo y Exención de Responsabilidad y solicitando que el Tribunal apruebe el Arreglo (la “Moción de Aprobación”). El Demandante enviará un borrador al Demandado, quien contará con 5 días hábiles para aprobar el borrador o proponer cambios a la Moción.

VI. EL PLAN DE PAGO DEL ARREGLO Y LA ADMINISTRACIÓN DEL ARREGLO

38. En un plazo de 30 días calendario después de la Fecha de Vigencia, el Demandado compilará y entregará una lista de Empleados Agraviados (la “Lista de Empleados Agraviados”) que incluirá: (1) el nombre; (2) la última dirección particular y número de teléfono conocidos; (3) la cantidad de períodos de pago trabajados por un Empleado Agraviado durante el Período Cubierto; y (4) los números de Seguro Social de los Empleados Agraviados. El Administrador del Arreglo mantendrá esta información confidencial y no la compartirá con el Abogado del Demandante; sin embargo, el Administrador del Arreglo proporcionará toda la información

necesaria para rendir cuentas al Tribunal y/o informar el monto y la resolución de los cheques no cobrados. El Administrador del Arreglo no compartirá ninguna información de contacto de los Empleados Agraviados con el Demandante.

39. El Demandado debe pagar al Administrador del Arreglo los pagos en cuotas que representan el Monto Bruto del Arreglo de conformidad con el párrafo 28. Una vez que el Demandado haya cumplido con su obligación establecida en el párrafo 38 y este párrafo, se considerará que satisfizo todos los términos y condiciones de este Acuerdo, tendrá derecho a todas las protecciones que le otorga el Acuerdo, y no tendrá obligaciones adicionales conforme al Acuerdo. Sin perjuicio de cualquier otro recurso, tanto el Administrador del Arreglo como el Abogado PAGA eximirán al Demandado de toda responsabilidad, reclamo, causa de acción legal, costo y gasto (lo que incluye honorarios y gastos legales) que surjan de cualquier incumplimiento en compensar de forma oportuna o adecuada a los Miembros PAGA conforme a lo dispuesto en este Acuerdo. El Administrador del Arreglo distribuirá cada Parte de Empleado Agraviado a los Empleados Agraviados, todo pago por servicios y los honorarios de abogados y costos otorgados por el Tribunal en el plazo de treinta (30) días calendario después de que el Demandado deposite la totalidad del Monto Bruto del Arreglo.

40. Los cheques de Pago del Arreglo correspondientes a la Parte de cada Empleado Agraviado se enviarán a cada Empleado Agraviado por el correo de primera clase de los Estados Unidos a la dirección del Empleado Agraviado con instrucciones al Administrador de Correos para que reenvíe los cheques de pago y devuelva al Administrador del Arreglo todos los cheques de pago que no se puedan entregar. En el envío del cheque de cada Empleado Agraviado se incluirá una carta aprobada por las Partes, con anterioridad a la presentación de la Estipulación de Aprobación, en la que se explicará este Arreglo y que se presentará al Tribunal para su revisión y aprobación. La carta explicativa no incluirá la información de contacto del Abogado del Demandante, pero sí incluirá la información de contacto del Administrador del Arreglo. La fecha del envío por correo inicial del cheque de pago se determinará de forma concluyente según los registros del Administrador del Arreglo.

41. El Administrador del Arreglo se asegurará de que el 75% del Fondo de Sanciones PAGA se paga a la LWDA.

42. Los cheques de la Parte de Empleados Agraviados seguirán siendo válidos y negociables durante ciento ochenta (180) días calendario a partir de la fecha de su emisión. Todo fondo relacionado con cheques para la Parte de Empleado Agraviado de sanciones PAGA que no fueron cobrados en un plazo de 180 días se convertirá en nulo, y los montos relacionados con el cheque no cobrado se pagarán de conformidad con la sección 384 del Código Civil a un receptor “cy pres” acordado por las Partes, como lo exige la sección 384 del Código de Procedimientos Civiles o mediante todo otro método de distribución consistente con la sección 384 del Código de Procedimientos Civiles aprobado por el Tribunal. Si el Tribunal determina que la sección 384 del Código de Procedimientos Civiles no cubre a este Arreglo, todos los fondos no reclamados se enviarían al Fondo de Bienes No Reclamados del Contralor del Estado de California a nombre del Empleado Agraviado. El receptor “cy pres” será CASA of Kern County. Al vencimiento de los 180 días, el Administrador del Arreglo pagará todos los fondos del arreglo restantes al receptor “cy pres” designado o como lo ordene el Tribunal de otra manera. Por el presente, las partes acuerdan expresamente esta distribución específica para todos y cada uno de los fondos no reclamados; sin embargo, la distribución de cualquier cheque no cobrado no es un término material del Arreglo y puede ser modificado por el Tribunal durante el proceso de aprobación de conformidad con este Párrafo sin necesidad de una enmienda al Acuerdo de Arreglo.

43. Cláusula de Ajuste Proporcional. Como parte del proceso de presentación de pruebas informal, el Demandado declaró que existían aproximadamente 11,498 Empleados Agraviados al 31 de diciembre de 2024 y 176,323 períodos de pago PAGA durante el Período PAGA Cubierto. Si la cantidad de períodos de pago aumenta en más del diez por ciento (10%) más allá de la cantidad estimada de 176,323 períodos de pago PAGA (por ejemplo, si hay más de 193,955 períodos de pago), el Demandado tendrá la opción de: (1) aumentar el monto del Monto Bruto del Arreglo de manera prorrateada equivalente al aumento en la cantidad de períodos de pago en relación con sus declaraciones en relación con la Mediación. A modo de ejemplo, si el resultado es que hay 202,772 períodos de pago PAGA, el arreglo se incrementará en un 5%

(202,772 períodos de pago PAGA reales/176,323 períodos de pago PAGA estimados - margen de 10%), que es el monto del aumento en relación con la estimación inicial; o (2) modificar la fecha de finalización del Período PAGA Cubierto a una fecha anterior, pero en ningún caso la fecha anterior será anterior al 15 de enero de 2025, que fue la fecha de la Mediación. En cualquier caso, si la cantidad de Empleados Agraviados supera la cantidad de Empleados Agraviados (11,498) divulgada en la presentación de pruebas informal en más de un 10% (lo que sería 12,648 Empleados Agraviados), el Demandado debe pagar cualquier costo adicional de Administración del Arreglo relacionado con la distribución de sanciones PAGA a los Empleados Agraviados. El Demandado comprende que una contraprestación material para que el Demandante suscriba este Arreglo fue la exactitud de la presentación de pruebas informal y la información proporcionada por el Demandado, lo que incluye la cantidad de Empleados Agraviados y la cantidad de períodos de pago durante el período PAGA y, como tal, aceptó esta Cláusula de Ajuste Proporcional.

VII. OBLIGACIONES DE LAS PARTES ANTES DE LA APROBACIÓN

44. Inmediatamente después de la suscripción de este Arreglo, el Demandante presentará una Moción de Aprobación del Arreglo PAGA Representativo. Las Partes solicitarán al Tribunal que dicte una orden y sentencia definitiva que apruebe este Arreglo, como lo exige la sección 2699(*l*) del Código de Trabajo. El Demandante preparará y presentará una Moción de Aprobación del Arreglo PAGA Representativo. La Moción de Aprobación solicitará al Tribunal la aprobación de lo siguiente:

- a. Aprobación de los términos de este Acuerdo de Arreglo y Exención de Responsabilidad;
- b. Aprobación de los montos de los Honorarios y Costos del Abogado PAGA;
- c. Designación de ILYM Group, Inc. como el Administrador del Arreglo y aprobación del monto de Costos de Administración del Arreglo;
- d. Aprobación del monto del Pago por Servicios del Demandante; y
- e. Dictado de la Sentencia Definitiva.

45. Junto con la Moción de Aprobación del Arreglo PAGA, las Partes presentarán una propuesta de Sentencia Definitiva solicitando el dictado de la sentencia por un monto de \$500,000.00, que incluye este Arreglo PAGA de \$485,000 y el arreglo individual por separado del Demandante de \$15,000, a favor del Demandante y del Estado de California.

46. Los signatarios del presente declaran que cuentan con autorización plena para suscribir este Arreglo y vincular a las Partes del presente a los términos y condiciones del presente.

VIII. COOPERACIÓN MUTUA PLENA

47. Las Partes acuerdan cooperar plenamente de forma mutua para hacer cumplir los términos de este Arreglo incluyendo, de forma enunciativa y no limitativa, suscribir todo documento y tomar toda medida que pueda ser necesaria de forma razonable para implementar los términos de este Arreglo. Las Partes de este Arreglo harán todo lo posible, incluyendo todo lo que se contempla en este Arreglo y todo lo que pueda convertirse en necesario debido a una orden del Tribunal o de otra manera, para poner en práctica este Arreglo y los términos en el mismo.

X. SIN ADMISIÓN

48. Ninguna de las secciones incluida en el presente ni la consumación de este Arreglo será interpretada o considerada como una admisión de responsabilidad, culpabilidad, negligencia o acto indebido de parte del Demandado o ninguna de las Partes Eximidas. Cada una de las Partes del presente suscribió este Arreglo con la intención de evitar litigios y procesos judiciales adicionales con los consecuentes inconvenientes y gastos. El Demandado rechaza haber participado en actividades ilegales, haber incumplido la ley en algún aspecto material o tener alguna responsabilidad frente a nadie conforme a los reclamos que se hacen valer en la Demanda. Este Acuerdo se suscribe exclusivamente con el objeto de llegar a un arreglo de reclamos altamente disputados. Ninguna de las secciones de este Acuerdo tiene por objeto ni debe ser interpretada como una admisión de actos indebidos por parte del Demandado.

XI. USO NO PROBATORIO

49. Independientemente de si tiene lugar la Fecha de Vigencia, ni este Acuerdo ni ninguno de sus términos, ni el Acuerdo en sí mismo: (a) se interpretarán, ofrecerán o admitirán

como prueba, se recibirán como prueba o se considerarán como prueba para cualquier fin adverso al Demandado o a cualquier otra de las Partes Eximidas lo que incluye, de forma enunciativa y no limitativa, prueba de presunción, concesión, indicación o admisión por cualquiera de las Partes Eximidas de toda responsabilidad, falta, acto indebido, omisión, concesión o daño, o (b) se divulgará, se hará referencia, u ofrecerá como prueba en contra de cualquiera de las Partes Eximidas en todo proceso posterior en la Demanda, o en toda otra acción legal o proceso civil, penal o administrativo, excepto a los fines de poner en práctica el Arreglo conforme a este Acuerdo, que hace cumplir el Arreglo y todos sus términos, o para que el Demandado establezca que un Empleado Agravado resolvió cualquiera de sus reclamos eximidos a través de este Acuerdo ni en contra del Demandante en esta Acción Legal.

XI. ANULACIÓN

50. Si (a) el Tribunal por cualquier motivo no aprueba este Arreglo en la forma acordada por las Partes (a excepción del monto de honorarios de abogados y costos, costos de administración del arreglo, o el pago por servicios propuesto) o (b) la aprobación del Tribunal de este Arreglo es revocada, modificada, declarada o dejada sin efecto, (i) este Acuerdo se considerará nulo y sin efecto; (ii) ni este Acuerdo ni ninguna de las negociaciones o procesos relacionados tendrán ninguna vigencia ni efecto; y (iii) todas las Partes de este Acuerdo se encontrarán en la misma postura, sin perjuicio, como si este Acuerdo no se hubiera celebrado ni presentado ante el Tribunal. La invalidación de toda sección material de este Acuerdo, a excepción del monto de los honorarios de abogados y costos, los gastos de administración del arreglo o el pago por servicios propuesto del Demandante, invalidará este Acuerdo en su totalidad, a menos que las Partes acuerden posteriormente por escrito que las disposiciones restantes permanecerán en plena vigencia y efecto.

XII. HONORARIOS DE ABOGADOS, COSTOS Y GASTOS

51. A excepción de lo que se establece específicamente en el presente, cada una de las partes correrá con sus propios honorarios de abogados, costos y gastos, ya sea sujetos a impuestos o no, incurridos por las mismas que surjan de la Demanda y no solicitarán el reembolso de los

mismos de ninguna otra parte en este Acuerdo.

XIII. INTERPRETACIÓN

52. Las Partes del presente acuerdan que los términos y condiciones de este Arreglo son resultado de negociaciones prolongadas, intensivas y en condiciones de igualdad entre las Partes, y que este Acuerdo constituye el acuerdo completo entre el Demandante (en su nombre y en representación del Estado de California) y el Demandado sobre los reclamos concretos y potenciales que hace valer el Demandante contra las Partes Eximidas. Excluyendo el Acuerdo de Arbitraje que suscribieron las Partes antes del inicio de este proceso judicial y el Acuerdo de Arreglo Individual que cubre los reclamos individuales del Demandante y se dará a conocer al Tribunal, este Acuerdo reemplaza a todos los acuerdos anteriores, escritos o verbales, entre las Partes en relación con dichos reclamos o reclamos potenciales y la resolución de dichos reclamos. Por lo tanto, ningún otro acuerdo, declaración o promesa hecha por una Parte a otra en relación con todo tema tratado en este Acuerdo será vinculante o válido.

XIV. ENCABEZADOS E INTERPRETACIONES

53. Los títulos o encabezados de párrafos incluidos en el presente se insertan por un motivo de conveniencia y para referencia y de ninguna manera definen, limitan, amplían o describen el alcance de este Arreglo ni ninguna de sus disposiciones. Cada término de este Arreglo es contractual y no meramente declaratorio.

XV. MODIFICACIÓN

54. Este Arreglo solo puede ser enmendado, cambiado, alterado o modificado por escrito con la firma de las Partes (o sus sucesores en interés) del mismo. Este Arreglo se extinguirá únicamente debido a su cumplimiento de conformidad con sus términos o mediante un escrito firmado por las Partes del mismo.

XVI. DISPOSICIONES VARIAS

55. Cláusula de No Publicidad. El Abogado del Demandante no emitirá ningún comunicado de prensa sobre este caso o el Arreglo ni publicitará este Arreglo (lo que incluye, de forma enunciativa y no limitativa, la publicación de cualquier cosa en su sitio web sobre este

Arreglo) sin el consentimiento del Demandado. El Demandante tampoco emitirá ningún comunicado de prensa relacionado con este Arreglo.

