

JAMIE K. SERB (SBN 289601)
jamie@crosnerlegal.com
NIKKI TRENNER
nikki@crosnelegal.com
ZACHARY M. CROSNER (SBN 272295)
zach@crosnerlegal.com
CROSNER LEGAL, PC
9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
Tel: (866) 276-7637
Fax: (310) 510-6429

Attorneys for Plaintiff CARLOS HERNANDEZ MOTTO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CARLOS HERNANDEZ MOTTO,
Plaintiff,

v.

AMWARE FULFILLMENT, LLC; and DOES
1-100, inclusive,
Defendants.

Lead Case No. 23STCV07785
Consolidated with Case No. 23STCV24821

Assigned for All Purposes To:
Hon. Timothy Patrick Dillon
Dept. SSC-15

**DECLARATION OF NIKKI TRENNER IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: November 13, 2025
Time: 9:00 a.m.
Dept.: SSC-15

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DECLARATION OF NIKKI TRENNER

I, NIKKI TRENNER, Declare:

1. I am an attorney duly licensed to practice in California and before this Court, and I am a partner with Crosner Legal, PC, counsel of record for plaintiff Carlos Hernandez Motto. I make this declaration in support of Plaintiffs' Motion for Approval of Class Action and PAGA Settlement. If called to testify as to the within facts, I would and could competently do so.

2. Attached hereto as Exhibit 1 is a true and correct, fully-executed copy of the Parties' Joint Stipulation of Class Action and PAGA Settlement (the "Agreement"). Attached hereto as Exhibit 2 is a true and correct copy of the proposed Class Notice. Attached hereto as Exhibit 3 is a true and correct copy of Plaintiff's notice letter to the Labor & Workforce Development Agency ("LWDA") and proof of submission. Attached hereto as Exhibit 4 is proof of submission of the operative complaint to the LWDA. Attached hereto as Exhibit 5 is proof of submission of the proposed settlement to the LWDA via its online portal.

3. I am unaware of any other cases or matters that may be related to this matter or that may have overlapping claims or classes, other than the 2 related matters being resolving in this settlement.

CROSNER LEGAL'S QUALIFICATIONS

4. I graduated from Trinity Law School in 2017 and joined Mara Law Firm, PC (formerly The Turley and Mara Law Firm, APLC) that same year. I later joined Crosner Legal in 2020 and am currently employed as a senior associate in the wage and hour department. I have solely handled wage and hour class actions and PAGA lawsuits for six (6) years. I routinely write and oppose motions, draft complaints, appear before the Court at law and motion and settlement hearings, engage in the discovery process, including drafting Belaire-West notices and meet and confer letters. I have obtained class certification in the following matters: *Hernandez v. Aviation Port Services, LLC*, Kern County Superior Court Case No. BCV-18-100141. I have also assisted in obtaining millions of dollars for employees in the following court-approved class action and/or representative PAGA settlements: *Michael Campbell, et al. v. Symons Emergency Specialities, Inc.*, San Bernardino County Superior Court Case No. CIVDS1903158;

1 *Amber Collins v. Danbarb, Inc., et al.*, Los Angeles County Superior Court Case No. 20STCV44190;
2 *Michael Elridge v. LA Downtown Medical Center, LLC, et al.*, Los Angeles County Superior Court Case
3 No. 20STCV05951; *Anthony Leon, et al. v. Sierra Aluminum Company, et al.*, San Bernardino County
4 Superior Court Case No. CIVDS2010856; *Elaine Moyal v. Cabinets To Go, LLC*, Los Angeles County
5 Superior Court Case No. 20STCV32477; *Genevieve Rangel v. Bassett Direct NC, LLC*, Orange County
6 Superior Court Case No. 30-2018-01040101-CU-OE-CXC; *Jacob Buys v. Sizewise Rentals, Inc., et al.*,
7 Sacramento County Superior Court Case No. 34-2018-00225848-CU-OE-GDS; *Alejandro Valencia v.*
8 *VM Tree Service, Inc., et al.*, Riverside County Superior Court Case No. RIC1819395; *Joshua Rael v.*
9 *Intercontinental Hotels Group Resources, Inc.*, Los Angeles County Superior Court Case No.
10 19STCV16010; *Angel Cervantez v. Valley Pallet, Inc.*, Sacramento County Superior Court Case No. 34-
11 2018-00234334-CU-OE-GDS; *Tonja Edwards-Bloodsaw v. Sandburst Convalescent Group, LTD, et al.*,
12 Los Angeles Superior Court Case No. 19STCV15797; *Moriah Holtegaard, et al. v. Howroyd-Wright*
13 *Employment Agency, Inc. dba AppleOne Corporation Services, et al.*, Central District Court of California,
14 Eastern Division, Case No. 5:20-cv-00509 JGB (KKx); *Jade Findley, et al. v. Avenue5 Residential, LLC,*
15 *et al.*, Los Angeles County Superior Court Case No. 20STCV34633; *Keivan Keyhanzad v. Ryan Cars,*
16 *LLC dba Pomona Kia, et al.*, Riverside County Superior Court Case No. RIC1905276; *Luis Bolanos v.*
17 *FSC Corporation dba Il Pastaio Restaurant, et al.*, Los Angeles County Superior Court Case No.
18 BC722758; *Loretta Cannon v. Pasadena Hospital Association, LTD dba Huntington Hospital*, Los
19 Angeles County Superior Court Case No. 19STCV14554; *Nathan Kapusta v. Cardinale Motors SLO, Inc.,*
20 *et al.*, Kern County Superior Court Case No. BCV-20-101593; and *Jesse McCauley v. Mullahey Ford,*
21 *Inc., et al.*, San Luis Obispo County Superior Court Case No. 21CV0001.

22 5. Zach Crosner is a 2010 graduate of University San Diego School of Law, and has some
23 15 years of experience as a practicing attorney, all of which have focused on litigation of employment,
24 labor law, consumer, and class action claims. Following graduation, he immediately began working
25 for a nationally recognized plaintiff's complex litigation firm, CaseyGerry, where I had the fortune of
26 working directly with past presidents of the consumer attorneys and recipients of trial attorneys of the
27 year awards. He also worked for former CAALA and CLAY trial attorney of the year recipient,
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1 attorney Conal Doyle, as his sole associate attorney. During his tenure at these firms, he focused on
2 advocating for the rights of consumers and employees in class action litigation, civil rights and
3 employment litigation, catastrophic injuries, insurance bad faith and appellate litigation.

4 6. In 2013, Mr. Crosner founded the law firm of Crosner Legal, P.C. which since its
5 inception has focused almost exclusively on wage and hour class actions and other labor and
6 employment law cases representing plaintiffs. Currently, over ninety percent (90%) of his practice is
7 dedicated exclusively to the prosecution of wage and hour class actions, and Crosner Legal is
8 currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty (50) wage and
9 hour class actions and/or PAGA representative actions in both federal and state courts throughout
10 California.

11 7. Mr. Crosner currently is an executive board member of the Wage and Hour Committee
12 and the Legislative Committee for the California Employment Lawyers Association; a member of the
13 Grassroots Advocacy Team for the National Employment Lawyers Association; Wage and Hour
14 Committee member and Class Action Committee member for the National Trial Lawyers; a member
15 of the American Association for Justice; and member of the Pound Civil Justice Institute. He was
16 selected for 2018-20 by Super Lawyers as a “Southern California Rising Star” for employment and
17 labor law.

18 8. Jamie Serb graduated from the University of California, San Diego in 2004 and graduated
19 from California Western School of Law in 2013, and has been a member of the California Bar since 2013.
20 She gained extensive experience in wage and hour litigation, beginning work as a class action attorney in
21 2015 at the Mara Law Firm, PC (previously Turley & Mara Law Firm, APLC; Turley Law Firm, APLC).
22 She joined Crosner Legal on January 4, 2021 as an associate attorney. She has handled wage and hour
23 class actions and PAGA lawsuits for some 10+ years and has assisted in obtaining millions of dollars for
24 employees during her years of practice.

25 9. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class action
26 settlements while serving as lead class counsel in recent years, including but not limited to a \$1.9 million
27 wage and hour class action settlement in 2015 (Smith v. Lux Retail North America, Inc., Case No. 3:13-
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1 cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action settlement in 2016 (Aguirre v.
2 Mariani Nut Company, Inc. et al., Case No. 34- 2016-00190252 (Sacramento Cty. Super Ct.)); a \$1.35
3 million wage and hour class action settlement in 2017 (Montelone v. Ocean Cities Pizza, Inc., Case No.
4 56-2014-00458249 (Ventura Cty. Super. Ct.)), a \$1.8 million wage and hour class action settlement in
5 2018 (Latham v. K.W.P.H. Enterprises, Inc. dba American Ambulance, Case No. 17C-0162 (Kings Cty.
6 Super Ct.)), a \$1.3 million wage and hour class action settlement in 2019 (Means, et al. v. AirGas USA,
7 LLC, Case No. 17-CV-2160 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020
8 (Babouchian, et al. v. Wyndham Vacation Ownership, et al., Case No. CV18-14601 (San Diego Cty.
9 Super. Ct.), a \$1.15 million wage and hour class action settlement in 2020 (Buford v. Medical Solutions
10 LLC, Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action settlement
11 in 2020 in Avina, et al. v. First Alarm Security & Patrol, Inc., Case No. 18CV323753 (Santa Clara Cty.
12 Super Ct.); a \$2.2 million wage and hour class action settlement in 2021 (Ghorchian, et al. v. West Hills
13 Hospital, et al., Case No. LS029737 (Los Angeles Cty. Super. Ct.)); a \$2.85 million dollar wage and hour
14 settlement in 2021 (Valencia v. The Original Mowbray's Tree Service, Inc., Case No. CIVDS1825518
15 (San Bernardino Cty. Super. Ct.)); a \$1 million wage and hour class action settlement in 2022 (Duong v.
16 Loan Factory, Inc., Case No. 21CV382467 (Santa Clara Cty. Super. Ct.)), a \$1.4 million wage and hour
17 class action settlement in 2023 in Correa, et al. v. FedEx Supply Chain, Inc., Case No. CIVDS2023369
18 (San Bernardino Cty. Super. Ct.), a \$2.38 million wage and hour class action settlement in 2023 in Michel,
19 et al. v. Valley Thrift Store, Inc., Case No. 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million
20 wage and hour class action settlement in 2023 in Jajuga v. Pilot Travel Centers, Case No. CIVDS1931464
21 (San Bernardino Cty. Super. Ct.); \$1.015 million wage and hour class action settlement in 2023 in
22 Gotishan v. Kyo Autism Therapy, Case No. CGC-21-596378 (San Francisco Cty. Super. Ct); and a \$1.15
23 million wage and hour PAGA settlement in 2023 in Vaughn v. Public Health Foundation Enters., Inc.,
24 Case No. 21STCV18512 (Los Angeles Cty. Super. Ct.); a \$1.5 million wage and hour class action
25 settlement in McKinnie v. Iron Mountain, Case No. 21STCV05707 (Los Angeles Cty. Super. Court); a
26 \$1.3 million wage and hour class action settlement in Ellsworth, et al. v. Hallcon, Case No. 20STCV06618
27 (Los Angeles Cty. Super. Court); a \$1.925 million wage and hour class settlement in 224 in Lo v.

