

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
KOUL LAW FIRM
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010
Telephone: (213) 761-5484
Facsimile: (818) 561-3938

Attorneys for Plaintiff,
MARVIN KINNEY,
and all putative class members

[additional parties and counsel listed on next page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARVIN KINNEY, an individual, on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

KINDEVA DRUG DELIVERY, L.P., a
Delaware Limited Partnership, and DOES 1-
50, inclusive,

Defendant.

Case No.: 23STCV11677

CONSOLIDATED WITH
Case No. 23STCV17839 AND
Case No. 23STCV21051

[caption continues on next page]

**DECLARATION OF NAZO
KOULLOUKIAN IN SUPPORT OF
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

MARVIN KINNEY, an individual, on behalf
of himself, all aggrieved employees, and the
State of California as a Private Attorneys
General,

Plaintiff,

vs.

KINDEVA DRUG DELIVERY, L.P., a
Delaware Limited Partnership, and DOES 1-
50, inclusive,

Defendant.

[counsel continued from previous page]

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Joel M. Gordon (SBN 280721)
jgordon@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
Raul Valdes

[caption continued from previous page]

RAUL VALDES, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

KINDEVA DRUG DELIVERY L.P., a
Delaware Limited Partnership; and DOES 1
through 100,

Defendants.

I, NAZO KOULLOUKIAN, RESPECTFULLY DECLARE AS FOLLOWS:

1. I am now and have been at all times relevant to this Declaration an Active Member of the State Bar of California, Principal and Owner of Koul Law Firm, APC, (“Koul Law Firm”), and Class Counsel of record in these Actions. I make this declaration on the basis of personal firsthand knowledge unless another source of information or belief clearly appears from the context, and as to all such matters I believe them to be true. If called as a witness, I could and would readily and competently testify to all matters stated within.

2. I make this declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class and Representative Action Settlement Agreement.

3. Plaintiff Marvin Kinney (“Kinney”) worked for KINDEVA DRUG DELIVERY, L.P. (“KINDEVA”) as an Operator at its Northridge facility from April 2022 until June 14, 2023.

4. Plaintiff Raul Valdes (“Valdes”) worked for KINDEVA as a Packing Technician from March 2020 until November 2022, also at KINDEVA’s Northridge facility.

5. Plaintiff Kinney filed his PAGA notice letter on May 17, 2023, and filed his Class Action Complaint on May 23, 2023, alleging the following causes of action against Defendant: (1) failure to pay wages, including overtime wages; (2) failure to pay minimum wage; (3) failure to provide timely meal breaks; (4) failure to provide rest breaks and potable water; (5) failure to reimburse for required business expenses; (6) failure to provide accurate itemized wage statements and violations of record keeping requirements; and (7) unlawful and unfair business practices (Bus. & Prof. Code §17200, et. seq.). On July 28, 2023, Kinney filed a separate PAGA complaint.

6. Plaintiff Valdes filed his PAGA letter on August 31, 2023, and filed a separate class action complaint against Defendant on August 31, 2023. On November 6, 2023, Valdes filed his first amended complaint adding his PAGA claims. Counsel for KINDEVA and Plaintiff Valdes have entered into a JPA to jointly prosecute this action on behalf of Plaintiffs, class members, and aggrieved employees. Plaintiffs Kinney and Valdes have been advised and approve of the terms of this agreement in writing. On December 4, 2024, the Parties filed a joint stipulation to permit Plaintiffs to file a consolidated complaint.

1 7. The Parties engaged in meet and confer efforts early in the litigation to explore the
2 facts and circumstances, and later possible resolution of all claims. Prior to mediation, Defendant
3 produced a 30% representative sample of time and payroll records in effect during the class period,
4 which I reviewed extensively along with our retained expert. Defendant also produced Plaintiffs'
5 personnel files, employee handbooks, and relevant policy documents. The Parties arrived at this
6 settlement through arm's length bargaining following extensive analysis of the records produced.
7 On June 25, 2024, the Parties participated in an all-day mediation presided over by Steve Serratore,
8 Esq., which led to this Agreement to settle the Actions.