56. Este Arreglo incluye el acuerdo completo entre las Partes en lo que se refiere al Arreglo de los Reclamos Cubiertos y los Reclamos Eximidos del Demandante, y todos los acuerdos (excepto cualquier Acuerdo de Arbitraje y el Acuerdo de Arreglo Individual divulgado por el Demandante), entendimientos y declaraciones anteriores o actuales, ya sean verbales o escritos, y ya sea de una parte o de los abogados de dicha parte, quedan fusionados por el presente. Solo es posible renunciar a un derecho conforme al presente por escrito. Las Partes investigaron los hechos y las leyes relativas a los temas que se describen en el presente y a este Acuerdo según lo consideraron necesario, y no se basaron, ni se basan, en ninguna declaración, promesa o representación de hecho o de derecho, realizada por cualquiera de las otras partes, o cualquiera de sus agentes, empleados, abogados o representantes, con respecto a cualquiera de sus derechos o derechos hecho valer, o con respecto a la conveniencia de realizar y suscribir este Acuerdo, o con respecto a cualquiera de dichos temas que alteraría o cambiaría los términos de este Acuerdo. No se hizo ninguna declaración, ni se otorgó ninguna garantía o incentivo a ninguna parte sobre este Acuerdo más allá de las que se establecen o a las que se hace referencia en el presente.

57. Este Arreglo será vinculante y en beneficio de las Partes del mismo y sus respectivos herederos, fideicomisarios, albaceas, administradores, sucesores y cesionarios.

58. Este Arreglo puede suscribirse en ejemplares mediante una firma manuscrita por escrito o una firma electrónica (tal como a través de Dropbox Sign o DocuSign). Cuando cada Parte haya firmado y entregado al menos uno de dichos ejemplares, cada uno de ellos se considerará un original y, junto con los demás ejemplares firmados, constituirá un Arreglo, que será vinculante y válido para todas las Partes. Los ejemplares se pueden suscribir y/o enviar electrónicamente o por facsímil.

59. Este Acuerdo se registrará, interpretará y regulará, y los derechos de las Partes se determinarán de conformidad con las leyes del Estado de California, con independencia de los principios de elección de derecho del Estado de California.

60. Las Partes cooperaron para la negociación y preparación de este Acuerdo. Este Acuerdo no se interpretará contra ninguna de las Partes debido a que la Parte o el abogado de la Parte fue el que redactó o participó en la redacción de este Acuerdo. Por lo tanto, ambas Partes acuerdan que asumen el riesgo de error y que cada una de ellas acepta asumir por igual dichos riesgos, lo que incluye todos los riesgos potenciales relacionados con este Arreglo.

61. El Tribunal Superior del Condado de Kern conservará la jurisdicción para hacer cumplir este Acuerdo, de conformidad con la sección 664.6 del Código de Procedimientos Civiles de California. El Tribunal conservará la jurisdicción permanente sobre esta Demanda y sobre todas las Partes en la mayor medida posible para hacer cumplir y hacer efectivos los términos y la intención de este Acuerdo.

LAS PARTES LEYERON EL ACUERDO ANTERIOR. LAS MISMAS CONSULTARON A SUS ABOGADOS SOBRE EL ACUERDO ANTERIOR Y CONOCEN LOS CONTENIDOS DEL MISMO Y LO FIRMAN COMO UN ACTO LIBRE, A SABIENDAS Y VOLUNTARIO, SIENDO PLENAMENTE CONSCIENTES DE SUS CONSECUENCIAS Y EFECTO DEFINITIVO Y VINCULANTE.

FECHA: 04 / 17 / 2025 de 2025

Jesús Martínez
 JESÚS MARTÍNEZ RAMÍREZ
 como Representante PAGA

FECHA: 4/28/2025 de 2025

DocuSigned by:
Joe Garcia
 B4752C333BE64CC...
 POR JAGUAR FARM LABOR CONTRACTING,
 INC.
 Por: Joe Garcia
 Su: Chief Executive Officer



CERTIFIED TRANSLATION

A copy of the translated version is attached to this statement of certification.

Documents Translated For:

LAST NAME: Winston	FIRST NAME: David	MIDDLE NAME: N/A
COMPANY: Winston Law Group, P.C.	DIVISION: N/A	

List of Materials Translated:

Ramirez vs. Jaguar Farm Labor Contracting, Inc., Kern County Superior Court Case No. BCV-23-102358-BCB – PAGA Settlement and Release Agreement

Source Language:	English
Target Languages:	Spanish

Dallas, Texas

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Date: April 8, 2025



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Exhibit 2

Exhibit 3

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**DOUGLAS TROESTER, on behalf of
himself, and all others similarly situated,**

Plaintiff,

v.

**STARBUCKS CORPORATION, and
Does 1-50,**

Defendants.

Case No.: CV 12-07677-CJC(PJWx)

**ORDER GRANTING DEFENDANT'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT [Dkt. 85] AND DENYING
PLAINTIFF'S MOTION FOR CLASS
CERTIFICATION [Dkt. 88]**

I. INTRODUCTION

Plaintiff Douglas Troester brings this putative class action against Defendant Starbucks Corporation ("Starbucks"), alleging claims for (1) failure to pay minimum and overtime wages, (2) failure to provide accurate written wage statements, (3) failure to timely pay all final wages, and (4) unfair competition. (Dkt. 1-1 [Complaint, hereinafter "Compl."].) Plaintiff's claims, theories, and available relief have been narrowed after appeal to the Ninth Circuit of a previous summary judgment order, related certification to

1 the California Supreme Court, and additional summary judgment motions. The relevant
2 allegations now are that Starbucks required employees to perform four tasks after
3 clocking out—uploading data to Starbucks’ computer system, programming the alarm,
4 locking doors, and walking coworkers to their cars—but did not compensate employees
5 for these tasks. Before the Court are Starbucks’ Motion for Partial Summary Judgment
6 (Dkt. 85 [hereinafter “MSJ”]) on Plaintiff’s wage statement claim and his unpaid wages
7 claim to the extent it seeks liquidated damages, and Plaintiff’s Motion for Class
8 Certification (Dkt. 88 [hereinafter “MCC”]). For the following reasons, Starbucks’
9 Motion for Partial Summary Judgment is **GRANTED** and Plaintiff’s Motion for Class
10 Certification is **DENIED**.

11 12 **II. BACKGROUND**

13
14 In February 2008, Starbucks hired Plaintiff to work as a barista in one of its coffee
15 shops. (Dkt. 92-1 [Defendant’s Reply Separate Statement of Undisputed Facts,
16 hereinafter “UF”] ¶¶ 1–2.) Starbucks promoted him to shift supervisor in June 2008. (*Id.*
17 ¶ 2.) In January 2011, Plaintiff stopped working for Starbucks. (UF ¶ 1.)

18
19 Plaintiff recorded his work time for Starbucks and clocked in and out using
20 Starbucks’s point-of-sale (“POS”) system. (Dkt. 64-4 ¶ 5.) Plaintiff admits Starbucks
21 always paid him for all the time he recorded in the POS system. (*Id.* ¶ 6.) Instead, at
22 issue in this case is time Plaintiff allegedly worked off the clock while he was a shift
23 supervisor on shifts at the end of the business day (“closing” shifts). (UF ¶ 3.) Based on
24 the software Starbucks used, Plaintiff alleges he had to clock out before using the store
25 computer to send sales data to Starbucks headquarters. (*Id.* ¶¶ 4, 6.) Plaintiff then set the
26 store alarm, exited, locked the front door, and walked coworkers to their cars. (*Id.* ¶¶ 8–
27 10.) In total, Plaintiff contends he spent about four to ten minutes performing these tasks
28 every shift, and that he was not compensated for this time.

1 **III. STARBUCKS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

2
3 Three claims remain in this case: unpaid wages, failure to provide accurate wage
4 statements, and violation of California's Unfair Competition Law. Starbucks seeks
5 summary judgment on Plaintiff's wage statement claim, and on his unpaid wages claim to
6 the extent it seeks liquidated damages. For the following reasons, Starbucks' motion is
7 **GRANTED.**

8
9 **A. Legal Standard**

10
11 The Court may grant summary judgment on "each claim or defense—or the part of
12 each claim or defense—on which summary judgment is sought." Fed. R. Civ. P. 56(a).
13 Summary judgment is proper where the pleadings, the discovery and disclosure materials
14 on file, and any affidavits show that "there is no genuine dispute as to any material fact
15 and the movant is entitled to judgment as a matter of law." *Id.*; see also *Celotex Corp. v.*
16 *Catrett*, 477 U.S. 317, 322 (1986). The party seeking summary judgment bears the initial
17 burden of demonstrating the absence of a genuine issue of material fact. *Celotex*, 477
18 U.S. at 325. A factual issue is "genuine" when there is sufficient evidence such that a
19 reasonable trier of fact could resolve the issue in the nonmovant's favor. *Anderson v.*
20 *Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A fact is "material" when its resolution
21 might affect the outcome of the suit under the governing law, and is determined by
22 looking to the substantive law. *Id.* "Factual disputes that are irrelevant or unnecessary
23 will not be counted." *Id.* at 249.

24
25 In considering a motion for summary judgment, the court must examine all the
26 evidence in the light most favorable to the nonmoving party, and draw all justifiable
27 inferences in its favor. *Id.*; *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962); *T.W.*
28 *Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630–31 (9th Cir. 1987).

1 The court does not make credibility determinations, nor does it weigh conflicting
2 evidence. *Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 456 (1992).
3 But conclusory and speculative testimony in affidavits and moving papers is insufficient
4 to raise triable issues of fact and defeat summary judgment. *Thornhill Publ'g Co. v. GTE*
5 *Corp.*, 594 F.2d 730, 738 (9th Cir. 1979).

6
7 **B. Wage Statement Claim**

8
9 Plaintiff alleges that Starbucks failed to provide accurate written wage statements
10 by giving him pay statements that did not reflect his actual hours worked—that is,
11 statements that did not include the time Plaintiff spent working after he clocked out.
12 California Labor Code Section 226 requires employers to give employees “accurate
13 itemized statement[s]” every pay period showing, among other things, the employee’s
14 total hours worked and gross wages. “An employee suffering injury as a result of a
15 knowing and intentional failure by an employer” to provide such statements is entitled to
16 the greater of (1) actual damages, or (2) penalties of \$50 for the initial pay period in
17 which a violation occurs and \$100 per employee for each violation in a subsequent pay
18 period, not to exceed an aggregate penalty of \$4,000. Cal. Lab. Code § 226(e)(1). An
19 employee may also bring an action for injunctive relief to ensure compliance with
20 California wage statement law. *Id.* § 226(h).

21
22 In his complaint, Plaintiff sought both an injunction and the greater of actual
23 damages or statutory penalties. The Court has previously granted summary judgment in
24 Starbucks’ favor on the wage statement claim as to injunctive relief, finding that Plaintiff
25 lacks standing to seek injunctive relief because he no longer works at Starbucks. (Dkt. 65
26 at 17–18.) In another summary judgment order, the Court found that Plaintiff also cannot
27 seek penalties on his wage statement claim because he failed to bring the claim within the
28 one-year statute of limitations. (Dkt. 76 at 4–5.)

Starbucks now argues the Court should grant summary judgment in its favor on the last remaining category of damages, actual damages, because Plaintiff cannot show he suffered actual damages from the fact that his wage statements did not accurately list his hours. (MSJ at 5.) In support, Starbucks points to Plaintiff's deposition testimony. (*Id.*; UF 11.) At his deposition, Plaintiff was asked, "Do you contend that you've been injured in any way as a result of inaccuracies in the pay statements?" (Dkt. 85-3 at 193.) Plaintiff's counsel objected that this question called for a legal conclusion.¹ (*Id.*) Plaintiff answered that he had been injured because he did not get paid for time he spent working. (*Id.*) He could not think of any other way he had been harmed by the allegedly inaccurate wage statements. (*Id.* at 193–94.) Based on this testimony, Starbucks argues that Plaintiff does not have any evidence that he suffered actual damages based on any wage statement violations. The Court agrees.

As explained, an employee suffering "injury" as a result wage statement violation may recover, among other types of damages, actual damages. Cal. Lab. Code § 226(e)(1). To prove such "injury," Plaintiff must submit evidence showing that he suffered some sort of "concrete" or "tangible loss as a result of the allegedly deficient information on [his] wage statements." *Hoffman v. Constr. Protective Servs., Inc.*, 2006 WL 6105636, at *2 (C.D. Cal. Feb. 27, 2006). Such loss may include "the possibility of not being paid overtime, employee confusion over whether they received all wages owed them, difficulty and expense involved in reconstructing pay records, [] forcing employees

¹ Plaintiff reiterates this objection on summary judgment. (See UF ¶ 11 [responding to Starbucks' statement that it is undisputed that Plaintiff was not harmed as a result of any wage statement violations, Plaintiff responds that it is "[u]ndisputed that this is how a lay witness testified in response to a legal contention question"].) This objection is **OVERRULED**. Asking a witness how he has been harmed from an alleged legal violation is a proper question for a lay witness. See Fed. R. Evid. 704 Adv. Comm. Note (explaining that "opinions phrased in terms of inadequately explored legal criteria" are not permissible, and "[t]hus the question, 'Did T have capacity to make a will?' would be excluded, while the question, 'Did T have sufficient mental capacity to know the nature and extent of his property and the natural objects of his bounty and to formulate a rational scheme of distribution?' would be allowed").

1 to make mathematical computations to analyze whether the wages paid in fact
2 compensated them for all hours worked,” “lost time from other employment, [or being]
3 denied a loan.” *Id.*; *Alonzo v. Maximus, Inc.*, 832 F. Supp. 2d 1122, 1135 (C.D. Cal.
4 2011) (granting summary judgment for lack of injury where the plaintiffs’ only alleged
5 injury was “mathematical injury” because the “missing information on their wage
6 statements [did not require] them to do any more than ‘simple math’ to determine
7 whether they were compensated at the proper hourly rate”).