Cyberpower, Inc., Case No. 21STCV31479 (Los Angeles Cty. Super. Ct); a \$1.19 million dollar wage and hour class action settlement in 2024 in Herrera v. Signature Flight Support LLC, Case No. 22STCV18367 (Los Angeles Cty. Super. Ct.); a \$2.65 million wage and hour class action settlement in 2024 in Shilevinatz v. Airport Terminal Services, Case No. CIVSB2229072 (San Bernardino Cty. Super Ct.) and a \$1 million wage and hour class action settlement in 2025 in Hernandez v YZER, LLC, Case No. 23CV025345 (Alameda Cty. Superior Ct).

BACKGROUND/LITIGATION HISTORY

10. Defendant is a packaging, warehousing, and logistics services provider with locations in Arizona, California, Georgia, Illinois, New Jersey, and Texas. Plaintiff was employed by Defendant as a non-exempt forklift operator and maintenance technician from 2017 to 2023 at Defendant's Van Nuys warehouse.

11. On April 10, 2023, Plaintiff commenced the Class Action Case by filing a complaint alleging the following causes of action against Defendant: (1) Recovery of Unpaid Minimum Wages and Liquidated Damages; (2) Recovery of Unpaid Overtime Wages; (3) Failure to Provide Meal Periods or Compensation in Lieu Thereof; (4) Failure to Provide Rest Periods or Compensation in Lieu Thereof; (5) Violations of Labor Code Section 226; (6) Failure to Timely Pay All Wages Due Upon Separation of Employment; (7) Failure to Reimburse Business Expenses; and (8) Unfair Competition. Plaintiff also submitted the required notice letter the LWDA under PAGA and timely exhausted his administrative remedies with the LWDA. Plaintiff did not receive notice from the LWDA that it intended to investigate the alleged violations outlined in her PAGA letter and on October 11, 2023, he commenced the PAGA Representative Case by filing a representative complaint for violation of the Private Attorneys General Act, Cal. Labor Code Sections 2698, et seq.

12. In March 2025, the Parties participated in mediation with Craig Ackermann, Esq., a respected wage and hour class action mediator. The mediation lasted a full day and with the mediator's assistance the Parties reached agreement on all major issues and ultimately prepared and executed a Memorandum of Understanding. They then formally reduced the proposed settlement to the Agreement now before the Court for approval. The Agreement meets the requirements in the LASC Checklist for

1 Preliminary Approval. As part of the Settlement, Plaintiff filed a First Amended Complaint adding a
2 PAGA cause of action, and the FAC is the Operative Complaint. Both the FAC and the Agreement have
3 been uploaded to the LWDA.

4 13. Prior to the mediation, Defendant provided Plaintiff with extensive informal discovery,
5 including Plaintiff's personnel, time, and payroll records, time and payroll records for a randomly selected
6 sampling of Class Members, wage statement exemplars, Defendant's employee handbooks, including
7 Defendant's policies and procedures regarding the payment of wages, the provision of meal and rest
8 breaks, timekeeping policies (including recording hours), issuance of wage statements, and termination
9 wages, expense reimbursement policies, as well as information regarding the number of putative Class
10 Members who are current and former employees, the number of Aggrieved Employees, the number of
11 workweeks throughout the Class Period, and the number of pay periods throughout the PAGA Period.
12 From this information, Plaintiff was able to analyze Defendant's liability for the claims asserted in this
13 case and, with the assistance of Plaintiff's experts at Berger Consulting Group, the potential exposure and
14 damages.

15 14. Based on this informal discovery, Plaintiff contends the Class Members were not paid all
16 wages due, not provided with legally compliant meal and rest periods, did not receive compliant wage
17 statements, did not receive required expense reimbursement, and did not receive all wages due on
18 separation of employment. In considering the reasonableness of the proposed settlement, Plaintiff
19 considered each of Defendant's counterarguments, which sharply contested Plaintiff's claims. Plaintiff
20 and counsel weighed the strength of Defendant's arguments, including the risks of prevailing at class
21 certification and on the merits, and determined that the proposed settlement is in the best interests of the
22 Class. Although remaining confident in the strength of her claims, these factors led Plaintiff to discount
23 the exposure analysis, as discussed below.

24 **TERMS OF THE PROPOSED SETTLEMENT**

25 15. The Parties have agreed (subject to the Court's approval) to resolve this matter for the non-
26 reversionary total sum of \$530,000.00 ("Gross Settlement Amount" or "GSA"), which amount is inclusive
27 of \$204,000 in individual settlements paid by Defendant to putative class after Plaintiff filed his initial
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complaint – in other words, Defendant will pay an additional 326,000 upon final approval (Agreement, § 4.1.), which includes: (a) reasonable attorney’s fees of up to \$132,500 (25% of the GSA) to compensate Class Counsel for work already performed and all work remaining to be performed (Agreement, § 4.2.2.); (b) actual litigation expenses as documented and not to exceed \$23,500 (Agreement, § 4.2.2.); (c) an Enhancement Award to Plaintiff in an amount not to exceed \$7,500.00 (Agreement, § 4.2.1.); (d) Administration Costs to the proposed settlement administrator Atticus Administration LLC (“Atticus”) in an amount not to exceed \$7,500.00 (Agreement, § 4.2.3.); and (e) PAGA penalties to the LWDA of \$6,000.00 (which is 75% of the \$8,000.00 PAGA Payment, with the remaining 25% or \$2,000.00 to the Aggrieved Employees) (Agreement, § 4.2.5.). Employer-side payroll taxes (including FICA, FUTA, and SDI) will be paid by Defendant separate and apart from the GSA. (Agreement, § 4.1.)

16. After all Court-approved deductions from the GSA, as well as the \$9,900 deduction for the Minimum Payments, it is estimated that at least \$143,100, less all applicable employee-side taxes, will be distributed to the eligible Class Members who did not receive a payment from the Prior Settlement. (Agreement, §§ 4.2.4-5.) All Class Members who received a Prior Settlement Payment will receive only a Minimum Payment. (Agreement, §§ 4.2.4-5.) Thus, after accounting for both components of the settlement, the average individual settlement amount will be around \$1,800. Additionally, it is estimated that the 25% PAGA Payment (\$2,000.00) will be distributed to the estimated 149 Aggrieved Employees, resulting in an average payment of \$13.42 per Aggrieved Employees. Under no circumstances will any portion of the GSA revert to Defendant. (Agreement, § 4.1.)

17. Atticus will calculate and issue Individual Class Payments to Participating Class Members by “(a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member’s Workweeks. Prior to calculating payments for the pro rata weeks worked for all Class Members, however, there shall be a minimum payment of \$50.00 for every Class Member (the “Minimum Payments”), or \$9,900.00 deducted from and paid from the Net Settlement Funds” (Agreement, § 4.2.4.) Additionally, Atticus will calculate and issue payments to Aggrieved Employees based (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties (\$2,000) by the total number of

PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods." (Agreement, § 4.2.5.1.)

18. Each Class Member's settlement award will be apportioned as follows: 1/3 wages and 2/3 penalties and interest. (Agreement, § 4.2.4.1.) Atticus will be responsible for issuing Form W-2s for amounts deemed wages and Form 1099s for the portions allocated to penalties and interest. (Agreement, §§ 4.2.4.1. and 4.2.5.2.)

19. Settlement checks must be cashed or deposited within 180 days after issuance. (Agreement, § 5.4.1.) In the event a settlement check remains uncashed, such uncashed funds shall be transmitted to the State Controller's Office Unclaimed Property Fund in the name of the Participating Class Member and/or Aggrieved Employee. (Agreement, § 5.4.3.). Therefore, there will be no unpaid residue or unclaimed or abandoned Class Member funds under California Code of Civil Procedure section 384(a).

20. Within fourteen (14) calendar days after entry of the Preliminary Approval Order, Defendant will provide Atticus with the Class Data, which Atticus will maintain as private and confidential. (Agreement, § 5.2.)

21. Prior to mailing, Atticus will perform a search for updated addresses in the National Change of Address database, and will use the NCOA database and skip traces to attempt to find current addresses for any Notice returned as undeliverable. (Agreement, § 8.4.2.) If Atticus is unable to obtain a better address for a Class Member, it will be under no obligation to make further attempts to locate or notice the Class Member. (Agreement, § 8.4.3.) Within fourteen days after receipt of the Class Data, Atticus will mail the Notice to all Class Members via First-Class mail. (Agreement, § 8.4.2.)

22. The contents of the Notice are consistent with the terms of the Agreement and California Rule of Court 3.769. The Notice informs Class Members how and when to request exclusion from or object to the settlement and of their estimated payment amount which they will automatically receive a settlement payment if they do nothing.

23. Class Members will have forty-five (45) days from the initial mailing of the Notice to respond to the settlement by submitting a challenge to the number of weeks or pay periods attributed to them, objecting, or requesting exclusion. (Agreement, § 8.6.) Class Members can object to the settlement

1 in writing via mail or fax by submitting a document with their name, the words “Notice of Objection” or
2 “Formal Objection” and a description of the arguments supporting their objection, or they may be heard
3 at the Final Approval Hearing. (Agreement, § 8.7.)

4 24. Class Members can also request for exclusion from the settlement by mailing or faxing a
5 written request, including his or her name, address, phone number or email address, last four digits of their
6 Social Security Number or Employment Authorization number, and a statement demonstrating his or her
7 intent to opt out of the settlement. (Agreement, § 8.5.)

8 25. The Notice also informs the Class Members/Aggrieved Employees that they can dispute
9 the number of workweeks/pay periods used to calculate their settlement payments by contacting Atticus
10 before the Response Deadline and providing documentation to support their dispute. Atticus will
11 investigate the dispute, request additional information from Defendant, and make a final decision as to the
12 number of eligible work weeks/pay periods. (Agreement, § 7.6.)

13 26. Defendant will fund the settlement within fourteen (14) calendar days after the Effective
14 Date, and Atticus will disburse all payments required under this Settlement within ten (10) calendar days
15 of receipt of the GSA. (Agreement, §§ 5.3-4.)

16 27. Upon final approval, Participating Class Members shall forever release the Released
17 Parties¹ for the Released Claims for the Class Period, including all claims pleaded in the Operative
18 Complaint, and which could reasonably have been alleged, based on the Class Period facts, allegations,
19 and/or claims stated in the Operative Complaint, for work performed during the Class Period, and as
20 specifically detailed in Section 6.2 of the Agreement. Additionally, the Aggrieved Employees will forever
21 release the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could
22 have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and PAGA Notice,
23 and as more specifically detailed in Section 6.3 of the Agreement.

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26 ¹ “Released Parties” means Defendant and all related companies, subsidiaries, owners, shareholders, members,
27 agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and
28 any past, present or future officers, directors and employees) predecessors, successors, and assigns
(Agreement, § 1.32.)