9 8. The Parties went into mediation willing to explore the potential for a settlement of
10 the dispute, but each side was committed and prepared to litigate its position through trial and
11 appeal if a settlement had not been reached. The proposed settlement was reached at the end of an
12 intense, arms-length negotiation process, in which counsel for all parties advanced their respective
13 positions throughout the settlement negotiations, including each side's strengths and weaknesses
14 pertaining to certification of the classes and a class-wide trial.

15 9. A true and correct copy of the Settlement Agreement is attached to this Declaration
16 as **Exhibit 1**. The proposed Notice is attached as an exhibit to the Settlement. The proposed
17 Settlement Notice will be in English and also translated in Spanish. A true and correct copy of
18 proof of submission of the Settlement to the LWDA is attached as **Exhibit 2**.

19 10. In settlement of this litigation, Defendant has agreed to: (i) pay the maximum
20 settlement amount of \$940,000.00, (ii) allow 100% of the settlement funds to be non-reversionary;
21 (iii) send notice to the putative class concerning the settlement; and (iv) permit class members who
22 wish to exclude themselves or object to the settlement to do so. The Settlement amount, including
23 the class action and PAGA allocations, was based on legal and expert analysis, following extensive
24 negotiation with the assistance of mediator Steve Serratore, Esq. This Settlement defines the class
25 as follows:

26 All persons who are employed or have been employed by Defendant
27 in the State of California as a non-exempt employee at any time
28 within the period beginning May 23, 2019, and ending on the date
 the Court grants Preliminary Approval.

1 The settlement defines Aggrieved Employee as follows:

2
3 A person who is employed or has been employed by Defendant in
4 California as a non-exempt employee at any time within the period
5 beginning May 17, 2019, and ending on the date the Court grants
6 Preliminary Approval.

7 10. I believe that this is an extremely favorable settlement for the affected employees,
8 providing a remedy consistent with what they could expect to receive if we prevailed at trial, but
9 without the lengthy delay and risk of loss that a trial and subsequent appeal would entail. The
10 settlement terms represent a compromise of the parties' disputes and are fair, adequate and
11 reasonable given the risks that both sides faced in the litigation.

12 **Discovery and Investigation**

13 11. Investigation and informal discovery undertaken by both sides was extensive. Prior
14 to mediation, we engaged in substantial meet and confer efforts to discuss the claims and defenses.
15 After agreeing to attend mediation, I requested numerous documents including contracts, policy
16 documents, and time and payroll records in effect during the Class Period. As detailed in paragraph
17 6, above, my co-counsel and I conducted significant research concerning the documents and, with
18 the assistance of a retained expert, analyzed the time records and payroll data to determine
19 Defendant's potential damage exposure. We then used this analysis in conjunction with the
20 anecdotal evidence provided by Plaintiffs to obtain detailed discovery on both liability and
21 damages.

22 **Named Plaintiffs' Role**

23 12. Plaintiffs Marvin Kinney and Raul Valdes have been actively involved in this case
24 since its inception at the pre-filing investigation stage. My co-counsel and I have worked closely
25 with Plaintiffs, and they have spent numerous hours meeting with me and my co-counsel searching
26 for documents, preparing for mediation, and standing by all day for the duration of the mediation.
27 The information provided by Plaintiffs was instrumental in pursuing the wage and hour violations
28 alleged in the Action, and the recovery provided for in the Settlement would have been impossible
to obtain without their willingness to represent the classes. Plaintiffs provided pre-litigation

1 information that helped identify and explain, not only the claims, but also specific common
2 practices among various class members and how they affected them and their co-workers, and
3 were critical in bringing about the Settlement Agreement.

4 13. In the final analysis, this Class and PAGA Action would not have been possible
5 without the aid of Plaintiffs, who put their own time and effort into this litigation and placed
6 themselves at risk for the sake of the class members. Moreover, Plaintiffs' names and personal
7 allegations are memorialized in the Complaint exposing them to potential liability for costs and
8 industry/employer blacklisting. The requested service award of \$20,000 to the named Plaintiffs, is
9 just 2.1% of the total Settlement, and is therefore reasonable to compensate them for their active
10 participation in this lawsuit.