8
9 However, a claim that Plaintiff was not paid the amount he was owed is not
10 sufficiently “linked to a knowing and intentional failure on the part of Defendant to
11 provide an accurate wage statement” to constitute actual damages on a wage statement
12 claim. *See Hoffman*, 2006 WL 6105636, at *2 (granting judgment as a matter of law in
13 the defendant’s favor because evidence that the plaintiff’s bank returned a check for
14 insufficient funds and penalized him for a late payment on an automobile loan, and that
15 plaintiff once lacked [the] funds to fulfill a promise to his daughter” was insufficient
16 evidence of injury); *see also Pytelewski v. Costco*, 2010 WL 11442902, at *9 (S.D. Cal.
17 Nov. 3, 2010) (granting summary judgment for failure to present evidence of injury).

18
19 Plaintiff’s only response to Starbucks’ argument is that, according to Plaintiff, the
20 Court has already ruled that Plaintiff “had a claim for actual damages.” (Opp. at 3 [citing
21 Dkt. 76 at 5].) But the Court has not so ruled. In a motion for clarification regarding a
22 previous summary judgment order, Starbucks asked the Court to decide that Plaintiff did
23 not have evidence of actual damages. (*See* Dkt. 76.) The Court explicitly stated that it
24 was not deciding whether Plaintiff had proof of actual damages because the issue “was
25 not properly raised in Starbucks’ motion.” (*Id.* at 3.) Rather, the Court only ruled that
26 Plaintiff filed his complaint for actual damages within the applicable limitations period.
27 (Dkt. 76 at 5.)

1 Plaintiff has failed to identify evidence of injury sufficient to raise a genuine
2 dispute of material fact on his wage statement claim. Accordingly, Starbucks' motion is
3 **GRANTED** on Plaintiff's wage statement claim.

4 5 **C. Claim for Liquidated Damages for Unpaid Wage Violations**

6
7 One of the categories of damages that Plaintiff seeks on his unpaid wages claim is
8 liquidated damages. (Dkt. 1-1 ¶¶ 23, 43.) Under California Labor Code § 1194.2,
9 employees may recover liquidated damages "in an amount equal to the wages unlawfully
10 unpaid and interest thereon." Starbucks argues that summary judgment should be granted
11 on this claim because it is barred by (1) the statute of limitations and (2) the Court's
12 previous finding that Starbucks acted reasonably in asserting that it did not owe Plaintiff
13 any wages. The Court agrees.

14 15 **1. Statute of Limitations**

16
17 In 2014, the California legislature added the following language to California
18 Labor Code § 1194.2: "A suit may be filed for liquidated damages at any time before the
19 expiration of the statute of limitations on an action for wages from which the liquidated
20 damages arise." The statute of limitations on a liquidated damages claim is therefore
21 now three years. However, this case was filed in 2012, before the amendment. The
22 parties disagree over what statute of limitations applied to liquidated damages claims
23 before the 2014 amendment. Starbucks argues that before 2014, the statute of limitations
24 was one year, because liquidated damages were considered a penalty, and the amendment
25 changed the law. Plaintiff argues that the amendment was only a "*clarification* of the
26 law," and that a three-year statute of limitations was in effect all along. The distinction is
27 important because Plaintiff filed this case after the one-year statute of limitations passed,
28 but before the three-year statute of limitations passed. (*See* Dkt. No. 76 at 4–5.)

a. Whether Liquidated Damages are a Penalty or Compensation

Determining whether liquidated damages are a penalty requires the Court to construe California Labor Code Section 1194.2. In interpreting California statutes, federal courts follow California's principles of statutory construction. *See In re First T.D. & Inv., Inc.*, 253 F.3d 520, 527 (9th Cir. 2001). Courts first turn to the plain language of the statute, "giv[ing] the language of the statute 'its usual, ordinary import.'" *Id.* If the statute's language is ambiguous, courts "may consider extrinsic evidence of the legislature's intent," including the statute's scheme and history, background, and purpose. *Id.*

The plain language of Section 1194.2 shows that liquidated damages are a penalty. The statute states that "an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon." Cal. Lab. Code § 1194.2. This means that an employee may recover the wages the employer failed to pay, *plus* that same amount in liquidated damages. *Djukich v. AutoNation, Inc.*, 2014 WL 12845830, at *6 (C.D. Cal. Nov. 12, 2014) (explaining that liquidated damages "essentially double[] the award" for unpaid wages). "The settled rule in California is that statutes which provide for recovery of damages additional to actual losses incurred, such as double or treble damages, are considered penal in nature, and thus governed by the one-year period of limitations stated in section 340, subdivision (1) [of the Code of Civil Procedure]." *Prudential Home Mortg. Co. v. Superior Court*, 66 Cal. App. 4th 1236, 1242 (1998) (citation omitted). California case law from before 2014 is in accord. *See Martinez v. Combs*, 49 Cal. 4th 35, 48 n.8 (2010), *as modified* (June 9, 2010) (explaining in dictum that liquidated damages under Section 1194.2 "are in effect a penalty equal to the amount of unpaid minimum wages"); *Bain v. Tax Reducers, Inc.*, 219 Cal. App. 4th 110, 550–51 (Cal. Ct. App. 2013) (depublished), *reh'g denied*, (Sept. 26, 2013), *review denied and ordered depublished*, (Dec. 11, 2013) (holding that liquidated damages

1 under Section 1194.2 are penalties and therefore subject to a one-year statute of
2 limitations). Apparently conceding this point, Plaintiff does not analyze the plain
3 language of the statute, referring only to the statute's legislative history to determine its
4 meaning. (*See Opp.* at 4–6.)

5
6 Even if Section 1194.2's plain language were ambiguous, and reasonably
7 susceptible to interpreting liquidated damages as either compensation or a penalty, both
8 the legislative history and purpose of Section 1194.2 show that the legislature intended
9 liquidated damages to operate as a penalty used to punish and deter employers from
10 unlawfully failing to pay wages. *See Djukich*, 2014 WL 12845830, at **5–7. The bill
11 report for SB 955, which the legislature later enacted as Section 1194.2, stated that SB
12 955's proponents "believe that the provision for liquidated damages should serve as a
13 deterrent to those employers who fail to pay minimum wages." *Id.* at *5. The deterrence
14 purpose clearly indicates that liquidated damages operate as a penalty. *See id.* at **5–6.

15
16 The statute of limitations for actions seeking statutory penalties is one year, unless
17 the statute imposing liability gives a different time period. Cal. Civ. Proc. Code § 340(a).
18 Because Section 1194.2 as it existed in 2012 did not state a different statute of
19 limitations, the statute of limitations was one year at that time. *Djukich*, 2014 WL
20 12845830, at *6.

21
22 **b. Whether the 2014 Amendment Was a Clarification or Change**
23 **in the Law**
24

25 However, the inquiry does not end there because now, Section 1194.2 *does* give a
26 different statute of limitations. As stated, in 2014 the California Legislature amended
27 Section 1194.2 to state that a three-year statute of limitations applies to liquidated
28 damages claims. The Court now considers whether the amendment clarified the law, as

1 Plaintiff contends, or changed the law, as Starbucks contends. If the amendment clarified
2 the law, then Plaintiff's claim is timely, because the three-year statute of limitations was
3 in effect all along. *Djukich*, 2014 WL 12845830, at *6. If the amendment changed the
4 law, the Court would need to consider whether the change operates retroactively.

5
6 As another court in this district has thoroughly explained, the 2014 amendment
7 changed the statute of limitations for liquidated damages claims, rather than clarified it.
8 *Djukich*, 2014 WL 12845830, at *6–8. The legislature added the relevant language to
9 Section 1194.2 “to respond to the disparity between claims for unpaid minimum wages,
10 to which a three-year statute of limitations applies, and claims for liquidated damages, to
11 which a one-year limitations period generally applies,” which “dilute[d] the deterrent
12 effect of liquidated damages for minimum wage violations,” thereby “send[ing] a
13 statement that there is no real penalty for such worker exploitation beyond one year.” *Id.*
14 at *8 (citing legislative history documents). Accordingly, through the amendment “the
15 legislature appears to have recognized that liquidated damages under the statute are a
16 penalty, but that a three-year limitations period should apply to ensure the statute has a
17 deterrent effect.” *Id.* This was a change in the law. *Id.*

18
19 Plaintiff points to language in the legislative history that speaks of “clarif[ying]”
20 the statute of limitations. (Opp. at 5–6.) But the court in *Djukich* addressed this isolated
21 language from the legislative history and persuasively explained that it is not dispositive
22 and does not negate the overall thrust of the legislative history discussed in the preceding
23 paragraph, which weighs strongly in favor of showing a change. 2014 WL 12845830, at
24 *8; (*see also* Reply at 6 [citing places in the legislative history where the legislature
25 suggests or even expressly uses the word “change[]” with reference to the amendment]).

26
27 //

28 //

c. Whether the Change Applies Retroactively

The Court next turns to whether the change applies retroactively. Unless the legislature clearly states otherwise, new statutes operate only prospectively. *See Quarry v. Doe I*, 53 Cal. 4th 945, 955 (2012). “[T]he presumption against retroactive legislation is deeply rooted in [California’s] jurisprudence.” *McClung v. Emp. Dev. Dep’t*, 34 Cal. 4th 467, 475 (2004). Where an amendment extends the limitations period, “revival of [a] claim is seen as a retroactive application of the law under an enlarged statute of limitations,” and the expanded limitations period will not be applied retroactively “without express language of revival” in order to protect “the defendant’s interest in repose.” *Quarry*, 53 Cal. 4th at 947. There is no evidence that the legislature intended to revive liquidated damages claims that had lapsed under the previous one-year statute of limitations when it amended Section 1194.2. Accordingly, the change does not apply retroactively to save Plaintiff’s claim, which was filed within the three-year statute of limitations, but not the one-year statute claims that had lapsed under the old one-year statute of limitations. *See Djukich*, 2014 WL 12845830, at *9; (Dkt. No. 76 at 4–5).

Concluding that liquidated damages under Section 1194.2 constituted a penalty under California law at the time Plaintiff filed his complaint, that a subsequent amendment to Section 1194.2 constituted a change and not a clarification in the law, and that the change does not apply retroactively, the Court finds that Plaintiff’s claim for liquidated damages is time-barred because he filed his complaint more than one year after he received his last wage statement.

2. Good Faith

Starbucks also argues that summary judgment should be granted on Plaintiff’s claim for liquidated damages based on Section 1194.2(b), which states that even where

1 liquidated damages are awardable, the court “may, as a matter of discretion, refuse to
2 award liquidated damages . . . if the employer demonstrates to the satisfaction of the court
3 . . . that the act or omission giving rise to the action was in good faith and that the
4 employer had reasonable grounds for believing that the act or omission was not a
5 violation of any provision of the Labor Code relating to minimum wage.” Cal. Lab. Code
6 § 1194.2(b). The Court agrees.

7
8 The Court previously held that Starbucks met a similar standard in finding that it
9 did not “willfully” fail to pay wages due at termination because there was “a good faith
10 dispute that any wages [were] due.” (Dkt. 65 at 16–17.) In so holding, the Court
11 explained that “[u]ntil the California Supreme Court’s decision in this case, it was
12 reasonable for Starbucks to assert that it did not owe any wages under the de minimis
13 doctrine.” (*Id.*) A similar logic bars Plaintiff’s claim for liquidated damages.

14
15 Plaintiff urges the Court to wait to exercise its discretion until “after a trial, on a
16 fully developed record, including but not limited to evidence of the actual amount of
17 unpaid wages.” (Opp. at 4.) But Plaintiff offers no explanation on how trial evidence
18 could alter the clear history described above.

19
20 Accordingly, the Court **GRANTS** summary judgment in favor of Starbucks on
21 Plaintiff’s claim for liquidated damages on his unpaid wages claim because the claim is
22 barred by the statute of limitations or, in the alternative, because Starbucks acted in good
23 faith and had reasonable grounds for believing that the alleged act or omission was not a
24 violation of law.

25
26 //

27 //

28 //

1 **IV. PLAINTIFF’S MOTION FOR CLASS CERTIFICATION**

2
3 After this order on Starbucks’ motion for summary judgment, the following claims
4 remain: (1) unpaid wages, by which Plaintiff may seek those wages but not liquidated
5 damages, and (2) violation of the UCL, by which Plaintiff seeks restitution of unpaid
6 wages, reasonable costs, and attorney fees. Plaintiff moves for class certification of the
7 following class:

8
9 All Starbucks employees in California from August 6, 2008
10 through December 31, 2012 who worked a closing shift in a
11 Starbucks store and performed work after clocking out.

12 Starbucks opposes, arguing that individual issues predominate. For the following
13 reasons, Plaintiff’s motion is **DENIED**.

14
15 **A. Legal Standard**

16
17 Under Federal Rule of Civil Procedure 23, district courts have broad discretion to
18 determine whether a class should be certified. *Armstrong v. Davis*, 275 F.3d 849, 871
19 n.28 (9th Cir. 2001). Rule 23 is not merely a pleading standard—a party seeking class
20 certification must affirmatively demonstrate compliance with the Rule by proving the
21 requirements in fact. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). A class
22 may be certified if: “(1) the class is so numerous that joinder of all members is
23 impracticable; (2) there are questions of law or fact common to the class; (3) the claims
24 or defenses of the representative parties are typical of the claims or defenses of the class;
25 and (4) the representative parties will fairly and adequately protect the interests of the
26 class.” Fed. R. Civ. P. 23(a).

1 To be certified, a class must also meet the standards of one of the subsections of
2 Rule 23(b). In this case, Plaintiff seeks certification pursuant to Rule 23(b)(3). Rule
3 23(b)(3) permits certification if the court “finds that the questions of law or fact common
4 to class members predominate over any questions affecting only individual members.”
5 Plaintiff bears the burden of satisfying the elements of Rules 23(a) and 23(b)(3). *See*
6 *Zinser v. Accufix Research Inst., Inc.*, 253 F.3d 1180, 1186 (9th Cir. 2001).

7
8 **B. Predominance**
9

10 Starbucks does not contend that Plaintiff fails to meet any of the Rule 23(a)
11 requirements. Rather, the certification dispute concerns whether “questions of law or fact
12 common to class members predominate over any questions affecting only individual
13 members” under Rule 23(b)(3). The Court finds that they do not, and therefore denies
14 Plaintiff’s motion.