1 **The Class Representative Service Award Is Justified Given the Risks and Should be Preliminarily**
2 **Approved**

3 28. The Agreement provides for a service payment not to exceed \$7,500.00 to Plaintiff.
4 (Agreement, §4.2.1.) Courts routinely approve service payments, or incentive awards, to compensate
5 named plaintiffs for the services they provide and the risks they incur during class litigation. The requested
6 service award is reasonable in light of the benefits Plaintiff conferred upon the entire Class, resulting in a
7 benefit to all Class Members and the State of California, the time spent assisting counsel with the
8 investigation and prosecution of these claims, commitment to responding to discovery, and consenting to
9 the proposed Agreement. Furthermore, by attaching his name to this lawsuit, Plaintiff also took on the
10 reputational risk that future employers would learn of his participation in this case and would unfairly
11 associate them with costly litigation, costing them future employment opportunities. Any future employer
12 could easily perform a simple Google search – an unauthorized simple background check unknown to
13 Plaintiff that can still provide a plethora of information – and conclude that Plaintiff is not worth the risk
14 of hiring given his prior involvement in a lawsuit against a former employer. This is the kind of
15 reputational risk that the incentive award is meant to compensate. Furthermore, in pursuing this action on
16 behalf of the Class, Plaintiff risked a judgment against him for attorney's fees and costs in the event this
17 matter should Defendant prevail. For these reasons, at final approval, Plaintiff will request the Court award
18 him an enhancement payment in an amount that does not exceed \$7,500.

19 **THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE, AND MEETS THE**
20 **DUNK/KULLAR FACTORS**

21 29. The proposed settlement was reached as a result of arm's-length negotiations facilitated by
22 a respected mediator. Though cordial and professional, the settlement negotiations have been, at all times,
23 adversarial and non-collusive. Following mediation, counsel for the Parties conducted further extensive
24 and arm's length negotiations on the settlement terms in the Agreement.

25 30. While Plaintiff and I believe in the merits of his case, he also recognizes the inherent risks
26 of litigation and the benefit of Class Members receiving significant settlement funds immediately as
27 opposed to risking continued litigation in achieving class certification, the merits of the case before and
28 after trial, the damages awarded and/or an appeal that can take several more years to litigate.

1 31. The Parties thoroughly investigated and evaluated the strengths and weaknesses of their
2 factual and legal arguments before reaching the proposed settlement, and engaged in sufficient
3 investigation, research and discovery to support the settlement. The proposed settlement was only possible
4 following significant analysis and evaluation of Defendant's relevant policies and procedures, as well as
5 the data it produced for the putative Class.

6 32. Counsel for the Parties are particularly experienced in wage and hour employment law,
7 class actions and PAGA actions. Crosner Legal has prosecuted numerous cases on behalf of employees
8 for wage and hour violations and thus are experienced and qualified to evaluate the class and PAGA
9 claims, evaluate settlement versus trial on a fully informed basis, and to evaluate the viability of the
10 defenses. This experience informed my office on the risks and uncertainties of further litigation and guided
11 their determination to endorse the proposed settlement.

12 33. The proposed settlement was only possible following significant analysis and evaluation
13 of Defendant's relevant policies and procedures, as well as the data that Defendant produced for the Class.
14 This permitted Plaintiff's Counsel to engage in a comprehensive analysis of liability and potential
15 damages. The discovery conducted resulted in Plaintiff's central theories of liability, which are based on
16 Plaintiff's claims that Defendant failed to provide compliant meal and rest periods, failed to pay all
17 minimum and overtime wages, failed to provide accurate, itemized wage statements and failed to pay all
18 wages due on separation of employment As explained above, Defendant maintains that the discovery
19 produced demonstrates it likely would prevail on both class certification and the merits.

20 34. Plaintiff believes this case is suitable for certification as she contends there are company-
21 wide policies that violate California law and uniformly affect the Class Members. Defendant's
22 counterarguments, however, raise uncertainties with respect to both class certification and success on the
23 merits. As the California Supreme Court emphasized in *Sav-On v. Superior Court* (2004) 34 Cal.4th 319,
24 class certification is always a matter of the trial court's sound discretion, and decisions following *Sav-On*
25 have reached different conclusions with respect to certification of wage and hour claims. While remaining
26 confident in the strengths of her claims, all of these factors led Plaintiff to discount the following maximum
27 potential damage claims.

35. Defendant provided Plaintiff with class-wide data from which Plaintiff's Counsel extrapolated a damage analysis in preparation of mediation. For purposes of the mediation, there were a total of 198 Class Members who worked approximately 15,791 work weeks in the limitations period, and 149 aggrieved employees and 6,007 pay periods within the PAGA Period. As explained below, we estimated the maximum exposure on the class claims at about **\$3,346,000**.

36. First, Plaintiff contends Defendant failed to pay all wages due by requiring Plaintiff and the Class Members to frequently work off the clock. Namely, Plaintiff alleges he and the Class Members were forced to wait in line to access the time clock every morning before their shifts began and every afternoon when clocking back into their shifts after their meal periods and on average employees had to wait in line between 5 and 7 minutes to access the timeclock at the beginning of their shifts and another 3-5 minutes to access the timeclock after their meal periods. Plaintiff also alleges Class Members were often instructed to perform work related duties while clocked out for meal periods. However, Defendant's time system would not allow employees to clock in early from their meal periods and accordingly it was impossible for them to record any time spent working while purportedly clocked out for a meal period.

37. In response, Defendant contends its timekeeping policies accurately recorded employee hours worked and that it paid class members all wages due as required under applicable law. It further argued its policies strictly prohibited off the clock work or working during a break, and to the extent any such work occurred it was aberrational and done without management's knowledge or consent. For the same reasons, Defendant argued that determining if any such violations occurred it would require a multitude of individualized inquiries that would render class certification improper. Without taking into consideration any of Defendant's defenses to certification or on the merits, Plaintiff's expert calculated Defendant's maximum exposure for this claim at about **\$402,000** in damages for unpaid wages based on a total of 15,791 uncompensated hours (i.e., 1 hour per week).

38. Plaintiff also contends Defendant failed to provide legally compliant meal and rest breaks. Specifically, as to meal breaks, Plaintiff contends his analysis of the time and payroll records produced by Defendant reveals at least 8% of all shifts contained a unique meal period violation (i.e., late, short, or missed), which Plaintiff claims violates Labor Code sections 512, 226.7, and the applicable IWC Wage

1 Orders, as well as *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004 and *Augustus v.*
2 *ABM Security Serv., Inc.* (2016) 2 Cal.5th 257 for failure to provide all required meal periods and within
3 the required time frames. Further, per Plaintiff only a handful of these violations were remedied by
4 payment of the required one hour of pay for each such violation. Plaintiff also contends Defendant failed
5 to provide duty-free rest periods to Class Members by similarly failing to relinquish control over how
6 Class Members utilize their rest period time by prohibiting employees from taking naps or being
7 inattentive during rest periods, and otherwise subjecting Class Members to policies imposing employer
8 control during their break time.

9 39. Defendant denies Plaintiff's contentions, claiming it made meal and rest breaks available
10 to Class Members in compliance with California law. Defendant contends its meal and rest break policies
11 are lawful and that Class Members were frequently reminded they were required to take all meal and rest
12 breaks. Defendant also contends that time records demonstrate that Class Members took duty-free, timely
13 meal and rest breaks. Defendant also contends its meal and rest break policies and practices comported
14 with the flexibility the *Brinker* court held was integral to California's meal and rest period requirements.
15 Finally, Defendant argues that Plaintiff's meal and rest break claims are not susceptible to common proof,
16 as the claims would require individualized inquiry, including whether there was an unlawful companywide
17 policy, whether employees had the opportunity to take meal and rest periods, whether they voluntarily
18 chose to forego their meal and rest periods, and whether Defendant ever prevented them from taking meal
19 and rest periods. Accordingly, Defendant contends these claims are vulnerable to a ruling that class
20 treatment is not appropriate. (Trenner Decl., ¶ 40.)

21 40. Without taking into consideration any of Defendant's defenses to certification or on the
22 merits, our experts estimated Defendant faces around **\$88,000** in damages for meal period violations based
23 on the demonstrated violation rate and after accounting for meal period premiums paid. On the rest period
24 claims, Plaintiff estimates around **\$1,399,000** in damages, assuming a 100% violation rate (77,764 eligible
25 shifts * 18/hour avg. hourly rate).

26 41. For the expense reimbursement claims, Plaintiff argues Defendant required Class Members
27 to use their personal cell phones to communicate with supervisors and coworkers throughout their shifts
28

1 without reimbursement. In response, Defendant contends there was no need to use a personal cell phone
2 in the performance of Class Member job duties, and if anyone did so it was purely for personal
3 convenience and not a job requirement. Without accounting for any potential defenses, Plaintiff estimates
4 he and the Class Members are entitled to over **\$79,000** in expense reimbursement (15,791 work weeks *
5 \$5 reimbursement/week).

6 42. On the inaccurate wage statement claims under Labor Code section 226 and claim for
7 untimely payment all wages that were due and owing upon separation of employment, Plaintiff alleges
8 derivative claims based on the primary claims for unpaid wages. Thus, should the primary claims fail,
9 Plaintiff's claims for wage statement violations and waiting time penalties would also fail. Defendant also
10 contends it would not be liable for waiting time penalties because a "good faith dispute" exists over the
11 payment of past wages. Further, Defendant contends Plaintiff would have to prove Defendant "willfully"
12 failed to pay Class Members appropriate wages due upon separation of employment. Without taking into
13 consideration any of Defendant's defenses to certification or on the merits, Plaintiff calculated
14 Defendant's maximum exposure for waiting time penalties at about **\$592,400** for the alleged wage
15 statement violations (149 initial violations * \$50/violation + 5,858 subsequent violations * \$100/violation)
16 and around **\$786,240** in waiting time penalties based on 182 former employees during the limitations
17 period (182 * (240 hours * \$18/hour). (Trenner Decl., ¶ 45.)

18 43. As far as potential PAGA liability, the theoretical civil penalties likely are around \$2.48
19 million should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections
20 at issue. As with the class claims, Plaintiff discounted the potential PAGA penalties based on Defendant's
21 various defenses on the merits and also accounted for the Court's wide discretion to reduce such penalties,
22 or to decline to award penalties at all. Accordingly, the Parties allocated \$8,000 to PAGA penalties.
23 (Agreement, § 4.2.5.) Plaintiff submits this amount is reasonable under the circumstances and in line with
24 comparable settlements in other wage and hour class actions in California. Additionally, the LWDA has
25 been informed of the terms of the PAGA portion of the settlement, and will be able to weigh in as
26 necessary.

27 44. Thus, Plaintiff and I discounted the value of the class claims consistent with the risks
28

discussed above, and carefully weighed the likelihood of the class receiving substantially greater benefit if the litigation continued. We concluded – in light of these very real and substantial risks – settlement on the proposed terms and without prolonged and costly litigation was in the best interests of the class. The overall \$530,000 recovery represents a significant percentage of Defendant’s potential exposure of around \$3,346,000. Given Defendant’s multi-layered defenses and all other potential risks of continued litigation, a total recovery for the class of \$530,000 is a significant result well within the range of reasonableness considering all potential outcomes, and it will provide direct monetary awards to all Class Members without further delay.

Provisional Class Certification Should be Granted

45. First, the class is both sufficiently numerous, consisting of approximately 198 individuals, and ascertainable by reference to Defendant’s personnel and payroll records.

46. Plaintiff’s claims are typical of the Class Members’ claims because they arise from the same factual basis and are based on the same legal theories applicable to the Class Members. Plaintiff further contends Defendant’s policies applied to all Class Members and each Class Member is challenging the same policies and practices. As such, the typicality requirement is satisfied for purposes of settlement. Plaintiff also is an adequate class representative as he has been and will continue to be committed to vigorously prosecuting this case, and he has no conflicts of interest with the Class.