15
16 “The predominance inquiry focuses on ‘the relationship between the common and
17 individual issues’ and ‘tests whether proposed classes are sufficiently cohesive to warrant
18 adjudication by representation.’” *Senne v. Kansas City Royals Baseball Corp.*, 934 F.3d
19 918, 927 (9th Cir. 2019) (quoting *Vinole v. Countrywide Home Loans, Inc.*, 571 F.3d 935,
20 944 (9th Cir. 2009)). In determining whether the predominance requirement is met,
21 courts have a “duty to take a close look at whether common questions predominate over
22 individual ones” to ensure that individual questions do not “overwhelm questions
23 common to the class.” *Id.* (quoting *Comcast Corp. v. Behrend*, 569 U.S. 27, 34 (2013)).
24 Under Rule 23(b)(3) one factor “pertinent” to predominance is “the likely difficulties in
25 managing a class action.”

26
27 Starbucks’ policy is that time worked should equal time paid—that is, employees
28 should not work off the clock. (*See* Dkt. 91-1, Ex. G [hereinafter “Pl. Depo.”] at 100;

1 Dkt. 91-1, Ex. F.) Plaintiff alleges, then, that Starbucks had a custom or practice where
2 employees performed off-the-clock work. He argues that class certification is appropriate
3 because the putative class was “subjected to the same practices in terms of
4 uncompensated closing shift work,” and that any individualized issues go to damages
5 alone and thus do not defeat predominance. (MCC at 15–16.) The Court disagrees.
6 Indeed, as the Court now explains, the evidence shows employee practices were not
7 uniform, instead varying based on the store where they worked, the manager they worked
8 for, and the time period, among other factors.

9
10 ***Store Close Procedure.*** Plaintiff alleges that he was forced to perform the store
11 close procedure off the clock. However, many Starbucks employees testified that they
12 ran the store close procedure on the clock. (*See, e.g.*, Dkt. 91-1, Ex. B [Amanda Barb
13 initially testifying she always did this on the clock and then saying she could remember
14 doing it both ways]; Ex. C [Blake Barnett testifying he performed the close store
15 procedure on the clock]; Ex. D [Cecelia Cerna testifying that if you looked at the store’s
16 surveillance videos, “it would show, on the computer, closing store, and then . . . clocking
17 out”]; Ex. 5 [Christopher Coye stating store close procedure was “always done on the
18 clock”]; Ex. 7 [Roy Dominguez stating same]; Ex. 10 [Don Jenkins stating same]; Ex. 14
19 [Eddie Necochea stating same]; Ex. 3 [Oscar Cardona testifying he was trained to do the
20 close store procedure before clocking out, and that is what he did].) This is consistent
21 with Starbucks’ policy and training that the store close procedure should be performed on
22 the clock. (*See, e.g., id.* Ex. E [Paul O’Leary explaining that Starbucks’ “training
23 materials are to run end of day and then clock out,” and that he did not know of any
24 managers who trained employees to clock out before running it].)

25
26 The differing experiences may be explained by the fact that Starbucks changed its
27 computer system sometime between August and November 2010. (Dkt. 91-1 at 113
28 [Declaration of Connie Lange, hereinafter “Lange Decl.”].) It appears that with the old

1 system, employees performed the store close procedure off the clock, and with the new
2 system, employees performed the store close procedure on the clock. *See Troester v.*
3 *Starbucks Corp.*, 2014 WL 1004098, at *1 (C.D. Cal. Mar. 7, 2014), *rev'd and*
4 *remanded*, 738 F. App'x 562 (9th Cir. 2018); (*see Lange Decl.* ¶ 5 [“After November
5 2010, because the [old] system was no longer in use in California, partners no longer ran
6 the close store procedure.”]; Dkt. 91-1, Ex. H [Celia Westby testifying that under the new
7 system, the close store procedure “doesn’t exist anymore”].)

8
9 Regardless, Plaintiff’s proposed class is simply not cohesive on this issue. The
10 evidence shows that “Starbucks employees in California from August 6, 2008 through
11 December 31, 2012 who worked a closing shift in a Starbucks store and performed work
12 after clocking out”—the proposed class definition—have experienced the close store
13 procedure in different ways. Nor is this a matter of creating subclasses, because some
14 employees testified that they performed even the old store close procedure on the clock.
15 (*See, e.g.*, Dkt. 91-1, Ex. H [Celia Westby explaining that with the old system, she did the
16 close store procedure before she clocked out].) There may be additional individualized
17 issues regarding individual managers’ practices, given Plaintiff’s testimony that his
18 manager told him, “you now have to clock out first before you [do] the store-closing
19 procedures.” (Pl. Depo at 130.)

20
21 ***Setting the Alarm and Locking the Door.*** Similarly, as to setting the alarm and
22 locking the door, Plaintiff does not point to any policy or uniform custom or practice such
23 that common issues predominate. Some employees performed these functions on the
24 clock. (*E.g.*, Dkt. 91-1, Ex. C [Blake Barnett testifying he always set the alarm on the
25 clock]; *id.* Ex. 3 [Oscar Cardona testifying that in some stores, the door locked from the
26 inside, so he could lock the door on the clock].) Other employees did them off the clock.
27 (*E.g., id.*, Exs. 4–6 [employees explaining they set the alarm and locked the door off the
28 clock].) Other employees testified whether they did these activities on or off the clock

1 depended on the store they were working in. (*E.g., id.*, Exs. 3, 7 [employees testifying
2 that in some stores, the door locked by itself from the inside so they did not have to lock
3 the door after clocking out, but in others, a physical key was required so they locked the
4 door off the clock].) Still other employees performed these functions on the clock
5 sometimes, and off the clock other times. (*E.g., id.*, Ex. 6 [Stephanie Deleon explaining
6 that she sometimes set the alarm on the clock, and other times off the clock].)

7
8 ***Walking Baristas to Cars.*** Analyzing Plaintiff's claim regarding time spent
9 walking baristas to their cars is also replete with individualized issues. Although there is
10 at least one training document stating that a shift supervisor must complete all closing
11 tasks including walking employees to their vehicles, (*see* Dkt. 65 at 14), there is
12 evidence showing that this was not always the policy, (*see* Lange Decl. ¶ 4), and
13 regardless, custom and practice varied. For example, many people testified that they
14 walked baristas to their cars not because of a Starbucks policy, but rather that they did so
15 voluntarily, without expectation of payment. (*E.g.* Dkt. 91-1, Exs. A–C, E–H, 1–9); *see*
16 *Cornn*, 2005 WL 2072091, at *2 (finding common issues did not predominate and
17 pointing to fact that some class members “ha[d] agreed that time spent changing into
18 uniforms is not compensable”). Additionally, many employees testified that they did not
19 walk others to their cars because the employees in their store did not drive to work, but
20 rather took public transportation, Uber or Lyft, walked, or biked. (Opp. at 14 [collecting
21 testimony]; *e.g.*, Dkt. 91-1 Exs. 2–3.)

22
23 The individualized experiences of class members make managing a single trial
24 extremely difficult if not impossible. *See* Fed. R. Civ. P 23(3)(D). Individualized issues
25 regarding which employees performed the relevant functions on or off the clock, and why
26 they performed those functions, predominate over common questions. And those
27 individualized issues go not just to damages, but also to liability. *See Gibbs v. TWC*
28 *Admin., LLC*, 2020 WL 42770, at *4 (S.D. Cal. Jan. 3, 2020) (declining to certify off-the-

1 clock work class where the employer had a policy prohibiting such work and the
2 plaintiffs failed to show a company-wide policy or practice because claims depended on
3 individual supervisors' behavior and individualized differences did not go only to
4 damages).

5
6 Indeed, Plaintiff points to no records or other evidence that would create common
7 proof on whether employees performed these functions on or off the clock, or that would
8 otherwise allow these claims to be proven for all class members collectively one way or
9 another. *See Stiller v. Costco Wholesale Corp.*, 298 F.R.D. 611, 628 (S.D. Cal. 2014),
10 *aff'd*, 673 F. App'x 783 (9th Cir. 2017), *abrogated on other grounds by Campbell v. City*
11 *of Los Angeles*, 903 F.3d 1090 (9th Cir. 2018) (finding "no class-wide method of
12 determining whether, how often, and for how long class members actually experienced
13 unpaid [off the clock, 'OTC'] time"). This is important because without such common
14 evidence, "liability cannot be proved on a classwide basis without thwarting [Starbucks']
15 ability to demonstrate that some class members, due to a variety of circumstances, did not
16 actually experience unpaid OTC time." *Id.* Starbucks has the right to present at trial its
17 evidence that some class members did not work off the clock. *See id.* Doing so in a
18 single trial applicable to all class members would be simply unworkable.

19
20 For these reasons, among others, where courts have granted certification of classes
21 alleging off-the-clock work claims, those claims generally revolve around company-wide
22 policies—for example requirements that employees undergo security or bag checks, or
23 wear special gear that they must put on and take off before and after shifts. *See Negrete*
24 *v. ConAgra Foods*, 2019 WL 1960276 at *4 (C.D. Cal. 2019) (granting class certification
25 for off-the-clock claims where Defendant did not compensate Plaintiffs for "time spent
26 donning and doffing protective gear at the beginning and end of their shifts"); *Lao v.*
27 *H&M Hennes & Mauritz, L.P.*, 2018 WL 3753708 at *1–2 (N.D. Cal. 2018) (granting
28 class certification for off-the-clock claims where plaintiffs challenged a company-wide

1 policy requiring employees to undergo security checks before leaving the store for rest
2 breaks and at the end of their shifts); *Moore v. Ulta Salon Cosmetics & Fragrance Inc.*,
3 311 F.R.D. 590, 604, 612 (C.D. Cal. 2015) (granting class certification in bag checks case
4 where Ulta had a “written exit inspection policy” and “company-wide practice” and
5 individualized issues went to time spent in line for the bag check); *Scott-George v. PVH*
6 *Corporation*, 2015 WL 7353928 *9 (E.D. Cal. 2015) (bag checks); *Otsuka v. Polo Ralph*
7 *Lauren Corp.*, 251 F.R.D. 439, 448 (N.D. Cal. 2008) (loss-prevention inspections);
8 *Cervantez v. Celestica Corp.*, 253 F.R.D. 562, 572 (C.D. Cal. 2008) (bag checks).

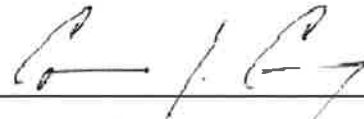
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10 In contrast, where, as here, there is no uniform practice regarding off-the-clock
11 work, courts deny certification. *See, e.g., Koike v. Starbucks Corp.*, 378 Fed.Appx. 659,
12 661 (9th Cir. 2010) (finding district court did not abuse its discretion in finding that
13 “individualized factual determinations were required to determine whether class members
14 did in fact engage in OTC work and whether Starbucks had actual or constructive
15 knowledge of the OTC work performed”); *In re AutoZone, Inc., Wage & Hour Emp’t*
16 *Practices Litig.*, 289 F.R.D. 526, 539 (N.D. Cal. 2012), *aff’d*, 2019 WL 4898684 (9th Cir.
17 Oct. 4, 2019) (finding common issues did not predominate where there was no common
18 answer to the question of why off-the-clock work occurred, and pointing to putative class
19 member declarations attesting to never having performed or reported any off-the-clock
20 work); *Stiller*, 298 F.R.D. at 628 (“[T]here is no common answer as to whether each class
21 member actually performed uncompensated OTC work.”); *Cornn v. United Parcel Serv.,*
22 *Inc.*, 2005 WL 2072091, at *2 (N.D. Cal. Aug. 26, 2005) (finding common issues did not
23 predominate given individualized inquiries including whether each class member actually
24 performed compensable work before the recorded start time).

25
26 In sum, individualized issues regarding whether employees worked off the clock
27 and why they did so predominate over common questions regarding whether such work is
28 compensable. Accordingly, class certification is not appropriate.

1 **V. CONCLUSION**

2
3 For the foregoing reasons, Starbucks' Motion for Partial Summary Judgment is
4 **GRANTED** and Plaintiff's Motion for Class Certification is **DENIED**.

5
6 DATED: January 27, 2020

7 

8 CORMAC J. CARNEY

9 UNITED STATES DISTRICT JUDGE
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Exhibit 4

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse, Department 23

JUDICIAL OFFICER: HONORABLE BRAD SELIGMAN

Courtroom Clerk: Thaylore Smith

CSR: None

RG21107711

February 28, 2023

3:00 PM

Santillanes VS 1st Class Laundry

MINUTES

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement

The Motion for Final Approval of Settlement filed by Luz Santillanes on 02/02/2023 is Granted.

The Motion for Final Approval of Class Settlement is GRANTED. The parties are ORDERED to submit a MS Word version of the proposed order and judgment to the Department 23 Clerk. The proposed order and judgment should include a proposed compliance date, which can be any Tuesday at 3:00pm.

BACKGROUND

Plaintiff initiated this action on August 4, 2021, and filed the operative first amended complaint ("FAC") on August 16, 2022. The FAC alleges various wage and hour violations, violation of California's Unfair Competition Law, and seeks penalties under California's Private Attorneys General Act ("PAGA").

This Court granted preliminary approval of the class settlement on October 13, 2022.

Plaintiff now seeks final approval of the class settlement, as well as an award of attorneys' fees in the amount of \$100,000, which represents 1/3 of the Settlement Fund, an award of litigation costs in the amount of \$11,366.26, an award of settlement administration expenses of \$12,500, and a service award to Plaintiff in the amount of \$7,500.

Notably, the Motion explains that "Defendant inadvertently excluded 15 Class Members in the prior data provided to Plaintiff and the Court. These employees were always included within the aggrieved employee group, but for some reason were left out of the Class data. Defendant also discovered that it had accidentally included three (3) class members within the class list twice. These issues were discovered after Defendant submitted the class data to the settlement administrator and before the class notice went out to the class. Nevertheless, due to cost reductions, the average estimated settlement award is now estimated to be \$240.80 as opposed to the \$227.64 estimated at preliminary approval." (MPA, p. 4 at fn. 3; see also Elliott Declaration, ¶¶ 4, 5.)

DISCUSSION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

The Court finds the settlement fair, reasonable, and adequate, and therefore, the Motion for Final Approval of Class Action Settlement is GRANTED. (CRC 3.769.)