47. Common questions of law and fact predominate – particularly for purposes of a settlement class – as the Class Members all were subject to the same meal and rest break policies and alleged “de facto” policies resulting in meal period violations, and similarly subject to the same improper time rounding policy. Since the focus of the claims against Defendant concerns the legality of common policies applied uniformly to the entire class, common issues predominate over individualized inquiries concerning liability. For instance, Defendant’s meal and rest break policy is company-wide policy applied equally and consistently to all class members, and this policy is either compliant with California law or it is not. Regardless of that determination, it will decide liability for all class members one way or another. Similarly, whether use of personal phones was a job requirement is another question common to all class members.

1 48. Resolving this matter as a class action is superior to other available means for the fair and
2 efficient adjudication of this controversy for multiple reasons, including inter alia: (a) individual joinder
3 of all members of the class is impractical, (b) class action treatment will permit a large number of similarly
4 situated persons to resolve their common claims in a single forum simultaneously, efficiently, and without
5 unnecessary duplication of effort and expense; and (c) the damages suffered by many of the individual
6 class members are relatively small and the expenses and burden of individual litigation would make it
7 difficult or impossible for them to seek redress on their own.

8 **Atticus Should be Appointed as the Settlement Administrator**

9 49. The Parties agreed to use Atticus Administration LLC as the Settlement Administrator in
10 this matter. (Agreement, § 8.1.) Atticus is highly qualified and experienced as a settlement administrator,
11 committed to the security of data (having experienced no data breaches at all), carries insurance for the
12 theft of money or data, and has no relationship with Crosner Legal that I am aware of.

13 50. For all the foregoing reasons, I respectfully request the Court grant preliminary approval
14 to the proposed settlement.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct. Executed on August 8, 2025, at San Diego, California.

17
18 
19 _____
20 Declarant

EXHIBIT

1

Rachel Chatman (CA 206775)
Benesch, Friedlander, Coplan & Aronoff LLP
100 Pine Street, Suite 3100
San Francisco, California 94111
Telephone: 628.600.2250
Facsimile: 628.221.5828
rchatman@beneschlaw.com

Adam E. Primm (*Pro Hac Vice*)
Benesch, Friedlander, Coplan & Aronoff LLP
127 Public Square, Suite 4900
Cleveland, Ohio 44114
Telephone: 216.363.4500
Facsimile: 216.363.4588
aprimm@beneschlaw.com

Attorneys for Defendant
AMWARE FULFILLMENT, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CARLOS HERNANDEZ MOTTO,
Plaintiff,

v.

AMWARE FULFILLMENT, LLC; and DOES
1-100, inclusive,
Defendants.

Lead Case No. 23STCV07785
Consolidated with Case No. 23STCV24821

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT**

Assigned for All Purposes to:
Hon. Kenneth R. Freeman, Dept. 14

Lead Action Filed: April 10, 2023
PAGA Action Filed: October 11, 2023
Trial Date: None Set

1 This Joint Stipulation of Class and PAGA Action Settlement is entered into by and between
2 Plaintiff Carlos Hernandez Motto (“Plaintiff”) and Defendant Amware Fulfillment, LLC (“Defendant”).
3 The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

4 **1. DEFINITIONS.**

5 1.1 “Action” means the class action lawsuit entitled *Carlos Hernandez Motto, et al. v. Amware*
6 *Fulfillment, LLC, et al.*, filed in the Superior Court of California, County of Los Angeles, with case
7 numbers No. 23STCV07785 (the “Class Action Case”) and 23STCV24821 (the “PAGA Representative
8 Case”).

9 1.2 “Aggrieved Employee” or “Aggrieved Employees” means current and former non-exempt
10 employees who worked either directly or via a staffing agency for Defendant in California during the
11 PAGA Period.

12 1.3 “Agreement” means the instant Joint Stipulation of Class and PAGA Action Settlement.

13 1.4 “Attorneys’ Costs” or “Litigation Costs” means the amount to be reimbursed to Class
14 Counsel for their litigation costs and expenses. Attorneys’ Costs shall not exceed \$23,500.00.

15 1.5 “Attorneys’ Fees” means the amount to be awarded to Class Counsel for the work they
16 have performed in furtherance of the Action. Attorneys’ Fees shall not exceed \$132,500.00, which
17 represents one-fourth of the Gross Settlement Amount.

18 1.6 “Class” or “Class Member” means current and former non-exempt employees who worked
19 either directly or via a staffing agency for Defendant in California during the Class Period.

20 1.7 “Class Counsel” means Zachary M. Crosner, Jamie Serb, and Nikki Trenner of CROSNER
21 LEGAL, PC.

22 1.8 “Class Data” means Class Member identifying information in Defendant’s possession
23 including the Class Member’s name, last-known mailing address, email address (if available), Social
24 Security number, and number of Class Period Workweeks and PAGA Pay Periods.

25 1.9 “Class Notice” means the Notice of Class and PAGA Action Settlement mutually agreed
26 upon by the Parties and approved by the Court to be sent to the Class Members and Aggrieved Employees
27 Aggrieved Employee following preliminary approval, which includes the scope of release language for
28

Settled Class Claims and Settled PAGA Claims, notifies Class Members and Aggrieved Employees of the Settlement, explains the Class Members' options, including how Class Members may opt out or object to the Settlement, and explains the facts and methods based on which the Class Members' and Aggrieved Employees' estimated Individual Class Payments and PAGA Payments are calculated, substantially in the form attached hereto as **Exhibit A**.

1.10 "Class Period" means the period from December 22, 2020 through to the earlier of preliminary approval or June 26, 2025, whichever occurs first.

1.11 "Class Representative" means Plaintiff, Carlos Hernandez Motto, the named plaintiff in the Action seeking Court approval to serve as class representative.

1.12 "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action, and for which Plaintiff will provide a general release and waiver of Civil Code section 1542 rights. Subject to the Court's approval, Plaintiff shall receive \$7,500.00 as Class Representative Service Payment.

1.13 "Court" means the Superior Court of California, County of Los Angeles.

1.14 "Defendant" means Amware Fulfillment, LLC, its predecessors, successors, and assigns, including Staci Americas LLC.

1.15 "Defense Counsel" means Adam E. Primm, and Rachel Chatman of BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP.

1.16 "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its order granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.17 "Final Approval Order" means the Court's order granting final approval of the Settlement, with which a consistent Final Judgment is simultaneously entered.

1 1.18 “Final Approval Hearing” means the Court’s hearing on the motion for final approval of
2 the Settlement.

3 1.19 “Final Judgment” means the Judgment entered by the Court upon granting final approval
4 of the Settlement.

5 1.20 “Gross Settlement Amount” means \$530,000.00 which is the maximum total amount
6 Defendant agrees to pay under this Agreement except as provided in Paragraph 9 below. The Gross
7 Settlement Amount will be used to pay Individual Class and PAGA Payments, Attorneys’ Fees, Attorneys’
8 Costs, Class Representative Service Payment, the Settlement Administration Costs, and PAGA Penalties.

9 1.21 “Individual Class Payment” means the Participating Class Member’s pro rata share of the
10 Net Settlement Amount calculated according to the number of Workweeks worked during the Class
11 Period.

12 1.22 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of the 25%
13 of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA
14 Period.

15 1.23 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the Labor and
16 Workforce Development Agency’s (“LWDA”) under Labor Code section 2699, subd. (i).

17 1.24 “Minimum Payments” minimum payments of \$50.00 for every Class Member.

18 1.25 “Net Settlement Amount” means the Gross Settlement Amount, less Prior Settlement
19 Payments, and less the following payments in the amounts approved by the Court: Class Representative
20 Service Payment, Attorneys’ Fees, Attorneys’ Costs, the Settlement Administration Costs, and the LWDA
21 PAGA Payment. The remainder is to be paid to Participating Class Members and Aggrieved Employees
22 as Individual Class and PAGA Payments.

23 1.26 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the
24 Gross Settlement Amount, allocated 75% to the LWDA and 25% to the Aggrieved Employees for the
25 settlement of PAGA Claims. The PAGA Penalties shall be \$8,000.00.

26 1.27 “PAGA Period” means from August 7, 2022, to the earlier of the date the Court
27 preliminarily approves of the Settlement or June 26, 2025, whichever occurs first.

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

1.29 “Pay Period” means any bi-weekly pay period in which an Aggrieved Employee performed work for Defendant at least one day during the PAGA Period. “Preliminary Approval Order” means the Order entered by the Court that preliminarily approves the terms and conditions of this Agreement.

1.30 “Prior Settlement Payments” means the \$204,000.00 that Defendant has already paid to 78 Class Members in exchange for releases.

1.31 “Released Claims” means the claims being released as described in Paragraph 6 below.

1.32 “Released Parties” means Defendant and all related companies, subsidiaries, owners, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns.

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

1.34 “Response Deadline” means forty-five calendar days after the Settlement Administrator mails the Notice to Class Members and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail Objections to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

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

1.36 “Settlement Administrator” means Atticus Administration, LLC, a neutral, third-party administrator mutually chosen by the Parties and approved by the Court.

1.37 “Settlement Administration Costs” means the amount the Settlement Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in administering the Settlement in accordance with this Agreement. The Settlement Administration Costs shall not exceed \$7,500.00.

1 1.38 “Workweek” means any week during which a Class Member worked for Defendant for at
2 least one day, during the Class Period.

3 **2. RECITALS**

4 2.1 On April 10, 2023, Plaintiff Carlos Hernandez Motto commenced the Class Action Case by
5 filing a complaint alleging the following causes of action against Defendant: (1) Recovery of Unpaid
6 Minimum Wages and Liquidated Damages; (2) Recovery of Unpaid Overtime Wages; (3) Failure to
7 Provide Meal Periods or Compensation in Lieu Thereof; (4) Failure to Provide Rest Periods or
8 Compensation in Lieu Thereof; (5) Violations of Labor Code Section 226; (6) Failure to Timely Pay All
9 Wages Due Upon Separation of Employment; (7) Failure to Reimburse Business Expenses; and (8) Unfair
10 Competition.

11 2.2 On October 11, 2023, Plaintiff Carlos Hernandez Motto commenced the PAGA
12 Representative Case by filing a representative complaint for violation of the Private Attorneys General
13 Act, Cal. Labor Code Sections 2698, et seq.

14 2.3 Defendant denies the allegations in the Action, denies any failure to comply with the laws
15 identified in in the Action, and denies any and all liability for the causes of action alleged.

16 2.4 Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to
17 Defendant and the LWDA by sending a PAGA notice letter on July 14, 2023. Plaintiff’s PAGA case
18 number is LWDA-CM-968305-23.

19 2.5 On March 28, 2025, the Parties participated in all-day mediation presided over by mediator
20 Craig J. Ackermann, Esq., which led to this Agreement to settle the Action. The Parties agree that the
21 terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations
22 between the Parties supervised by an experienced employment law mediator. The Parties agree that the
23 Agreement is entered into in good faith as to each Class Member and Aggrieved Employee and that the
24 Settlement is fair, reasonable, and adequate as to each Class Member and Aggrieved Employee.