The case preliminarily settled for a total of \$300,000, which included PAGA penalties in the amount of \$20,000.00 to be split with the Labor & Workforce Development Agency (“LWDA”).

The Class Notice and procedure was adequate.

Following the Court’s preliminary approval, the Settlement Administrator ILYM Group, Inc. sent the Notice Packet, via First Class Mail, to the 638 individuals on the Class List. (Nava Decl., ¶ 7.) This included the 15 inadvertently omitted class members. (Elliott Decl., ¶ 5.) The Settlement Administrator also set up a website and posted copies of the Settlement Agreement, the Order granting preliminary approval, and other case-related documents. (Nava Decl., ¶ 15.)

Sixty-one Notice Packets were deemed undeliverable. (Nava Decl., ¶ 11.) The Settlement Administrator did not receive any objections by the deadline to submit written objections. (Nava Decl., ¶ 12.) Thus, Participating Class Members will receive an estimated average gross payment of \$240.81, with the highest gross payment being \$2,432.80 and the estimated minimum award being \$3.68. (Nava Decl., ¶ 15.)

A. Attorneys’ Fees & Costs

Class counsel seeks \$100,000 in attorneys’ fees, which represents 1/3 of the Gross Settlement Amount, and costs in the amount of \$11,366.26.

The Court finds the attorneys’ fees reasonable and necessary. Counsel Winston spent 138.40 hours on this case at an hourly rate of \$875. (Winston Decl., ¶ 34.) Counsel Na spent 31.1 hours on this case at an hourly rate of \$475. (Ibid.) Counsel collectively expended 169.50 hours for a total amount of \$135,875.50 in fees. (Ibid.)

Including two additional hours for future work results in a lodestar of \$137,622.50. (Winston Decl., ¶ 35.) Therefore, the requested fee award includes a negative multiplier. (Ibid.)

The Court finds the litigation costs reasonable and necessary. (Winston Decl., ¶ 38.)

Therefore, the Court approves the requested attorneys’ fees and costs. The Court ORDERS that 10% of the fee award to be kept in the administrator’s trust fund until the completion of the distribution process and Court approval of a final accounting.

B. Administration Costs

Counsel seeks settlement administration costs in the amount of \$12,500.00. (Nava Decl., ¶ 16.) The Court approves the administration costs of \$12,500.00.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

C. Service Award

Plaintiff requests a service award of \$7,500. (Santillanes Decl., ¶ 12.) Plaintiff estimates spending approximately 60.6 hours on this action. (Santillanes, ¶ 9.)

Additionally, during the pendency of this action, and before the parties mediated, Defendant ended its relationship with Plaintiff. (Santillanes Decl., ¶ 8 [ended in February 2022].) Plaintiff's releases all claims, known and unknown, "arising out of or in any way connected with her employment with Defendant..." and includes a Civil Code § 1542 waiver.

The Court approves a \$7,500 service award to Plaintiff.

The Court orders counsel to obtain a copy of this order from the eCourt portal.



By:

T. Smith, Deputy Clerk

Minutes of: 02/28/2023

Entered on: 03/01/2023

Exhibit 5

**SUPERIOR COURT OF SAN MATEO COUNTY**

400 County Center
Redwood City, CA 94063

1050 Mission Road
South San Francisco, CA 94080
www.sanmateo.courts.ca.gov

800 North Humboldt Street
San Mateo, CA 94401

Minute Order

**CLAUDIA CHACHAVAC vs. KUMAR MANAGEMENT CORPORATION, a
California Corporation, et al**

22-CIV-03110

04/02/2024 2:00 PM
Motion for Final Approval of
Class Settlement
Hearing Result: Held

Judicial Officer: Fineman, Nancy L.
Courtroom Clerk: Edward Tsai

Location: Courtroom G
Courtroom Reporter: Wendy Conde

Parties Present**Exhibits****Minutes**Journals

- At 2:02 PM - Matters are called.

No appearance by any parties herein or their counsel of record.

The court finds/orders:

Tentative Ruling is Adopted for both matters.

At 2:45 PM - After the Law and Motion calendar is called, the Court noticed a typo in the third paragraph in the Tentative Ruling where it incorrectly lists "\$15,00" instead of "\$15,000." The Court corrects and Adopts the Tentative Ruling with the following modification:

There is a \$1 million gross settlement to 1,708 current and former hourly-paid employees of defendant with \$15,000 being paid to the Labor and Workforce Development Agency (LDWA).

Case Events

- Tentative ruling modified and becomes order;; PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

TENTATIVE RULING:

The court rules on plaintiff's unopposed motion for final approval of class action settlement and award of attorneys' fees, service award and costs as follows:

The Court Grants Approval of the Settlement

Except as modified below, the court will sign the proposed final order submitted on February 9, 2024.

The court modifies Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders. Plaintiff shall submit an order which incorporates the tentative and the non-contradictory language in the submitted proposed order.

On October 31, 2023, the court granted preliminary approval to this class and PAGA (Private Attorney General Act) settlement. The action alleges wage and hour violations. There is a \$1 million gross settlement to 1,708 current and former hourly-paid employees of defendant with \$15,000 being paid to the Labor and Workforce Development Agency (LDWA). The LDWA has not objected to the settlement. The estimated recovery ranges from just over \$6.00 to about \$1,700. (Frost Decl., ¶ 15.)

In ruling on settlements involving class and PAGA claims, this court has a duty to independently determine whether a settlement is fair, reasonable and adequate. (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76-77 ["trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws."]; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129 ["The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement."].)

In reviewing the evidence presented and conducting its independent review, the court finds that all the conditions for final approval have been met. The court gives final approval to the settlement, including the allocation between the class and PAGA settlement. (Code of Civ. Proc., § 382; *Richmond v. Dart Industries* (1981) 29 Cal.3d 462, 470). The class members were provided proper notice asset forth in the declaration of Jennifer Forst of CPT Group, Inc., the court approved settlement administrator. (Forst Decl., ¶¶ 2-5.) She explains the reasonable attempts to locate class members whose notices were returned and actions taken when it was determined a class member was improperly included in the class. (*Id.*, ¶¶ 6-10, 17.) There were one objection, which is considered untimely by the settlement administrator and no requests for exclusions. (*Id.*, ¶¶ 11, 12, Ex. B.) The class is ascertainable in that the class members have already been identified by defendant and they received notice of the settlement

There is a community of interest in that common questions of law and fact predominate involving whether defendant properly calculated employee compensation. For settlement purposes, this community of interest is sufficient. Plaintiff/class representative's claims are typical of the class claims because she is alleged to have suffered the same injury as other class members. Claudia Chachavac adequately represents the class, as set forth in her declaration and in having experienced class counsel. The settlement avoids the risk of the uncertainty of litigation. The settlement is fair adequate and reasonable. The law favors settlement and the fact that the class might be able to obtain more from a trial must be balanced against the risk of not having a class certified, receiving less than the settlement, including a defense verdict, the time and money that it would take to take the case to trial and through a potential appeal, and the potential for a change in law. While the attorney declaration in support of final approve is conclusory regarding the risks and benefits of the settlement (*Winston Decl.*, ¶¶ 7, 8), the attorney declaration supporting preliminary approval demonstrates that plaintiffs' counsel have weighed the pros and cons of proceeding with this case and concluded that the settlement is fair and reasonable. (*Ackermann Decl.* filed August 10, 2023, ¶¶ 9-35.) The settlement occurred after mediation based upon a mediator's proposal. (*Id.*, ¶¶ 8-9.) The fact that only one class member out of almost 2,000 objected to the settlement also strongly supports approval of the settlement. The class member who filed an objection not only filed the objection late, but provides no reason for the objection. The court approves the settlement.

The Court Grants Attorneys' Fees, Costs and Service Award

The court grants the attorneys' fees of 30% of the gross settlement amount. While a common fund fee is appropriate here, even a proper common fund-based fee award should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503 (*Lafitte*), the Supreme Court

endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. The Supreme Court stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (Id. at p. 505.)

In this case, the court believes that a fee of 30% is the proper award of attorneys' fees. (See, e.g., *Lafitte*, supra, 1 Ca1.5th at p. 506 ["33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits"]; *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 545 [fee awards in class actions average about one-third of recovery]; *Chavez v. Nelflix* (2008) 162 App. 4th 43, 66 fn. 11 [final fee award was 27.9% of the benefits].) This court may use its own experience to determine the value of attorneys' fees. (*Spencer v. Collins* (1909) 156 Cal. 298, 306 ["The value of attorney's services is a matter with which a judge must necessarily be familiar. When the court is informed of the extent and nature of such services, its own experience furnishes it with every element necessary to fix their value."]; *Reynolds v. Ford Motor Company* (2020) 47 Cal.App.5th 1105, 1113-14 ["The trial court acted well within its discretion in using 'the prevailing market value in the community for similar legal services' relying on its personal knowledge and familiarity with the area legal services, as the 'touchstone' for determination" of the reasonable hourly rates." (citations omitted)]). This court had extensive experience in class action and other common fund cases while an attorney and has made decisions about attorneys' fees and costs frequently during her time as a judicial officer. While plaintiffs' counsel has requested 33%, the court has decreased that amount to 30%. There were no difficult issues in this case, and the parties started settlement negotiations quickly after the case was filed, there was no motion practice or formal discovery. Thus, the risk for counsel of not obtaining any compensation was small although, the court has taken into consideration the fact that plaintiffs' counsel has not been paid for any work.

Plaintiff references two cases venued in San Mateo County where the judges awarded 33%. The court has reviewed those cases and finds them distinguishable. Case no. 22Civ01708 assigned to the Hon. Robert D. Foiles (Ret.) was a case that had been litigated in federal court where extensive discovery, including depositions, had occurred before the case was remanded to this court. The case was litigated over four years in both courts and there were numerous issues. Judge Foiles' fee award was a negative multiplier. In 19Civ04765, assigned to the Hon. Marie S. Weiner (Ret.), there was a removal to federal court and remand, a motion to compel arbitration and two amended complaints. Judge Weiner crossed out on the fee award order that she found the rates reasonable. Neither of the judges' orders provide any analysis of why they found the 33% fee award reasonable. In this case, in contrast to the other two San Mateo cases, on August 1, 2022, plaintiffs filed the complaint, there was no law and motion activity and no formal discovery. In the first joint case management conference filed November 4, 2022, the parties stated that they were focused on informal discovery and mediation. In the joint case management conference filed on August 26, 2023, the parties stated that they have reached a settlement through mediation that had occurred on March 30, 2023. Plaintiff also reference trial court orders by judges in Alameda and San Joaquin counties, but the attached orders do not provide any analysis of why the court approved the fee award. The court does not mean to downplay the skill and hard work that plaintiffs' counsel expended to obtain the settlement, but only that this court in weighing all the facts exercises its discretion to award a 30% contingent on the gross recovery.

The court performs a lodestar cross-check. Cragg J. Ackermann and David Winston, attorneys on the case submitted declarations. They outlined their experience with employment law, providing information to justify their hourly rate, and provide a summary of the work that they and people in their firms performed. Ackerman's firm expended about 212 hours of time for a lodestar of about \$150,000. (Ackerman Decl., ¶¶ 8 14.) Winston spent about 70 hours for a total lodestar of about \$61,000. (Winston Decl., ¶ 30.) Based upon the court's knowledge and experience in San Mateo County, the court finds the hourly rates reasonable for San Mateo County. Plaintiffs contend that the court should take into account the reasonable rate for Los Angeles, but this court disagrees. In any event, that

argument is irrelevant because the court has found the hourly rates reasonable for comparable work performed in San Mateo County. The court finds that the work done by the attorneys was reasonable and necessary.

The court believes that a small multiplier is appropriate in this case. The lodestar amount " 'may be adjusted by the court based on factors including ... (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award.' ([Citations])" (Center for Biological Diversity v. County of San Bernardino (2010) 185 Cal.App.4th 866, 899.) " '[T]he purpose of a fee enhancement is primarily to compensate the attorney for the prevailing party at a rate reflecting the risk of nonpayment in contingency cases as a class.' [Citation] '[T]he unadorned lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider.... The adjustment to the lodestar figure, e.g., to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees.' [Citation] In cases involving the enforcement of constitutional or statutory rights, "such fee enhancements may make such cases economically feasible to competent private attorneys. [Citation.] '[M]ost lawyers of this quality do seem to consider the prospects of success and the fee recoverable before adding to their crowded calendars a case in which payment is contingent.' " [Citation.] (Ibid.) The trial court can consider contingent risk and delay in determining the reasonable hourly rates of the attorneys and not consider it when considering a multiplier. (California DUI Lawyers Assn. v. Department of Motor Vehicles (2022) 77 Cal.App.5th 517, 537.)

The court believes that a multiplier is appropriate here because of the fact that plaintiffs' counsel has had to wait to get paid for the work they have performed. The court believes that this multiplier is the appropriate multiplier based on the hours worked, the lack of motion practice or trial, and the fact that the case presented no novel issues. The court also notes that some of the work could have been performed by attorneys that had less experience and who would have billed at lower rates and that there is some duplication of effort. However, it might have taken less experienced lawyers more time to perform the work and there may have been inefficient work if more lawyers had worked on the case and thus the comment is not a criticism of the attorneys' work assignments.

The court awards the requested costs of \$27,693.90 and finds them reasonable and necessary for the litigation. The court also awards CPT Group, Inc., the settlement administrator, \$17,500.00 (Forst Decl., ¶17) finding that amount reasonable and necessary. The court approves the cy pres recipient of St. Jude's Children's Hospital.

The court awards \$5,000 to plaintiff Claudia Chachavac. The court has reviewed plaintiff's declaration and recognizes the work that plaintiff has performed and the potential reputational risk by agreeing to be a putative class representative. She states that she has spent about 24 hours working on the case and during the relevant time period she made \$17.25 per hour. (Chachavac Decl., ¶¶ 10.) Based upon the awards that each employee will receive and the fact that plaintiff did not have to sit for a deposition, respond to any formal discovery, or appear in person at the mediation, but only be on telephone standby, the court, in balancing the factors and exercising its discretion, finds that \$5,000 to plaintiff is a reasonable award. The law protects an employee from being retaliated against by an employer and if plaintiff believes that her employer is retaliating against her for being a plaintiff in this lawsuit, she shall notify her counsel who shall immediately notify the court. The court has not been advised at any time during the course of this litigation of any alleged retaliation.