25 2.6 Prior to mediation, Plaintiff obtained, through formal and informal discovery, a sample of
26 time records and payroll records pertaining to Class Members, the number of workweeks during the Class
27 Period as well as the number of Class Members, employment policies and handbook, Plaintiff’s personnel
28

1 file, and other relevant documents. Plaintiff retained an expert to analyze the records produced by
2 Defendant. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk*
3 *v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008)
4 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

5 2.7 The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any
6 other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

7 **3. CERTIFICATION AND APPOINTMENT**

8 3.1 Class Certification. Solely for the purposes of this Settlement, the Parties stipulate and
9 agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and
10 agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.

11 3.2 Conditional Nature of Stipulation for Certification. The Parties stipulate and agree to the
12 certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement
13 only. This Stipulation is contingent upon the Preliminary and Final Approval and certification of the
14 Settlement Class only for purposes of settlement. If the Settlement does not become final, for whatever
15 reason, the fact that the Parties were willing to stipulate provisionally to certification as part of the
16 Settlement shall have no bearing on and shall not be admissible or used in any way in connection with,
17 the question of whether the Court should certify any claims in a non-settlement context in this Class Action
18 or in any other lawsuit. Defendant expressly reserves the right to oppose class certification and/or to
19 proactively move to deny class certification should this Settlement be modified or reversed on appeal or
20 otherwise not become final.

21 3.3 Appointment of Class Representatives. Solely for the purposes of this Settlement, the
22 Parties stipulate and agree Plaintiff shall be appointed as the representative for the Class.

23 3.4 Appointment of Class Counsel. Solely for the purpose of this Settlement, the Parties
24 stipulate and agree that the Court appoint Class Counsel to represent the Class.

25 **4. MONETARY TERMS**

26 4.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant
27 promises to pay \$530,000.00 and no more as the Gross Settlement Amount. The Prior Settlement
28

1 Payments (totaling \$204,000.00) shall be treated as a credit, so that the additional new funds needed for
2 this Settlement shall amount to \$326,000.00 (the “New Settlement Funds”). Defendant shall separately
3 pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.
4 Defendant has no obligation to pay the New Settlement Funds (or any payroll taxes) prior to the deadline
5 stated in Paragraph 5.3 of this Agreement. The Administrator will disburse the entire New Settlement
6 Funds without asking or requiring Participating Class Members to submit any claim as a condition of
7 payment. None of the Gross Settlement Amount will revert to Defendant.

8 4.2 Payments from the New Settlement Funds. The Settlement Administrator will make and
9 deduct the following payments from the New Settlement Funds, in the amounts specified by the Court in
10 the Final Approval:

11 4.2.1 To Plaintiff: Class Representative Service Payment to Plaintiff of not more than
12 \$7,500.00 (in addition to any Individual Class Payment the Class Representative is entitled to receive as
13 a Participating Class Member). Defendant will not oppose Plaintiff’s request for Class Representative
14 Service Payment that does not exceed this amount. As part of the motion for final approval, Plaintiff will
15 seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the
16 Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the
17 amount requested, the Settlement Administrator will retain the remainder in the Net Settlement Amount.
18 The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff
19 assumes full responsibility and liability for employee taxes owed on the Class Representative Service
20 Payment.

21 4.2.2 To Class Counsel: Attorneys’ Fees of not more than one-fourth of the Gross
22 Settlement Amount, or \$132,500.00, and Litigation Costs of not more than \$23,500.00. Defendant will
23 not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff will file
24 a motion for final approval which will include a request for Class Counsel Attorneys’ Fees and Costs no
25 later than 16 court days prior to the Final Approval Hearing. If the Court approves Attorneys’ Fees and/or
26 Class Counsel Litigation Costs less than the amounts requested, the Settlement Administrator will allocate
27 the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel
28

1 arising from any claim to any portion any Attorneys' Fees and/or Attorneys' Costs. The Settlement
2 Administrator will pay the Class Counsel Attorneys' Fees and Costs using one or more IRS 1099 Forms.
3 Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Attorneys'
4 Fees and Costs and holds Defendant harmless, and indemnifies Defendant, from any dispute or
5 controversy regarding any division or sharing of any of these payments.

6 4.2.3 To the Settlement Administrator: A Settlement Administration Costs not to exceed
7 \$7,500.00 except for a showing of good cause and as approved by the Court. To the extent the Settlement
8 Administration Costs are less or the Court approves payment less than \$7,500.00, the Settlement
9 Administrator will retain the remainder in the Net Settlement Amount.

10 4.2.4 To Each Participating Class Member: An Individual Class Payment calculated by
11 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating
12 Class Members during the Class Period and (b) multiplying the result by each Participating Class
13 Member's Workweeks. Prior to calculating payments for the pro rata weeks worked for all Class
14 Members, however, there shall be a minimum payment of \$50.00 for every Class Member (the "Minimum
15 Payments"), or \$9,900.00 deducted from and paid from the Net Settlement Funds.

16 4.2.4.1 Tax Allocation of Individual Class Payments. The Settlement Administrator
17 will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out
18 of each person's Individual Class Payment. The Settlement Administrator will calculate the amount of the
19 Participating Class Members' and Defendant's portion of payroll withholding taxes. The Settlement
20 Administrator will submit Defendant's portion of payroll withholding tax calculation to Defendant for
21 additional funding and forward those amounts along with each person's Individual Class Payment
22 withholdings to the appropriate taxing authorities. 33 1/3% of each Participating Class Member's
23 Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage
24 Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 33 1/3% of each
25 Participating Class Member's Individual Class Payment will be allocated as penalties, and the remaining
26 33 1/3% as interest (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage
27 withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full

responsibility and liability for any taxes owed on their Individual Class Payment.

4.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$8,000.00 shall be paid from the Net Settlement Amount, with 75% (\$6,000.00) allocated to the LWDA PAGA Payment and 25% (\$2,000.00) allocated to the Individual PAGA Payments.

4.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,000.00) by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. Aggrieved Employees will receive their respective Individual PAGA Payments regardless of whether they opt out of the Settlement with respect to their class claims.

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

4.2.5 To Class Members who received Prior Settlement Payments: Except for the Minimum Payments, and the pro rata PAGA amount owed, any Class Members who were already paid a settlement sum equal to or more than they would be entitled to recover as their pro rata amount under this settlement shall not receive any additional payments from the Net Settlement Funds, and shall recover only the Minimum Payment and their portion of the PAGA settlement.

5. SETTLEMENT FUNDING AND PAYMENTS.

5.1 Class Workweeks. Based on a review of its records, Defendant estimates there are approximately 15,791 workweeks in the Class Period as of the mediation date. However, some Class Members previously signed releases of all claims and were paid regarding 9,683 weeks of the Class Period. Thus, the New Settlement Funds cover approximately 6,108 workweeks during the Class Period, which is roughly 1/3 of the total workweeks at issue.

5.2 Class Data. Not later than fourteen (14) calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Settlement Administrator, in the

1 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Settlement
2 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this
3 Settlement and for no other purpose, and restrict access to the Class Data to the Settlement Administrator
4 employees who need access to the Class Data to effect and perform under this Agreement. Defendant has
5 a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class
6 member identifying information and to provide corrected or updated Class Data as soon as reasonably
7 feasible. Without any extension of the deadline by which Defendant must send the Class Data to the
8 Settlement Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith,
9 to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

10 5.3 Funding of Gross Settlement Amount. Defendant shall fully fund the New Settlement
11 Funds by transmitting the funds to the Settlement Administrator no later than fourteen (14) calendar days
12 after the Effective Date.

13 5.4 Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after
14 Defendant funds the New Settlement Funds, the Administrator will mail checks for all Individual Class
15 Payments, Individual PAGA Payments, Class Counsel Attorneys' Fees, Class Counsel Litigation Costs,
16 and the Class Representative Service Payment. Disbursement of Class Counsel Attorneys' Fees, Class
17 Counsel Litigation Costs, and the Class Representative Service Payment shall not precede disbursement
18 of Individual Class and PAGA Payments.

19 5.4.1 The Settlement Administrator will issue checks for the Individual Class and PAGA
20 Payments and send them to Participating Class Members and Aggrieved Employees via First Class U.S.
21 Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after
22 the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed
23 by the void date. The Administrator will send checks for Individual Class Payments to all Participating
24 Class Members (including those for whom Class Notice was returned undelivered). Before mailing any
25 checks, the Settlement Administrator must update the recipients' mailing addresses using the National
26 Change of Address Database.

27 5.4.2 The Settlement Administrator must conduct a Class Member Address Search for
28

all other Class Members whose checks are returned undelivered without USPS forwarding address. ("Class Member Address Search" means the Settlement Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Settlement Administrator with Class Members.) Within seven (7) calendar days of receiving a returned check the Settlement Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

5.4.3 For any Class Member whose Individual Class Payment check is uncashed and cancelled after the void date, the Settlement Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

6. RELEASES OF CLAIMS.

Effective on the date when Defendant fully funds the entire New Settlement Funds and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiff's Release. Plaintiff releases and discharges Released Parties from all claims, transactions, or occurrences, including, but not limited to all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint or ascertained during the Action and released under 6.2 below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability

benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

6.2 Release by Participating Class Members: All Participating Class Members release Released Parties from all claims alleged in the Operative Complaint, and which could have been asserted based on the facts alleged in the Operative Complaint, and which were asserted leading up to and during mediation through the date of preliminary approval, including without limitation unpaid wages, overtime, missed meal and rest periods, waiting time penalties, wage statement violations, and failure to reimburse necessary business expenses ("Released Claims"). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

6.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and Plaintiff's PAGA Notice ("Released PAGA Claims"). All Aggrieved Employees shall release claims arising under PAGA regardless of their decision to participate in the Settlement.

1 **7. MOTION FOR PRELIMINARY APPROVAL.**

2 The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for
3 Preliminary Approval”) that complies with the Court’s Checklist for Preliminary Approvals.

4 7.1 Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary to obtain
5 preliminary approval of the Settlement and deliver them to Defense Counsel at least five (5) business days
6 before the motion and supporting papers are filed with the Court. Class Counsel is responsible for
7 delivering the Court’s Preliminary Approval to the Settlement Administrator.

8 7.2 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
9 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense
10 Counsel will expeditiously work together on behalf of the Parties by meeting by telephone or email, and
11 in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions
12 Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will
13 expeditiously work together on behalf of the Parties by meeting by telephone or email, and in good faith,
14 to modify the Agreement and otherwise satisfy the Court’s concerns.

15 **8. SETTLEMENT ADMINISTRATION.**

16 8.1 Selection of Settlement Administrator. The Parties have jointly selected Atticus
17 Administration, LLC to serve as the Settlement Administrator and verified that, as a condition of
18 appointment, Atticus agrees to be bound by this Agreement and to perform, as a fiduciary, all duties
19 specified in this Agreement in exchange for payment of Settlement Administration Costs. The Parties and
20 their Counsel represent that they have no interest or relationship, financial or otherwise, with the
21 Administrator other than a professional relationship arising out of prior experiences administering
22 settlements.

23 8.2 Employer Identification Number. The Settlement Administrator shall have and use its own
24 Employer Identification Number for purposes of calculating payroll tax withholdings and providing
25 reports state and federal tax authorities.

26 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
27 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

1 8.4 Notice to Class Members.