The court sets a compliance hearing for February 4, 2025 at 2:00 p.m. No later than five court days before the hearing, the parties shall file and serve a compliance report.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, counsel for plaintiff shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

- Party shall prepare formal order consistent w/order herein; Counsel for Plaintiff.

Others

Comments:

Future Hearings and Vacated Hearings

April 02, 2024 2:00 PM Motion for Attorney Fees

Conde, Wendy

Fineman, Nancy L.

Tsai, Edward

Courtroom G

February 04, 2025 2:00 PM Other hearing

Fineman, Nancy L.

Courtroom G

Exhibit 6

[CLAIMS ADMINISTRATOR LETTERHEAD]

Mailing Date

NOTICE OF SETTLEMENT

Re: JESUS MARTINEZ RAMIREZ, v. JAGUAR FARM LABOR CONTRACTING, INC., Kern County Superior Court, Case No. BCV-23-102358-BCB

On **XXXX**, the Kern County Superior Court issued an Order approving the settlement of claims brought pursuant to the Private Attorneys General Act of 2004 (“PAGA”). The Court approved a Settlement in the amount of \$485,000.00. After accounting for the Plaintiff’s attorney’s fees of \$161,666.67 and costs of \$15,138.88; settlement administration costs of \$28,000.00; and a service award to Plaintiff Ramirez in the amount of \$5,000.00; the remainder of the settlement (\$275,194.45) shall be paid as PAGA penalties pursuant to Labor Code section 2699(i) with 75% of the PAGA Penalties being paid to the California Labor and Workforce Development Agency (\$206,395.84), as required under PAGA, and 25% (\$68,798.61) paid to the Aggrieved Employees on a pro-rata basis based upon the number of pay periods worked from July 21, 2022 and March 14, 2025. Specifically, the portion of PAGA penalties distributed to each PAGA Aggrieved Employee shall be calculated by dividing the number of PAGA periods worked by an aggrieved employee during the covered period (July 21, 2022 through March 14, 2025) by the total number of pay periods worked by all aggrieved employees during the covered period and multiplying that amount by the amount of PAGA penalties awarded to the Aggrieved Employees (*i.e.* \$68,798.61).

By way of this Settlement, Defendant Jaguar Farm Labor Contracting, Inc. and each of their former and present, subsidiaries, owners, officers, supervisors, clients, successors or predecessors in interest, shareholders, partners, and employees have been released from claims the State of California can pursue for Labor Code violations committed against you for any and all claims, rights, or causes of action seeking civil penalties under PAGA that were alleged or reasonably could have been alleged against the Released Parties based on the facts alleged in the July 21, 2023 PAGA Notice, the September 29, 2023 PAGA Notice, and the September 26, 2023 First Amended Complaint including, but not limited to, PAGA claims for violations of California Labor Code §§ 200, 201, 202, 203, 204, 206.5, 210, 226, 226.2, 226.3, 226.7, 246-248, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 (including seating), 1198.5, 1199, 2802, 2810.5, and IWC Wage Order Nos. 13-2001 and 14-2001. This Settlement does not cover any of your individual claims. Defendant denies any liability or wrongdoing and contends, among other things, that it has complied at all times with the California Labor Code, the related California Wage Orders, and all other state and federal wage laws, and further contends that the Lawsuit is without merit.

You are receiving money under the Settlement because you are or were a non-exempt employee of Jaguar Farm Labor Contracting, Inc. within the State of California who worked one or more pay periods from July 21, 2022 and March 14, 2025. Your settlement amount is <<**\$ Amount**>>. Your enclosed check is valid for one hundred and eighty (180) days from the date of its issuance. After that date, you cannot cash the check and it will be null and void. Funds attributable to such uncashed checks will be sent to the CASA of Kern County.

Questions About Your Check or Address Information:

[INSERT CONTACT INFORMATION for the Settlement Administrator]

Exhibit 7

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This settlement agreement and release of all claims (the “Agreement”) is made and entered into by and among Jesus Martinez Ramirez (“Plaintiff”) on the one hand, and Jaguar Farm Labor Contracting, Inc. (“Defendant” or “Jaguar”), on the other. Plaintiff and Defendant are referred to collectively as the “Parties” and individually as a “Party.” This Agreement is intended to resolve all disputes and extinguish those obligations described below.

RECITALS

WHEREAS, Plaintiff asserted claims arising out of Plaintiff’s employment relationship with Defendant including, but not limited to, those claims asserted in a complaint filed in Kern County Superior Court, Case No. BCV-23-102358-BCB (the “Action”).

WHEREAS, the Action includes Plaintiff’s individual wage and hour claims and claims under the Private Attorneys General Act (the “PAGA”);

WHEREAS, Defendant denies and disputes any and all of the alleged claims and allegations in the Action or those that could have been asserted by Plaintiff as a result of Plaintiff’s employment, and/or any relationship between Plaintiff and Defendant;

WHEREAS, the Parties have entered into a separate agreement regarding the PAGA Settlement (“PAGA Settlement”);

WHEREAS, the PAGA Settlement does not cover Plaintiff’s individual claims already pending before the Court as recognized in *Kim v. Reins Int’l Cal., Inc.*, 9 Cal. 5th 73 (2020), any claims related to the end of the relationship between Plaintiff and Defendant, and/or claims generally arising out of or in connection with Plaintiff’s employment;

WHEREAS, Plaintiff alleges that he has additional claims, including the individual wage and hour claims already before the Court, relating to his employment not covered by the PAGA Settlement and for which he is not being compensated under the PAGA Settlement including his individual wage and hour claims that are already pending before the Court;

WHEREAS the Parties through this Agreement desire to resolve any and all remaining possible known and unknown claims Plaintiff could have asserted as a result of Plaintiff’s employment, any relationship between Plaintiff and Defendant, and/or generally arising out of or

in connection with Plaintiff's employment and the cessation thereof aside from any claims for workers' compensation and/or any claims not releasable as a matter of law;

WHEREAS, this Settlement is the result of a Mediator's Proposal by the Hon. Howard Broadman (Ret.).

AGREEMENT

NOW THEREFORE, in consideration of and in exchange for the promises, covenants, and releases contained in the Agreement and the other valuable consideration described herein, the sufficiency of which is hereby acknowledged by the Parties, the Parties mutually agree as follows:

1. Settlement Payment. For and in consideration of the commitments made herein by Plaintiff, Defendant agrees to provide Plaintiff the total sum of fifteen-thousand dollars and zero cents (\$15,000.00) ("the Settlement Payment") in full compromise and settlement of all claims released herein by Plaintiff which shall be allocated as follows:

- a. Jaguar shall deliver to Jesus Martinez Ramirez, a check made payable to "Jesus Martinez Ramirez" in the amount of \$3,000.00 less applicable withholdings and deductions, attributable to alleged lost wages, which shall be reflected on an IRS Form W-2 issued to Jesus Martinez Ramirez; and
- b. Jaguar shall also deliver to Jesus Martinez Ramirez, a check made payable to "Jesus Martinez Ramirez" in the amount of \$12,000.00, attributable to non-wage damages, which shall be reflected on an IRS Form 1099 issued to Jesus Martinez Ramirez.

2. The Settlement Payment shall be paid by check payable to Plaintiff, Jesus Martinez Ramirez and shall be reported on IRS forms W-2 and/or 1099. Upon delivery of the Settlement Payment, Defendant will have fully met its obligations under this Agreement. As this payment is not a part of the proposed PAGA Settlement, Defendant shall mail the settlement payment directly to Plaintiff at [REDACTED].

3. Plaintiff's Release of Claims. Plaintiff, for himself and for his heirs, executors, administrators, successors and assigns, hereby releases, acquits and forever discharges Defendant, and each of its current and former parents, subsidiaries, affiliates, predecessors, related entities, and each of their respective officers, directors, shareholders, employees, representatives, members, attorneys, insurers, re-insurers, and agents (the release for agents shall

be limited to claims alleged in or that reasonably could have been alleged in the Action and not unrelated matters. For instance, if Defendant uses FedEx or another carrier, FedEx is not receiving any release of any claims unrelated to this matter) (collectively “Releasees”), from any and all claims, demands, obligations, actions, causes of action, liabilities, debts, promises, agreements, demands, attorneys’ fees, losses and expenses, known or unknown, suspected or unsuspected, filed or unfiled, that he may have or have had arising out of any known or unknown fact, condition or incident occurring prior to the date of this Agreement, including but not limited to those arising out of or in connection with any claims, demands, charges, or complaints, including the Action, arising out of or in connection with his employment, the cessation thereof, or any other interaction or relations with Releasees. This release includes, without limiting the generality of the foregoing: any and all claims, demands, causes of actions, obligations, charges, liabilities, attorneys’ fees, costs, actual, compensatory and punitive damages, and all claims for any other type of relief relating to, arising out of, or based upon: all claims of harassment, discrimination, and/or retaliation in violation of State or Federal law; all claims for failure to prevent harassment, discrimination, and/or retaliation; all claims of violation of public policy, including a claim for wrongful and/or constructive termination of employment; all claims based on tort and/or breach of contract, whether written or oral, express or implied, and any covenant of good faith and fair dealing; all claims for unpaid commissions, wages, or other benefits, including minimum wage, overtime, double time, vacation, associated penalties and/or premiums, and expense reimbursement; all claims for rest or meal periods and associated penalties and/or premiums, and any and all claims for alleged violations of the California *Labor Code*; any claim for unlawful or unfair business practices; all claims for emotional distress; any and all claims which were or could have been asserted by Plaintiff; and all claims generally relating to Plaintiff’s employment relationship and the cessation thereof, including any alleged violation of any federal, state or other governmental statute, regulation, ordinance, or executive order, including without limitation:

- (1) The Civil Rights Acts of 1866, 1964, and 1991, as amended;
- (2) 42 U.S.C. § 1981;

- (3) The California Fair Employment and Housing Act;
- (4) Section 503 of the Rehabilitation Act of 1973;
- (5) The Fair Labor Standards Act (including the Equal Pay Act);
- (6) The California and United States Constitutions;
- (7) The California Labor Code, specifically including, but not limited to the Private Attorneys General Act pursuant to *Labor Code* § 2699, *et seq.*;
- (8) The California Business & Professions Code;
- (9) The Employee Retirement Income Security Act, as amended;
- (10) The California Family Rights Act;
- (11) The Americans with Disabilities Act;
- (12) The Family Medical Leave Act;
- (13) The California Pregnancy Discrimination Act;
- (14) The California Wage Orders;
- (15) The National Labor Relations Act;
- (16) The Immigration Reform and Control Act;
- (17) The Worker Adjustment and Retraining Notification Act;
- (18) The California Occupational Safety and Health Act, or the Federal equivalent; and
- (19) The Age Discrimination in Employment Act.

This release in all respects has been voluntarily and knowingly executed by Plaintiff with the express intention of effecting the legal consequences provided in the California *Civil Code* § 1542, that is, the extinguishment of obligations herein designated.

4. Plaintiff's Waiver of Section 1542. Plaintiff states and affirms that it is his intention in executing this Agreement that the same shall be effective as a bar to each and every claim, demand, cause of action, obligation, damage, liability, charge, attorneys' fees and costs herein above released. Plaintiff expressly waives and relinquishes all of his rights and benefits, if any, arising under the provisions of California *Civil Code* § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5. Defendant Jaguar's Waiver of Section 1542. Defendant states and affirms that it is its intention in executing this Agreement that the same shall be effective as a bar to each and every claim, demand, cause of action, obligation, damage, liability, charge, attorneys' fees and costs herein above released. Defendant expressly waives and relinquishes all of its rights and benefits, if any, arising under the provisions of California *Civil Code* § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

6. Concurrent PAGA Settlement. In connection with this Settlement the Plaintiff has also entered into a settlement agreement with Defendant wherein he has agreed to settle his claims on behalf of the State of California pursuant to PAGA. Unlike this agreement, the PAGA Settlement is limited to claims for PAGA penalties pursuant to Labor Code Section 2698 *et seq.*, whereas this Settlement encompasses all individual claims the Plaintiff has or could have against the Defendant as a result of his employment aside from workers' compensation and/or other claims not releasable as a matter of law. Plaintiff's Counsel is not receiving any attorneys' fees or cost reimbursement associated with Plaintiff's individual settlement. This Agreement shall be disclosed to the Kern County Superior Court in the interests of transparency during the PAGA approval process.

7. Timing. Defendant has no obligation to provide the consideration as set forth in Paragraph 1 above until the later of July 31, 2025 or thirty (30) days after approval of the PAGA Settlement in *JESUS MARTINEZ RAMIREZ, an individual, on behalf of himself, others similarly situated, PLAINTIFF, v. JAGUAR FARM LABOR CONTRACTING, INC., a California*

Corporation, and DOES 1 thru 50, inclusive, DEFENDANTS, Kern County Superior Court, Case No. BCV-23-102358-BCB.

8. Issuance of Tax Forms; No Representation of Taxability. An IRS Form W-2 and 1099 will be issued to Plaintiff for the Settlement Payment as detailed in Section 1(b). Plaintiff understands and agrees that he solely is responsible for payment of any taxes which are required to be paid to the State of California, the United States Government, or any other entity as a result of this settlement. Plaintiff acknowledges and agrees that Releasees have not warranted or represented how the U.S. Internal Revenue Service or other governmental taxing authorities will treat the Settlement Payment for tax purposes, and agrees that no further payment of money to Plaintiff from Releasees will be due in the event that the payment or the release of claims embodied in this Agreement, or any portion thereof, is found by a government taxing authority to be, or to result in, additional taxable income to Plaintiff. Plaintiff agrees that, in the event that any federal, state or local agency takes the position that taxes should have been withheld from amounts paid pursuant to this Agreement, Plaintiff will be solely responsible for payment of any such alleged tax obligations and will indemnify and hold Releasees harmless from any resulting tax liability, interest, attorneys' fees, or penalty associated therewith. Plaintiff has the right to consult and should consult an accountant or other tax professional if he desires.

9. Non-Publicity. Neither Plaintiff nor Plaintiff's attorney shall not issue any press releases regarding this case or the Settlement nor advertise this Settlement (including but not limited to posting anything on his website about this Settlement) without the consent of Defendant. Plaintiff shall also not issue any press releases related to this Settlement.

10. No Admission of Liability. It is understood and agreed by the Parties that this Agreement represents a compromise and settlement for various matters and that the promises and payments and consideration of this Agreement shall not be construed to be an admission of any liability or obligation by the Parties.

11. Attorneys' Fees and Costs. The Parties agree that they will bear their own attorneys' fees and costs incurred in connection with Plaintiff's individual claims and this

Agreement. Plaintiff's/PAGA Counsel is not receiving any attorneys' fees or cost reimbursement associated with Plaintiff's individual settlement.

12. No Additional Recovery. It is the intent of this Agreement that Plaintiff, lienholders, and any other individual or entity with an interest in Plaintiff's claims shall not recover, directly or indirectly, any sums from Releasees other than the funds received pursuant to this Agreement and set forth in Paragraph 1 and his share of the PAGA penalties and any service award in the action titled: *JESUS MARTINEZ RAMIREZ, an individual, on behalf of himself, others similarly situated, PLAINTIFF, v. JAGUAR FARM LABOR CONTRACTING, INC., a California Corporation, and DOES 1 thru 50, inclusive, DEFENDANTS*, Kern County Superior Court, Case No. BCV-23-102358-BCB.

13. Acknowledgement. Plaintiff acknowledges and agrees that he would not otherwise be entitled to the consideration set forth in Paragraph 1, above, were it not for his covenants, promises, and releases set forth herein. Plaintiff acknowledges that Releasees shall owe Plaintiff nothing, except for any potential PAGA penalties and/or service award in association with the litigation in *JESUS MARTINEZ RAMIREZ, an individual, on behalf of himself, others similarly situated, PLAINTIFF, v. JAGUAR FARM LABOR CONTRACTING, INC., a California Corporation, and DOES 1 thru 50, inclusive, DEFENDANTS*, Kern County Superior Court, Case No. BCV-23-102358-BCB.

14. Entire Agreement. This Agreement constitutes the entire agreement between Plaintiff and Defendant regarding actual or potential, known and unknown, claims asserted by Plaintiff against Releasees and the resolution of those claims, which will remain in full force and effect. Excluding any arbitration agreement executed by the Parties and the separate PAGA Settlement Agreement, this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims, and no other agreement, statement, or promise made by one Party to another as to any matter addressed in this Agreement shall be binding or valid. This Agreement cannot be orally modified. Any amendment or modification to this Agreement must be in writing, signed by

Plaintiff and by a duly authorized representative of Defendant. Plaintiff further represents that he is unaware of any agreement or promise, written or oral, between Releasees and/or anyone else, that could serve as the basis for any claim or action against Releasees that has not been released in this Agreement and/or in the concurrent PAGA Settlement.

15. No Reliance Upon Representations by the Other Side. Each Party hereto represents and acknowledges that in executing this Agreement it does not rely and has not relied upon any representation or statement made by any other Party or by the agents, attorneys or representatives of the other Party with regard to the subject matter of this Agreement, or its basis, or the effects of this Agreement other than those representations specifically set forth in this written document.

16. Binding Nature; No Assignment. This Agreement, and all the terms and provisions contained herein, shall bind the heirs, personal representatives, successors and assigns of each Party, and inure to the benefit of each Party, its agents, directors, officers, employees, servants, successors, and assigns. The Parties promise and guarantee that they have not made, and will not make, any assignment of any claim, chose in action, right of action, or any right of any kind whatsoever, embodied in any of the claims that are released herein, and that no other person or entity of any kind had or has any interest in any of the claims released herein.

17. Construction. This Agreement is the product of arms-length negotiations and is considered to be jointly drafted. As such, it shall not be construed against any party because that party caused it to be reduced to a written instrument.

18. Fairness of Settlement. The Parties agree that this settlement is fair and reasonable. The Parties covenant never to challenge this Agreement.

19. Effect of Illegality or Unenforceability. Should any part, term or provision of this Agreement be declared or determined by any Court of competent jurisdiction to be wholly or partially illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms or provisions of this Agreement shall not be affected thereby. Said illegal, invalid or unenforceable part, term or provision shall be deemed not to be a part of this

Agreement.

20. Compliance with Terms; No Waiver. The failure to insist upon compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

21. Governing Law. This Agreement shall be interpreted under the laws of the State of California, both as to interpretation and performance.

22. Section Headings. The section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

23. Representative Capacity. Each Party executing this Agreement in a representative capacity represents and warrants that s/he is empowered to do so.

24. Counterparts and Facsimile/Digital Signatures. This Settlement may be executed in counterparts either via a wet written signature or an electronic signature (such as via Dropbox Sign or DocuSign). When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

25. Voluntary and Knowing. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties hereto.

I, having read the foregoing Settlement Agreement and Release of All Claims and knowing the contents thereof, am effecting this settlement and executing this Agreement after having the opportunity to obtain legal advice from counsel, and I sign the same as my own free act.

DATED: 04 / 17 / 2025, 2025

DATED: 4/28/2025, 2025

*Jesus
Martinez*

JESUS MARTINEZ RAMIREZ
as PAGA Representative

DocuSigned by:

Joe Garcia

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FOR JAGUAR FARM LABOR CONTRACTING,
INC.

By: Joe Garcia

Its: Chief Executive Officer

ACUERDO DE ASENTAMIENTO Y LIBERACIÓN DE TODOS RECLAMOS

Este acuerdo de asentamiento y liberación de todos reclamos (el “Acuerdo”) se realiza y es entrada en por y entre Jesus Martinez Ramirez (“Demandante”) por un lado, y Jaguar Farm Labor Contracting, Inc. (“Acusado” o “Jaguar”), en el otro. Demandante y Acusado son referidos a colectivamente como las “Partes” e individualmente como una “Parte.” Este Acuerdo tiene la intención de resolver todas disputas y extinguir todas obligaciones descritas abajo.

RECITALES

MIENTRAS QUE, Demandante afirmo reclamos surgiendo fuera de la relación de empleo del Demandante con Acusado incluyendo, pero no limitado a, esos reclamos afirmados en una queja presentada en el Tribunal Superior del Condado de Kern, Caso No. BCV-23-102358-BCB (la “Acción”).

MIENTRAS QUE, la Acción incluye reclamos individuales de salario y hora del Demandante y reclamos bajo el Acto Privado General de Abogados (el “PAGA”).

MIENTRAS QUE, Acusado niega y disputa cualquiera y todos los supuestos reclamos y alegaciones en la Acción o esos que pudieron haber sido afirmados por Demandante como un resultado del empleo de Demandante, y/o cualquiera relación entre Demandante y Acusado;

MIENTRAS QUE, las Partes han entrado en un acuerdo separado con respecto al Asentamiento de PAGA (“Asentamiento de PAGA”);

MIENTRAS QUE, el Asentamiento de PAGA no cubre los reclamos individuales del Demandante ya pendientes ante el Tribunal como reconocido en *Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73 (2020), cualesquiera reclamos relacionados con el fin de la relación entre Demandante y Acusado, y/o reclamos generalmente surgiendo fuera de o en conexión con el empleo del Demandante;

MIENTRAS QUE, Demandante alega que él tiene reclamos adicionales, incluyendo los reclamos individuales de salario y hora ya ante el Tribunal, relacionados al empleo de él no cubierto por el Asentamiento de PAGA y por cual él no está siendo compensado bajo el Asentamiento de PAGA incluyendo reclamos individuales de salario y hora de él que ya están pendientes ante el Tribunal;

MIENTRAS QUE, las Partes a través de este Acuerdo desean resolver cualesquiera y todos reclamos restantes posiblemente conocidos o desconocidos Demandante pudo haber afirmado como un resultado del empleo de Demandante, cualquier relación entre Demandante y Acusado, y/o generalmente surgiendo fuera de o en conexión con el empleo de Demandante y la cesación de ello aparte de cualesquiera reclamos para compensación laboral y/o cualesquiera reclamos no-liberables como un asunto de ley;

MIENTRAS QUE, este Asentamiento es el resultado de una Propuesta de Mediador por el Hon. Howard Broadman (Ret.).

AGREEMENT

AHORA POR LO TANTO, en consideración de y a cambio de las promesas, pactos, y liberaciones contenidas en este Acuerdo y la otra consideración valiosa descrito dentro de aquí, la suficiencia de cual es por la presente reconocidos por las Partes, las Partes mutuamente acuerdan como sigue:

1. Pago del Asentamiento. Por y en consideración de los compromisos hechos dentro de aquí por Demandante, Acusado acuerda de proporcionar Demandante con la suma total de quince mil dólares y cero centavos (\$15,000.00) (el “Pago del Asentamiento”) en completo compromiso y asentamiento de todos reclamos liberados dentro de aquí por Demandante cual será asignado como sigue:

- a. Jaguar entregaran a Jesus Martinez Ramirez, un cheque hecho pagadero a “Jesus Martinez Ramirez” en el monto de \$3,000.00 menos retenciones y deducciones aplicables, atribuible a supuesto salarios perdidos, cual será reflejado en un Formulario del IRS W-2 emitido a Jesus Martinez Ramirez; y
 - b. Jaguar también entregaran a Jesus Martinez Ramirez, un cheque hecho pagadero a “Jesus Martinez Ramirez” en el monto de \$12,000.00 atribuible a daños no-salariales, cual será reflejado en un Formulario del IRS 1099 emitido a Jesus Martinez Ramirez.
2. El Pago del Asentamiento será pagado por cheque hecho pagadero a Demandante, Jesus Martinez Ramirez y será reportado en formularios del IRS W-2 y/o 1099. Sobre el entrego del Pago del Asentamiento, Acusado habrá cumplido completamente con sus obligaciones bajo este Acuerdo. Como este pago no es una parte del propuesto Asentamiento de PAGA, Acusado

enviara por correo el pago del asentamiento directamente a Demandante al [REDACTED]

3. Liberación de Reclamos de Demandante. Demandante, para él mismo y para sus herederos, ejecutores, administradores, sucesores y asignados, por el presente libera, absuelve y para siempre descarga Acusado, y cada de sus actuales y anteriores padres, subsidiarios, afiliados, antecesores, entidades relacionadas, y cada de sus respectivos oficiales, directores, accionistas, empleados, representantes, miembros, abogados, aseguradoras, reaseguradoras, y agentes (la liberación para agentes será limitado a reclamos afirmados en o que razonablemente podrían haber sido afirmadas en la Acción y no en asuntos no relacionados. Por instancia, si Acusado utiliza FedEx u otro transportista, FedEx no está recibiendo cualesquiera liberación de cualesquiera reclamos no relacionados a este asunto) (colectivamente “Liberados”), de cualesquiera y todos reclamos, demandas, obligaciones, acciones, causas de acción, responsabilidades, deudas, promesas, acuerdos, demandas, honorarios de abogados, perdidas y gastos, conocidos o desconocidos, sospechados o no sospechados, presentados o no presentados, que él puede tener o pudo haber tenido surgiendo fuera de cualquier hecho conocido o desconocido, condición o incidente ocurriendo antes de la fecha de este Acuerdo, incluyendo pero no limitado a esos surgiendo fuera de o en conexión con cualesquiera reclamos, demandas, cargos, o quejas, incluyendo la Acción, surgiendo fuera de o en conexión con su empleo, la cesación de ello, o cualesquiera otra interacción o relaciones con Liberados. Esta liberación incluye, sin limitar la generalidad de lo antecedente: cualesquiera y todos reclamos, demandas, causas de acciones, obligaciones, cargos, responsabilidades, honorarios de abogados, costos, actuales, daños compensatorios y punitivos, y todos reclamos por cualquier otro tipo de alivio relacionándose a, surgiendo fuera de, o basado sobre: todos reclamos de acoso, discriminación, y/o represalia en violación de ley Estatal o Federal; todos reclamos por falta de prevenir acoso, discriminación, y/o represalias; todos reclamos de violación de póliza publica, incluyendo un reclamo por despido injustificado y/o constructivo de empleo; todos reclamos basados en agravio y/o incumplimiento de contrato, ya sea por escrito u oralmente, expresado u implicado, y cualquier pacto de buena fe y trato justo; todos reclamos por comisiones, salarios, u otros

beneficios no pagados, incluyendo salario mínimo, sobretiempo, doble tiempo, vacación, penalidades y/o primas asociadas, y reembolso de gastos; todos reclamos por periodos de comida o descanso y penalidades y/o primas asociadas, y cualesquiera y todos reclamos por supuestos violaciones del *Código Laboral* de California; cualquier reclamo por prácticas ilegales o injustas de negocio; todos reclamos por angustia emocional; cualesquiera y todos reclamos cuales fueron o pudieron haber sido afirmados por Demandante; y todos reclamos generalmente relacionados a la relación de empleo y la cesión de ello del Demandante, incluyendo cualquier supuesta violación de cualesquiera federal, estatal u otro estatuto gubernamental, regulación, ordenanza, u orden ejecutiva, incluyendo sin limitación:

- (1) El Acto de Derechos Civiles del 1866, 1964, y, 1991, como enmendado;
- (2) 42 U.S.C. § 1981;
- (3) El Acto de Justo Empleo y Vivienda de California;
- (4) Sección 503 del Acto de Rehabilitación del 1973;
- (5) El Acto de Normas Laborales Justas (incluyendo el Acto de Pago Iguales);
- (6) Las Constituciones de California y de los Estados Unidos;
- (7) El Código Laboral de California, específicamente incluyendo, pero no limitado al Acto Privado General de Abogados de conformidad al *Código Laboral* § 2699, *et seq.*;
- (8) El Código de Negocios & Profesiones de California;
- (9) El Acto de Seguridad de los Ingresos de Retiro del Empleado, como enmendado;
- (10) El Acto de Derechos Familiares de California;
- (11) El Acto de Americanos con Discapacidades;
- (12) El Acto de Excedencia Medica Familiar;
- (13) El Acto de Discriminación de Embarazo de California;
- (14) Las Ordenes Salariales de California;
- (15) El Acto de Relaciones Laborales Nacional;
- (16) El Acto de Reforma y Control de Inmigración;

- (17) El Acto de Notificación de Ajustamiento y Reentrenamiento del Trabajador;
- (18) El Acto de Seguridad y Salud Ocupacional de California, o el equivalente Federal; y
- (19) El Acto de Discriminación de Edad en el Empleo.