2 8.4.1 No later than three (3) business days after receipt of the Class Data, the
3 Administrator shall notify Class Counsel that the list has been received and state the number of Class
4 Members and Workweeks in the Class Data.

5 8.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen
6 (14) calendar days after receiving the Class Data, the Settlement Administrator will send to all Class
7 Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class
8 Notice with Spanish translation, substantially in the form attached to this Agreement as **Exhibit “A”**. The
9 Class Notice shall prominently estimate the dollar amounts of any Individual Class and/or PAGA Payment
10 payable to the Class and/or Aggrieved Employee, and the number of Workweeks used to calculate these
11 amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the
12 National Change of Address database.

13 8.4.3 Not later than seven (7) calendar days after the Settlement Administrator’s receipt
14 of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
15 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address,
16 the Settlement Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice
17 to the most current address obtained. The Settlement Administrator has no obligation to make further
18 attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a
19 second time.

20 8.4.4 The deadlines for Class Members’ written Objections, challenges to Workweeks
21 and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond
22 the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-
23 mailed. The Settlement Administrator will inform the Class Member of the extended deadline with the re-
24 mailed Class Notice.

25 8.4.5 If the Settlement Administrator, Defendant or Class Counsel is contacted by or
26 otherwise discovers any persons who believe they should have been included in the Class Data and should
27 have received Class Notice, the Parties will expeditiously meet and confer by telephone or email, and in
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1 good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such
2 persons will be Class Members entitled to the same rights as other Class Members, and the Administrator
3 will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this
4 Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class
5 Notice, whichever are later.

6 8.5 Requests for Exclusion (Opt-Outs).

7 8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement
8 must send the Administrator, by mail, a signed written Request for Exclusion not later than forty-five (45)
9 days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class
10 Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or
11 his/her representative that reasonably communicates the Class Member's election to be excluded from the
12 Settlement and includes the Class Member's name, signature, address, and email address or telephone
13 number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

14 8.5.2 The Settlement Administrator may not reject a Request for Exclusion as invalid
15 because it fails to contain all the information specified in the Class Notice. The Settlement Administrator
16 shall accept any Request for Exclusion as valid if the Settlement Administrator can reasonably ascertain
17 the identity of the person as a Class Member and the Class Member's desire to be excluded. The Settlement
18 Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If
19 the Settlement Administrator has reason to question the authenticity of a Request for Exclusion, the
20 Settlement Administrator may demand additional proof of the Class Member's identity. The Settlement
21 Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to
22 challenge.

23 8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion
24 is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by
25 all terms and conditions of the Settlement, including the Participating Class Members' Releases under
26 Paragraph 6.2 of this Agreement, regardless whether the Participating Class Member actually receives the
27 Class Notice or objects to the Settlement.

1 8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a
2 Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to
3 object to the class action components of the Settlement.

4 8.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45)
5 days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class
6 Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks allocated to the
7 Class Member in the Class Notice. The Class Member may challenge the allocation by communicating
8 with the Settlement Administrator via first class U.S. mail or the equivalent. The Settlement Administrator
9 must encourage the challenging Class Member to submit supporting documentation. In the absence of any
10 contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the
11 Class Notice are correct so long as they are consistent with the Class Data. The Settlement Administrator's
12 determination of each Class Member's allocation of Workweeks shall be final and not appealable or
13 otherwise susceptible to challenge. The Settlement Administrator shall promptly provide copies of all
14 challenges to calculation of Workweeks to Defense Counsel and Class Counsel and the Settlement
15 Administrator's determination the challenges.

16 8.7 Objections to Settlement.

17 8.7.1 Only Participating Class Members may object to the class action components of the
18 Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts
19 requested for the Class Counsel Attorneys' Fees, Class Counsel Litigation Costs and/or Class
20 Representative Service Payments.

21 8.7.2 Participating Class Members may send written objections to the Settlement
22 Administrator, by mail. In the alternative, Participating Class Members may appear in Court (or hire an
23 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating
24 Class Member who elects to send a written objection to the Administrator must do so not later than forty-
25 five (45) days after the Settlement Administrator's mailing of the Class Notice (plus an additional fourteen
26 (14) days for Class Members whose Class Notice was re-mailed).

27 8.7.3 Non-Participating Class Members have no right to object to any of the class action
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1 components of the Settlement.

2 8.8 Settlement Administrator's Duties.

3 8.8.1 Weekly Reports. The Settlement Administrator must, on a weekly basis, provide
4 written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
5 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid
6 or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or
7 resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly
8 Report").

9 8.8.2 Final Declaration. Not later than fourteen (14) days before the date by which
10 Plaintiff is required to file the Motion for Final Approval of the Settlement, the Settlement Administrator
11 will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court
12 attesting to its due diligence and compliance with all of its obligations under this Agreement, including,
13 but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
14 of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from
15 Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion
16 List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the
17 Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

18 8.8.3 Final Report. Within ten (10) days after the Settlement Administrator disburses all
19 funds in the Gross Settlement Amount, the Settlement Administrator will provide Class Counsel and
20 Defense Counsel with a final report detailing its disbursements by employee identification number only
21 of all payments made under this Agreement. At least fourteen (14) days before any deadline set by the
22 Court, the Settlement Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
23 signed declaration suitable for filing in Court attesting to its disbursement of all payments required under
24 this Agreement. Class Counsel is responsible for filing the Settlement Administrator's declaration in Court.

25 **9. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.**

26 Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are
27 approximately 198 Class Members and 15,791 total Workweeks during the Class Period. If the increase
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in workweeks is more than 10% from the original estimate of 15,791 (meaning if the number of workweeks is 17,371 or more at the time of Final Approval), then unless Defendant agrees to pay an escalated amount (that shall increase by the same percentage by which that actual number of workweeks exceeds 17,371, i.e. if the number of workweeks exceeds 17,371 by 2%, the Gross Settlement Amount would increase by 2%) or shorten the Class Period such that the number of workweeks does not exceed 17,371, Plaintiff may—but is not obligated to—elect to withdraw from the settlement.

10. DEFENDANT’S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion exceeds 5% of the total Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Costs incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Settlement Administrator sends the final Weekly Report to Defense Counsel; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL.

Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order and Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than five (5) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than seven (7) calendar days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court. Plaintiff waives any right to object to the Settlement, and hereby endorses the Settlement as fair, reasonable and adequate and in the best interests of the Settlement Class.

11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval

on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Attorneys' Fees, Class Counsel Litigation Costs and/or Settlement Administration Costs shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, pursuant to Code of Civil Procedure section 664.6, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Superior Court for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work

1 together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of
2 Judgment, sharing, on a 50-50 basis, any additional Settlement Administration Costs reasonably incurred
3 after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class
4 Representative Service Payment or any payments to Class Counsel shall not constitute a material
5 modification of the Judgment within the meaning of this paragraph, as long as the New Settlement Funds
6 remains unchanged.

7 **12. ADDITIONAL PROVISIONS.**

8 12.1 No Admission of Liability, Class Certification or Representative Manageability for Other
9 Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in
10 this Agreement is intended or should be construed as an admission by Defendant that any of the allegations
11 in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor
12 should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action
13 have merit. The Parties agree that class certification and representative treatment is for purposes of this
14 Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter
15 Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant
16 reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
17 certification on any grounds available and to contest Defendant's defenses. The Settlement, this
18 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible
19 in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this
20 Agreement).

21 12.2 Publicity. Class Counsel and Plaintiff agree to discuss the terms of this Settlement only in
22 declarations submitted to a court to establish Class Counsel's adequacy to serve as Class Counsel, in
23 declarations submitted to a court in support of motions for preliminary approval, Final Approval, for Class
24 Counsel Fees, Class Counsel Expenses, and any other pleading filed with the Court in conjunction with
25 the Settlement, and in discussions with Class Members in the context of administering this Settlement
26 until the Preliminary Approval Order is issued. Class Counsel and Plaintiff agree that they shall not publish
27 any press releases or press statements regarding the Settlement, or have any communications with the
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1 press or media about the Case or the Settlement, except to respond that the case was resolved.. This
2 provision will not impede Class Counsel's ability to discharge ethical and fiduciary duties, including
3 effectuating the terms of this Settlement.

4 12.3 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and
5 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed,
6 they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person
7 to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically
8 or generally, to any person, corporation, association, government agency, or other entity except: (1) to the
9 Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement
10 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate
11 taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena
12 issued by a state or federal government agency.

13 12.4 No Solicitation. The Parties separately agree that they and their respective counsel and
14 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the
15 Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate
16 with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

17 12.5 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
18 together with its attached exhibits shall constitute the entire agreement between the Parties relating to the
19 Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to
20 or by any Party.

21 12.6 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
22 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
23 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and
24 to execute any other documents reasonably required to effectuate the terms of this Agreement including
25 any amendments to this Agreement.

26 12.7 Cooperation. The Parties and their counsel will cooperate with each other and use their best
27 efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement
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Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

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

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

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

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

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

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

12.14 Fair, Adequate, and Reasonable Settlement. The Parties and their respective counsel

1 believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Class
2 Action and have arrived at this Agreement through arms-length negotiations, taking into account all
3 relevant factors, current and potential.

4 12.15 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
5 this Agreement. This Agreement will not be construed against any Party on the basis that the Party was
6 the drafter or participated in the drafting.

7 12.16 Confidentiality. To the extent permitted by law, all agreements made, and orders entered
8 during Action and in this Agreement relating to the confidentiality of information shall survive the
9 execution of this Agreement.

10 12.17 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.
11 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
12 Defendant in connection with the mediation, other settlement negotiations, or in connection with the
13 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used
14 in any way that violates any existing contractual agreement, statute, or rule of court. At the request of
15 Defendant and not later than 90 days after the date when the Court discharges the Administrator's
16 obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall
17 destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the
18 Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel
19 for the return, rather than the destructions, of Class Data.

20 12.18 Headings. The descriptive heading of any section or paragraph of this Agreement is
21 inserted for convenience of reference only and does not constitute a part of this Agreement.

22 12.19 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be
23 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal
24 legal holiday, such date or deadline shall be on the first business day thereafter.

25 12.20 Execution in Counterparts. This Agreement may be executed in one or more counterparts
26 by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be
27 accepted as an original. All executed counterparts and each of them will be deemed to be one and the same
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instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.21 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that— pursuant to C.C.P. § 583.330(a)— upon the signing of this Agreement the date to bring a case to trial under CCP § 583.310 is extended for the entire period of this settlement process.

Respectfully submitted,



Dated: July 10, 2025

RACHEL CHATMAN (CA 206775)
ADAM E. PRIMM (*Pro Hac Vice*)
Benesch, Friedlander, Coplan & Aronoff LLP

Attorneys for Defendant
AMWARE FULFILLMENT, LLC



Dated: June 30, 2025

ZACHARY M. CROSNER
JAMIE SERB
NIKKI TRENNER
Crosner Legal, PC

Attorneys for Plaintiff
CARLOS HERNANDEZ MOTTO

Dated:

06 / 29 / 2025



Plaintiff
CARLOS HERNANDEZ MOTTO

EXHIBIT

2

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

(case name and number)

The Superior Court for the State of California authorized this Notice. Read it carefully!

It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Amware Fulfillment, LLC ("Defendant") for alleged wage and hour violations. The Action was filed by an former Amware Fulfillment, LLC employee ("Plaintiff") and seeks payment of (1) back wages, meal and rest period premiums, reimbursements, wage statement penalties, and waiting time penalties for a class of all non-exempt, hourly employees who worked for Defendant either directly or via a staffing agency in California during the Class Period (December 22, 2020 to June 26, 2025) ("Class Members"); and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt, hourly employees who worked for Defendant either directly or via a staffing agency during the PAGA Period (August 7, 2022 to June 26, 2025.) ("Aggrieved Employees").

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

Based on Defendant's records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

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

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

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

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement. If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).

You Can Opt-Out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is **DATE**. If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You Cannot Opt-out of the PAGA Portion of the Proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by **DATE**. All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court's Final Approval Hearing is scheduled to take place on **DATE**. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by **DATE**. The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Workweeks and number of Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by **DATE**. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former non-exempt, hourly employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay minimum and overtime wages, failing to provide meal and rest periods or compensation in lieu thereof, failing to reimburse business expenses, failing to provide accurate, itemized wage statements, and failing to pay all wages upon termination of employment. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys ("Class Counsel") in the Action.

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

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

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

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

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

Defendant Will Pay \$530,000 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to pay Gross Settlement Amount of \$530,000. The \$204,000 that Defendant has already paid to 78 Class Members (“Prior Settlement Payments”) shall be treated as a credit so that the additional \$326,000 of new funds will be deposited into an account controlled by the Settlement Administrator. Any Class Members who were already paid a settlement sum equal to or more than they would be entitled to recover as their pro rata amount under this Settlement shall not receive any additional payments from the settlement funds, and shall only recover a Minimum Payment of \$50 in addition to their portion of the PAGA Settlement.

The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- Up to \$132,500 (25% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$23,500 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- Up to \$7,500 as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Payment will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
- Up to \$7,500 to the Administrator for services administering the Settlement.
- Up to \$8,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks. There will be a Minimum Payment of \$50 to each Class Member

Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of one-third of each Individual Class Payment to taxable wages (“Wage Portion”) and two-thirds of each Individual Class Payment to penalties and interest (“Non-Wage

Portion.). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the payment represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than **DATE**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from a you or your representative setting forth your name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

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

The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

Administrator. The Court has appointed a neutral company, Atticus Administration, LLC (the "Settlement Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Settlement Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Settlement Administrator's contact information is contained in Section 9 of this Notice.

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

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint including any and all claims involving any alleged unpaid wages, unpaid overtime, missed meal and rest periods, waiting time penalties, wage statement violations, and failure to reimburse necessary business expenses . Except as set forth in Section 6.2 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

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

All Aggrieved Employees will be bound by the following release:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member. Prior to calculating payments for the weeks worked for all Class Members there shall be a Minimum Payment of \$50.00 for every Class Member, or \$9,900.00 deducted from and paid from the Net Settlement Funds.

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$6,000 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of Pay Periods worked by each individual Aggrieved Employee.

Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Settlement (i.e., every Non-Participating Class Member).

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

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

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

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement or the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is **DATE**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Carlos Hernandez Motto v. Amware Fulfillment, LLC*, and include your name, current address, telephone number, and approximate dates of employment with Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on **DATE** at **TIME** in Department 14 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Atticus Administration, LLC's website at [REDACTED]. You can also

telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 23STCV07785. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Zachary Crosner

zach@crosnerlegal.com

Jamie Serb

jamie@crosnerlegal.com

Nikki Trenner

nikki@crosnerlegal.com

9440 Santa Monica Blvd., Suite 301

Beverly Hills, CA 90210

Settlement Administrator:

Atticus Administration, LLC

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT

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

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

July 14, 2023

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAfilings@dir.ca.gov

VIA PAGA ONLINE FILING ONLY

Notice to Division of Occupational Safety and
Health Via PAGA Online Filing
Attn: Division of Occupational Safety and
Health (Cal OSHA)
1515 Clay Street, St. 1901
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL:

CSC Lawyers Incorporating Service
Agent for Service of Process for:
Amware Fulfillment, LLC
2710 Gateway Oaks Drive #150-N
Sacramento, CA 95833

Amware Fulfillment, LLC
Attn: CA Registered Agent Authorized
Employees: Becky DeGeorge, Koy Saechao,
Lai Saevang, Nicole Stauss, Jenn Bautista,
Trudy Desbiens, Rebecca Vang, Wendy
Harris, Melissa Dekoven, Carolyn Valle, Kaci
Ransom, Kelli Shortte, Annette Kuhlman,
Brejet Stephens, Crystal Chapman, Janette
McIntyre, Jerome Suarez, Samantha Wiltz,
and Parid Kurbini
2710 Gateway Oaks Drive #150-N
Sacramento, CA 95833

Amware Fulfillment, LLC
Attn: Human Resources/Legal Department
4505 Newpoint Pl
Lawrenceville, GA 30043

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Division of Occupational Safety and Health; and Amware Fulfillment, LLC
Date: July 14, 2023
Subject: *Carlos Hernandez Motto v. Amware Fulfillment, LLC*

Introduction

This office represents PLAINTIFF, Carlos Hernandez Motto (hereinafter “PLAINTIFF”) in connection with PLAINTIFF’s claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entity and individual managing agents of said entity: Amware Fulfillment, LLC (hereinafter, this entity and its managing agents are collectively referred to as “DEFENDANTS”). DEFENDANTS may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, PLAINTIFF, on behalf of PLAINTIFF, and on behalf of all current and former non-exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of PLAINTIFF’s claims against DEFENDANTS. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and the Division of Occupational Safety and Health and DEFENDANTS via certified mail to their Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate PLAINTIFF’s reasonable attempt at settlement with DEFENDANTS. If DEFENDANTS are interested in settling this matter before a lawsuit is filed, DEFENDANTS may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by PLAINTIFF to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—PLAINTIFF reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, DEFENDANTS are on notice that PLAINTIFF continues its investigation, with the full intent to

amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

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

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 208, 216, 221-223, 226, 226.7, 227.3, 245-248.6, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, 6400-6404, 6406-6407, 6409.6, and all applicable Wage Orders.

The Named Entities Are Joint Employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

PLAINTIFF is informed and believes and thereon alleges that at all relevant times DEFENDANTS and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/Abc, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

PLAINTIFF believes and hereon asserts that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant times herein, so as to be considered the joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

PLAINTIFF intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. PLAINTIFF will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. PLAINTIFF asks and demands that DEFENDANTS put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, PLAINTIFF also offers to DEFENDANTS to place those individuals on notice if DEFENDANTS voluntarily provides their contact information.

General Information

DEFENDANTS own, operate, manage and/or staff its employees to work at the warehouses, fulfillment centers, facilities and/or other location(s) in California, including but not limited to the warehouses, fulfillment centers, facilities and/or other location(s) in Van Nuys, California. DEFENDANTS, through its various locations serve the logistics industry.¹ Although

¹ See <https://www.amwarelogistics.com/fulfillment-warehouses/los-angeles-warehouse>. Last visited on

DEFENDANTS may operate a successful company or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title of maintenance technician and/or a similar title(s) and/or position(s) for approximately three years through in or around September 2022. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Van Nuys, California locations(s). PLAINTIFF regularly worked at least eight (8) hours per day, at least five (5) to six (6) days per week.. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked.

Among other things, DEFENDANTS (1) failed and continue to fail to keep accurate and complete time records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continue to fail to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (12) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) failed and continue to fail to provide suitable seating and suitable resting

facilities; (15) required and continue to require PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment; and (16) fails and continues to fail to provide a safe and healthful place of employment for NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which allowed meal periods were provided each day.

Based on information and belief, DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of DEFENDANTS’ time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of DEFENDANTS’ failure to relieve PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS’ control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, DEFENDANTS further failed, and continue to fail, to record the true start and end times of PLAINTIFF’s and NON-EXEMPT AGGRIEVED EMPLOYEES’ meal periods.

Based on further information and belief, DEFENDANTS further failed and continue to fail, to record the true start and end times of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES’ work shifts.

Additionally, DEFENDANTS failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

DEFENDANTS’ failure to keep “accurate and complete” payroll records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject DEFENDANTS to civil

penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.²

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, DEFENDANTS failed to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF, through counsel, sent a written request for payroll and personnel records to DEFENDANTS on or around including but not limited to, the following dates: September 27, 2022 and December 14, 2022. Yet, DEFENDANTS failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, DEFENDANTS failed and continue to fail to timely produce complete payroll and personnel

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

records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout PLAINTIFF's employment by DEFENDANTS.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

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

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

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute,

uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to take late meal periods in order to complete assigned job duties. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES at times interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and expectations.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during unpaid meal periods.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their policies and practices resulted in the denial of uninterrupted meal periods which were free of DEFENDANTS' control owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

Based on information and belief, despite DEFENDANTS' failure to provide lawful meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end times of PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to DEFENDANTS' premises), despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, DEFENDANTS failed to keep accurate records of the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal

periods. Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, DEFENDANTS did not have a compliant written meal break policy, nor did DEFENDANTS have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³ DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* At 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. *Id.* At 268 (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.").

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

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times, unable to take compliant rest periods due to their need to complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

For example, based on information and belief, PLAINTIFF was at times, unable to take compliant rest periods due to PLAINTIFF's need to complete assigned job duties and/or was unable to take

a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

Moreover, PLAINTIFF was regularly interrupted during purported rest periods as PLAINTIFF frequently received work-related communications during purported rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, DEFENDANTS failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, DEFENDANTS failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. DEFENDANTS either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); and All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: “Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”

DEFENDANTS’ locations/facilities are generally similar in layout and design, and there was, and continue to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. DEFENDANTS could have provided NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within DEFENDANTS’ facilities/locations with reasonable or no modification, but instead denied and continue to deny, employees with suitable areas to rest (e.g. a suitable breakroom). As a result, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS’ premises which are not designated or reserved for rest, such as their personal vehicles.

DEFENDANTS did not provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

DEFENDANTS’ failure to provide suitable resting facilities to NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

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

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

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to DEFENDANTS' control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed. For example, PLAINTIFF was regularly interrupted during meal periods as PLAINTIFF received work related communications during purported off-the-clock meal periods. PLAINTIFF was not paid for this time, resulting in unpaid minimum and overtime wages as well as unlawful meal periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

For example, based on information and belief, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to perform work prior to clocking in, including but not limited to pre-shift temperature screenings and/or pre-shift security screenings.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to undergo post shift security screenings when leaving DEFENDANTS' facilities.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to don and doff protective equipment prior to clocking into work. Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES were required to stand in line behind other employees to access NON-EXEMPT AGGRIEVED EMPLOYEES' time-keeping system and/or were required to spend time reinitiating DEFENDANTS' time-keeping system before they could clock in for the start of their shifts and/or after completing a purported meal period.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, DEFENDANTS implemented a time-rounding system that as applied systematically deprived PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by

DEFENDANTS would almost always, if not always, result in understating actual compensable work time. DEFENDANTS' failure to pay for all time worked by virtue of their time-rounding practices resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

DEFENDANTS' failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject DEFENDANTS, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, DEFENDANTS violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, DEFENDANTS' automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked

⁵ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to DEFENDANTS' premises and/or subject to DEFENDANTS' control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

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

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

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, DEFENDANTS failed to provide proper paid sick leave to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES. DEFENDANTS either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not

⁶ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, §20 (establishing that "i>n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, DEFENDANTS further failed to provide notice of the correct sick leave amount balance available to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statements.