Esta liberación en todos aspectos ha sido ejecutada voluntariamente y conscientemente por Demandante con la intención expresa de efectuar las consecuencias legales proporcionados en el *Código Civil* de California § 1542, eso es, la extinción de obligaciones designados dentro de aquí.

4. Liberación de Sección 1542 del Demandante. Demandante declara y afirma que, es la intención de él en ejecutar este Acuerdo que lo mismo será efectivo como una barra a todos y cada reclamo, demanda, causa de acción, obligación, daño, responsabilidad, cargo, honorarios y costos de abogados liberados dentro de aquí arriba. Demandante expresamente libera y renuncia todos los derechos y beneficios de él, si hay, surgiendo bajo las provisiones del *Código Civil* de California § 1542, cual proporciona:

UNA LIBERACIÓN GENERAL NO EXTIENDE A RECLAMOS QUE EL ACREEDOR O PARTE LIBERADORA NO CONOCE NI SOSPECHA A EXISTIR EN EL FAVOR DE ÉL O ELLA AL TIEMPO DE EJECUTAR LA LIBERACIÓN Y QUE, SI CONOCIDO POR ÉL O ELLA, PUDIERA HABER MATERIALMENTE AFECTADO EL ASENTAMIENTO DE ÉL O ELLA CON EL DEUDOR O PARTE LIBERADA.

5. Liberación de Sección 1542 de Acusado Jaguar. Acusado declara y afirma que es la intención de ello en ejecutar este Acuerdo que lo mismo será efectivo como una barra a todos y cada reclamo, demanda, causa de acción, obligación, daño, responsabilidad, cargo, honorarios y costos de abogados liberados dentro de aquí arriba. Acusado expresamente libera y renuncia todos sus los derechos y beneficios, si hay, surgiendo bajo las provisiones del *Código Civil* de California § 1542, cual proporciona:

UNA LIBERACIÓN GENERAL NO EXTIENDE A RECLAMOS QUE EL ACREEDOR O PARTE LIBERADORA NO CONOCE NI SOSPECHA A EXISTIR EN EL FAVOR DE ÉL O ELLA AL TIEMPO DE EJECUTAR

LA LIBERACIÓN Y QUE, SI CONOCIDO POR ÉL O ELLA, PUDIERA HABER MATERIALMENTE AFECTADO EL ASENTAMIENTO DE ÉL O ELLA CON EL DEUDOR O PARTE LIBERADA.

6. Asentamiento de PAGA Concurrente. En conexión con este Asentamiento el Demandante también ha entrado en un acuerdo de asentamiento con Acusado dentro cual él ha acordado a resolver sus reclamos en nombre del Estado de California de conformidad a PAGA. A diferencia de este acuerdo, el Asentamiento de PAGA es limitado a reclamos para penalidades de PAGA de conformidad a Sección del Código Laboral 2698 *et seq.*, mientras que este Acuerdo abarca todos reclamos individuales que Demandante tiene o pueda tener en contra del Acusado como un resultado del empleo de él aparte de compensación laboral y/o otros reclamos no liberables como un asunto de ley. Abogado del Demandante no está recibiendo cualesquiera honorarios de abogados o reembolso de gastos asociados con el asentamiento individual del Demandante. Este Acuerdo será divulgado al Tribunal Superior del Condado de Kern en los intereses de transparencia durante el proceso de aprobación de PAGA.

7. Tiempo. Acusado no tiene obligación de proporcionar la consideración como se establece en Párrafo 1 arriba hasta más tardar Julio 31, 2025 o treinta (30) días después de la aprobación del Asentamiento de PAGA en *JESUS MARTINEZ RAMIREZ, un individual, en nombre de él mismo, otros situados similarmente, DEMANDANTE, v. JAGUAR FARM LABOR CONTRACTING, INC., una Corporación de California, y DOES 1 a 50, inclusivo, ACUSADOS,* Tribunal Superior del Condado de Kern, Caso No. BCV-23-102358-BCB.

8. Emisión de Formularios de Impuestos; No Representación de Imponibilidad. Un Formulario W-2 y 1099 del IRS serán emitidos a Demandante para el Pago de Asentamiento como detallado en Sección 1(b). Demandante entiende y acuerda que solamente él es responsable del pago de cualesquiera impuestos cuales son requeridos de ser pagados al Estado de California, el Gobierno de los Estados Unidos, o cualquier otra entidad como un resultado de este asentamiento. Demandante reconoce y acuerda que Liberados no han garantizado ni representado como el Servicio de Ingresos Internos del EE. UU. u otras autoridades gubernamentales de impuestos tratarán el Pago de Asentamiento para propósitos de impuestos, y acuerda que ningún pago adicional de dinero a Demandante serán debidos de los Liberados en el evento que el pago

o la liberación de reclamos incorporados en este Acuerdo, o cualquier porción de ello, es encontrado por una autoridad gubernamental de impuestos de ser, o de resultar en, impuestos adicionales de ingresos al Demandante. Demandante acuerda que, en el evento que cualquier agencia federal, estatal o local toma la posición que impuestos deberían de haber sido retenidos de montos pagados de conformidad a este Acuerdo, Demandante será únicamente responsable por pago de cualesquiera tal supuestos obligaciones de impuestos e indemnizará y eximirá sin responsabilidad a Liberados de cualquier responsabilidad resultante de impuestos, interés, honorarios de abogados, o penalidad asociada de ello. Demandante tiene el derecho a consultar y debería consultar con un contador u otro profesional de impuestos si él desea.

9. No-Publicidad. Ni Demandante ni abogado del Demandante emitirán ningún comunicado de prensa sobre este caso o el Asentamiento ni publicitarán este Asentamiento (incluyendo pero no limitado a publicar nada en el sitio web de él sobre este Asentamiento) sin el consentimiento de Acusado. Demandante tampoco emitirá cualquier comunicación a la prensa relacionado a este Asentamiento.

10. No Admisión de Responsabilidad. Es entendido y acordado por las Partes que este Acuerdo representa un compromiso y asentamiento para varios asuntos y que las promesas y pagos y consideración de este Acuerdo no se interpretará de ser una admisión de cualquier responsabilidad u obligación por las Partes.

11. Honorarios y Costos de Abogado. Las Partes están de acuerdo que ellos cargarán sus propios honorarios y costos de abogados incurridos en conexión con los reclamos individuales de Demandante y este Acuerdo. El Abogados del Demandante/de PAGA no está recibiendo cualesquiera honorarios de abogados o reembolso de costos asociados con el asentamiento individual del Demandante.

12. Sin Recuperación Adicional. Es la intención de este Acuerdo que Demandante, los titulares de gravámenes, y cualquier otro individuo u entidad con un interés en los reclamos del Demandante no recuperarán, directa o indirectamente, cualesquieras sumas de los Liberados que no sea de los fondos recibidos de conformidad a este Acuerdo y como establecido en Párrafo

1 y la parte de él de las penalidades de PAGA y cualquier premio de servicio en la acción titulado: *JESUS MARTINEZ RAMIREZ, un individual, en nombre de él mismo, otros situados similarmente, DEMANDANTE, v. JAGUAR FARM LABOR CONTRACTING, INC., una Corporación de California, y DOES 1 a 50, inclusivo, Acusados*, Tribunal Superior del Condado de Kern, Caso No. BCV-23-102358-BCB.

13. Reconocimiento. Demandante reconoce y acuerda que él de otro modo no tendría derecho a la consideración establecida en Párrafo 1, arriba, si no fuera por sus pactos, promesas, y liberaciones establecidas dentro de aquí. Demandante reconoce que Liberados deberán nada a Demandante, excepto por cualesquiera potenciales penalidades de PAGA y/o premio de servicio en asociación con el litigio en *JESUS MARTINEZ RAMIREZ, un individual, en nombre de él mismo, otros situados, DEMANDANTE, v. JAGUAR FARM LABOR CONTRACTING, INC., una Corporación de California, y DOES 1 a 50, inclusivo, Acusados*, Tribunal Superior del Condado de Kern, Caso No. BCV-23-102358-BCB.

14. Acuerdo Completo. Este Acuerdo constituye el acuerdo completo entre Demandante y Acusado con respecto a reclamos actuales o potenciales, conocidos y desconocidos, afirmados por Demandante contra los Liberados y la resolución de esos reclamos, lo cual quedara en pleno vigor y efecto. Excluyendo cualquier acuerdo de arbitraje ejecutado por las Partes y el Acuerdo de Asentamiento de PAGA separado, este Acuerdo reemplaza todos acuerdos anteriores, escritos u orales, entre o entre las Partes con respecto a esos reclamos o reclamos potenciales y la resolución de esos reclamos, y ningún otro acuerdo, declaración, o promesa hecha por una Parte a otro como a cualquier asunto dirigido en este Acuerdo será vinculantes o válidos. Este Acuerdo no puede ser modificado oralmente. Cualquier enmendación o modificación a este Acuerdo debe ser en escrito, firmado por Demandante y por un representante debidamente autorizado de Acusado. Demandante aún más representa que él no es consciente de cualquier acuerdo o promesa, escrito u oral, entre los Liberados y/o cualquier otra persona, que pueda servir como la base para cualquier reclamo o acción en contra de los Liberados que no ha sido liberado en este Acuerdo y/o el concurrente Asentamiento de PAGA.

15. Sin Dependencia Sobre Representaciones del Otro Lado. Cada Parte del presente representa y reconoce que en ejecutar este Acuerdo que no depende y no ha dependido sobre cualquier representación o declaración hecho por cualquiera otra Parte o por los agentes, abogados o representativos de la otra Parte con respecto al tema de este Acuerdo, o en su base, o los efectos de este Acuerdo que no sea esas representaciones específicamente establecidas en este documento escrito.

16. Naturaleza Vinculante; Sin Asignación. Este Acuerdo, y todos los términos y provisiones contenidos dentro de aquí, vincula los herederos, representantes personales, sucesores y cesionarios de cada Parte, y redundarán al beneficio de cada Parte, sus agentes, directores, oficiales, empleados, sirvientes, sucesores, y cesionarios. Las Partes prometen y garantizan que ellos no han hecho y no van a realizar, cualquier asignación de cualquier reclamo, elegido en acción, derecho de acción, o cualquier derecho de cualquier tipo, plasmado en cualesquiera de los reclamos que son liberados dentro de aquí, y que ningún otra persona o entidad de cualquier tipo tuvo o tiene cualquier interés en los reclamos liberados dentro de aquí.

17. Construcción. Este Acuerdo es el producto de negociaciones de plena competencia y se considera de ser conjuntamente redactado. Como tal, no se interpretará en contra de cualquier parte porque esa parte causó que se redujera a un instrumento escrito.

18. Equidad del Asentamiento. Los Partes están de acuerdo que este asentamiento es justo y razonable. Las Partes pactan a no impugnar este Acuerdo.

19. Efecto de la Ilegalidad o Inaplicabilidad. Si cualquier parte, termino, o provisión de este Acuerdo se declara o determina por cualquier Tribunal de jurisdicción competente ser completamente o parcialmente ilegal, invalido, o inaplicable, la legalidad, validez y aplicabilidad des las partes, términos, o provisiones restantes de este Acuerdo no serán afectados por ello. Tal termino, o provisión ilegal, invalida, o parte inaplicable, no serán considerados de ser parte de este Acuerdo.

20. Cumplimiento con Términos; No Renuncia. La falta de insistencia sobre cumplimiento con cualquier término, pacto o condición contenido en este Acuerdo no se

considerará como una renuncia de ese término, pacto o condición, ni será cualquier renuncia o renuncia de cualquier derecho o poder contenido en este Acuerdo en cualquier otro tiempo o más veces se considerará una renuncia o renuncia de cualquier derecho o poder en cualquier otro tiempo o tiempos.

21. Ley Gobernante. Este Acuerdo será interpretado bajo las leyes del Estado de California, tanto a la interpretación y actuación.

22. Títulos de Sección. Los títulos de las secciones y de párrafos contenidos en este Acuerdo son solamente para propósitos de referencia y no afectarán de cualquier manera el significado o interpretación de este Acuerdo.

23. Capacidad Representativa. Cada Parte ejecutando este Acuerdo en una capacidad representativa representa y garantiza que él/ella está facultado para hacerlo.

24. Contrapartes y Firmas Facsímil/Digitales. Este Asentamiento puede ser ejecutado en contrapartes, o por una firma escrita mojada o una firma electrónica (como por Dropbox Sign o DocuSign). Cuando cada Parte ha firmado y entregado por lo menos una tal contraparte, cada contraparte será considerado una original, y, cuando tomado junto con otras contrapartes firmadas, será constituido un Asentamiento, que será vinculante al y efectivo como a todas Partes. Las contrapartes pueden ser ejecutadas y/o transmitidas electrónicamente o por facsímil.

25. Voluntario y Consciente. Este Acuerdo es ejecutado voluntariamente y sin cualquiera coacción o influencia indebida en la parte o en nombre de las Partes de ello.

Yo, después de haber leído el Acuerdo de Asentamiento y Liberación de Todos Reclamos y conociendo los contenidos de ello, estoy efectuando este asentamiento y ejecutando este Acuerdo después de haber tenido la oportunidad de obtener el aviso legal de mis abogados, y yo firmo lo mismo como mi propio acto libre.

FECHA: 04 / 17 / 2025, 2025

Jesús
MARTINEZ
JESUS MARTINEZ RAMIREZ
como Representante de PAGA

FECHA: 4/28/2025, 2025

DocuSigned by:
Joe Garcia
6E32C6EB-4EFA-4BF4-9B3F-36D1F732CA94
PARA JAGUAR FARM LABOR
CONTRACTING, INC.
Por: Joe Garcia
Sus: Chief Executive Officer

I, Diana Guzman-Wug, am qualified to translate between English and Spanish. I translated the Settlement Agreement and Release of All Claims from English to Spanish. In my opinion, the Spanish translation is a true and correct version of the English document.

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

Executed on **April 29, 2025** in Los Angeles, California.



DIANA GUZMAN-WUG