Based on information and belief, DEFENDANTS failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, DEFENDANTS failed to provide notice of sick leave amount balance left for PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and PLAINTIFF seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, DEFENDANTS further failed and continue to fail to comply with Labor Code section 246, by failing to provide PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

DEFENDANTS unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of DEFENDANTS' failure to properly institute a paid sick leave program.

On information and belief, PLAINTIFF alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

PLAINTIFF requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to

DEFENDANTS' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. PLAINTIFF requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

DEFENDANTS violated and continue to violate Labor Code section 216 by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁷

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

⁷ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

As DEFENDANTS failed to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

DEFENDANTS' issued wage statements to PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES that also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

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

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

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

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

Moreover, based on information and belief, DEFENDANTS issued wage statements to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁸

Unlawful Deductions: Labor Code section 221 prohibits an employer from “collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee.” Based on information and belief DEFENDANTS made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES paychecks during the relevant period including but not limited to deducting costs of uniforms and/or other business costs and/or deducting wages for purported overpayments from previous pay periods and/or unlawfully deducting wages for negligently damaged property. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated. See Lab. Code §225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”).

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

Violation of California Day of Rest Law

Under California law, every employee in California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" their employees "to work more than six days in

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

seven." See Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

Based on information and belief, DEFENDANTS have and continue to have a uniform policy and practice of requiring NON-EXEMPT AGGRIEVED EMPLOYEES to work at least seven days consecutively in a workweek, in violation of including but not limited to, Labor Code Section 551. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in violation of California law, including but not limited to Labor Code Section 551.

Seating Violations: Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, DEFENDANTS failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all

applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, DEFENDANTS' violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses, seating, suitable resting facilities, and other violations described herein result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

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

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

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

Failure to Pay Vested Vacation/Paid Time Off:

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

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

EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, DEFENDANTS failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, DEFENDANTS untimely provide final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES’ final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials).

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

These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED

EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹⁰

Violation of Labor Code Section 208:

Labor Code Section 208 provides: Every employee who is discharged shall be paid at the place of discharge, and every employee who quits shall be paid at the office or agency of the employer in the county where the employee has been performing labor. All payments shall be made in the manner provided by law.

Based on information and belief, DEFENDANTS have a policy and practice of failing to provide NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES who are terminated with their final paychecks at the place of discharge and/or of failing to provide NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES with their final paychecks at the office or agency of DEFENDANTS in the county where the work was performed, in violation of Labor Code Section 208.

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

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

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

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

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

¹⁰ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

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

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses. For example, based on information and belief DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to pay for business expenses including but not limited to uniforms/work clothing and/or protective equipment (including but not limited to face masks, and/or gloves) and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES' and/or EXEMPT AGGRIEVED EMPLOYEES' personal mobile phones and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

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

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

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, unlawful forum selection clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

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

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

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

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, DEFENDANTS violated Labor Code section 432.5.

Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to DEFENDANTS to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, DEFENDANTS knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, DEFENDANTS violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, DEFENDANTS asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, DEFENDANTS, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, DEFENDANTS violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, DEFENDANTS violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual

PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Failure to Provide a Safe and Healthful Workplace: Pursuant to California Labor Code sections 6400-6404 and 6406-6407 of the California Occupational Safety and Health Act (“Cal OSHA”), employers must maintain a safe and healthful place of employment.

Specifically, Labor Code section 6400, requires the following:

(a) Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein...

Labor Code section 6401 provides as follows:

Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees.

Labor Code section 6402 prohibits the following:

No employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful.

Similarly, Labor Code section 6404 provides as follows:

No employer shall occupy or maintain any place of employment that is not safe and healthful.

In addition to the above, Labor Code section 6403 requires that employees provide safety devices to their employees. Labor Code section 6403 states:

No employer shall fail or neglect to do any of the following:

(a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

(b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.

(c) To do every other thing reasonably necessary to protect the life, safety, and health of employees.

Similarly, Labor Code section 6406(d) states the following:

No person shall do any of the following ... (d) Fail or neglect to do every other thing reasonably necessary to protect the life, safety, and health of employees.

Finally, Labor Code section 6407 provides:

Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct.

Moreover, Labor Code section 6409.6 sets forth the actions an employer (or representative of employer) must take within one business day of receiving notice of potential exposure to COVID-19, including but not limited to employee-notice and reporting requirements.

At all relevant times, DEFENDANTS employed PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subject to Labor Code sections 6400-6404, 6406, and 6407. At all relevant times, DEFENDANTS had and have a policy and practice of failing to furnish and use safety devices and/or provide reasonable access to sanitation facilities (including, but not limited to, toilet facilities) and/or otherwise comply with sanitation standards reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. At all relevant times DEFENDANTS had a policy and practice of requiring or permitting employees to go or be in in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. At all relevant times, DEFENDANTS had and have a policy and practice of failing or neglecting to: provide and use safety devices and/or provide reasonable access to sanitation facilities (e.g., toilet facilities) and/or otherwise comply with sanitation standards and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403.

PLAINTIFF is informed and believes and thereon alleges that these failures include, without limitation, failing to implement and/or effectively administer a proper injury and illness prevention program; failing to disinfect time clocks and/or other surfaces after use by PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES; failing to provide adequate protection equipment (e.g., face masks) to PLAINTIFF, other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES; failing to provide adequate distance in working conditions between PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES; failing to provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES with adequate and

readily accessible sanitation facilities, including but not limited to, washing facilities and/or toilet facilities and/or otherwise failing to comply with the sanitation standards as set forth in including but not limited to, Labor Code Section 2350 and California Code of Regulations, title 8, sections 3364, 3365 and 3366.

Based on information and belief, DEFENDANTS have a policy and practice of failing to provide adequate and readily accessible sanitation facilities, and to the extent sanitation facilities were provided/made accessible at all to PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES, a regular schedule for servicing, cleaning, and supplying for any sanitation facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets for use for each employee.

Based on further information and belief, to the extent sanitation facilities were provided/made accessible at all to PLAINTIFF, other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES, DEFENDANTS failed to maintain facilities that complied with California law, including without limitation, Labor Code Section 2350 and California Code of Regulations, title 8, sections 3203, 3364, 3365 and 3366.

Moreover, at all relevant times, DEFENDANTS had a policy and practice of failing to give sufficient, adequate and proper notice to PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES of the COVID-19 exposure within one business day of receiving notice of potential COVID-19 workplace exposure from a qualifying individual as required by Labor Code section 6409.6. PLAINTIFF is informed and believes that numerous employees contracted COVID-19 during the relevant time periods, but that DEFENDANTS failed to provide notice to employees. Based on further information and belief, DEFENDANTS do not or did not keep adequate records of written notifications required in subdivision (a) for a period of at least three years.

At all relevant times, DEFENDANTS had and have a policy and practice of failing within one business day after DEFENDANTS or a representative of DEFENDANTS received notice of potential exposure to COVID-19 to provide written notice to PLAINTIFF, other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES and/or their exclusive representatives, who were on the premises at the same worksite as a qualifying individual who was within the infectious period that they may have been exposed to COVID-19. Based on further information and belief, DEFENDANTS had and have a policy and practice of failing within one business day after DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to COVID-19 to provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state or local laws, including but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the employee. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and 6432.

At all relevant times, DEFENDANTS had and have a policy and practice of failing within one business day after DEFENDANTS or a representative of DEFENDANTS received a notice of potential exposure to COVID-19 to notify PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES who were on the premises at the same worksite as the qualifying individual within the infectious period, and the employers of the subcontracted employees who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, of the cleaning and disinfection plan that the employer is implementing per the guidelines of the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per the CAL-OSHA COVID-19 Emergency Temporary Standards. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and 6432.

At all relevant times, DEFENDANTS had and have a policy and practice of failing to notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation and worksite of employees who had a laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed health care provider; a COVID-19 related order to isolate provided by a public health official; or died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county. As such, DEFENDANTS violated, without limitation, Labor Code sections 6409.6 and 6432.

PLAINTIFF is informed and believes , and based thereon alleges that DEFENDANTS violated California Code of Regulations, title 8, sections 1527, 3366, 3457, and 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets for use by each employee.

PLAINTIFF is informed and believes and based thereon alleges that DEFENDANTS violated the Labor Code sections described herein, including without limitation, for failure to: furnish and use safety devices and safeguards; give sufficient, adequate and proper notice to employees of COVID-19 exposures, to provide written notice to PLAINTIFF and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES, who were on the premises at the same worksite as a qualifying individual who was within the infectious period that they may have been exposed to COVID-19 pursuant to California and local laws.

Based on information and belief, DEFENDANTS failed to protect NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES from exposure to COVID-19 due to, including but not limited to, failing to maintain/update DEFENDANTS' workplace safety plans and/or procedures to properly address hazards related to the COVID-19 virus.

As such, DEFENDANTS failed to comply with the occupational safety and health standards, failed to do everything reasonably necessary to protect the health and safety of employees, failed to maintain a safe and healthful workplace, and failed to provide the safety devices necessary to maintain a safe and healthful workplace.

As a result of DEFENDANTS' acts and omissions, DEFENDANTS violated Labor Code section 6400-6404, 6406-6407, and 6409.6 as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES and is subject to civil penalties.

a

Conclusion

DEFENDANTS have violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code. Likewise, PLAINTIFF requests that the Division of Occupational Safety and Health investigate the above allegations and provide notice of the investigation and findings pursuant to PAGA's provisions. Alternatively, PLAINTIFF requests that the agency and division inform PLAINTIFF if they do not intend to investigate these violations so that PLAINTIFF may file a lawsuit with respect to the allegations discussed in this NOTICE.

If the LWDA and/or the Division of Occupational Safety and Health elect not to take any action with respect to any of the foregoing claims, PLAINTIFF will seek these penalties in a civil action, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of DEFENDANTS within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco, Esq.
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 866.276.7637
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, reading "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC

Thank you for submission of your PAGA Case.

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

Fri, Jul 14, 2023 at 10:40 AM

7/14/2023

LWDA Case No. LWDA-CM-968305-23
Law Firm : Crosner Legal
Plaintiff Name : Carlos Hernandez Motto
Employer: Amware Fulfillment, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

EXHIBIT

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PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-968305-23
Plaintiff for PAGA Case: Carlos Hernandez Motto
Filer/Attorney for PAGA Case: Zachary Crosner
Law Firm for PAGA Plaintiff: Crosner Legal
Employer: Amware Fulfillment, LLC
Date Case Received:
Employer Filer Firm:
Court Type: California Superior Courts
Court Name: Los Angeles County Superior Court
PAGA Court Case Number: 23STCV24821
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
Court Complaint Submitted on 10/12/2023 10:44:32 AM by Zachary Crosner	2023.10.11 - Hernandez (01076) - Complaint (Conformed).pdf	10/12/2023 5:44 PM	Court Complaint
PAGA Notice Submitted on 07/14/2023 10:40:15 AM by Zachary Crosner	2023.07.14-Hernandez (v. Amware)-PAGA Notice.pdf	7/14/2023 5:40 PM	PAGA Notice

EXHIBIT

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