11 **Damage Analysis Supporting Fair and Reasonable Settlement**

12 14. My evaluation of liability, damages exposure, and ultimately a fair and reasonable
13 settlement value was informed by several factors, including: (1) determining Plaintiffs' suitability
14 as the class and PAGA representatives through interviews, background investigations, and analysis
15 of employment records; (2) evaluating all of Plaintiffs' potential claims; (3) researching similar
16 wage and hour class actions as to the claims brought, including the nature of the positions and type
17 of employer; (4) analyzing Defendant's labor policies and practices; (5) analyzing a 30%
18 statistically significant sample of employee time and wage records; (6) researching settlements in
19 similar cases; (7) conducting a discounted valuation analysis; (8) researching and drafting the
20 mediation brief; (9) participating in a full day mediation; and (10) participating in extensive, time-
21 consuming settlement negotiations and numerous revisions to the settlement agreement and
22 exhibits thereto.

23 15. According to Defendant, there are approximately 431 Class Members. With the
24 assistance of a retained forensic expert, my co-counsel and I analyzed the voluminous time and
25 pay data provided by Defendant in anticipation of mediation to arrive at a damages model. We
26 calculated Defendant's potential maximum exposure and reasonable settlement value as detailed
27 by the following analysis:
28

1 **a. Underpaid Wages**

2 Plaintiffs allege that they and their coworkers frequently worked off the clock. For
3 example, Plaintiffs describe having to badge through multiple layers of security checks in order to
4 enter the administrative building to clock in, taking up to 10 minutes per shift. Plaintiffs also allege
5 that Defendant misclassified certain earnings on wage statements, excluding the wages from the
6 regular rate calculation.

7 Defendant disputes these allegations in multiple ways. First, Defendant argued that pre-
8 shift walk time through security and into the building is not compensable time under the
9 employer's control and cannot be categorized as hours worked, particularly in view of California's
10 Supreme Court decision in *Huerta v. CSI Electrical Contractors, Inc.*, (2024) 15 Cal. 5th 90, in
11 which the court recognized that security processes like those at Defendant's facility which include
12 only "flashing an identification card" or "scanning a card in order to [enter a facility]" do not
13 qualify as compensable time. Second, Defendant argued that, even if the time in question was
14 compensable, Plaintiff was overstating the off the clock time, particularly given the policies and
15 practices that Defendant implements to ensure all time is reported, recorded, and paid.
16 Unfortunately, there are no records recording this alleged off the clock time so this claim would
17 be dependent upon individual testimony and damages may differ among employees.

18 Given the variation in walk-time and security check time, Plaintiffs' expert assumed 10
19 minutes per shift, resulting in a maximum possible 31,226 off the clock hours worked at an average
20 of \$30.74 per hour. Plaintiffs' expert determined that 87.7% of the time would be paid at the
21 employee's overtime rate. This results in maximum possible damages for off the clock work of
22 \$1,381,983. Considering the challenges in certifying this claim and maintaining certification
23 through trial, in addition to the defenses above, a reasonable settlement value would reflect a 50%
24 discount for the off the clock portion of this claim resulting in a reasonable estimated claim value
25 of \$69,099.

26 Regarding Plaintiffs' claim that overtime rates, sick pay, and meal premium pay were
27 miscalculated, maximum possible damages amount to \$60,102 (\$22,725 in underpaid overtime,
28 \$3,164 underpaid meal premiums, and \$34,213 in underpaid sick pay). Defendant argued that it

1 correctly included all required compensation in the regular rate calculation and that the additional
2 compensation Plaintiffs allege was excluded was discretionary. Class Counsel determined it was
3 appropriate to apply a 20% discount to the regular rate claims, resulting in a realistic claim value
4 of \$48,081.

5 Finally, Plaintiffs allege that Defendant failed to pay reporting time wages and accrued
6 vacation wages. However, Plaintiffs' expert determined that approximately 0.5% of shifts were
7 shorter than two hours, and that in those instances Defendant paid "guaranteed" hours which
8 appeared to satisfy the reporting time pay requirements. Regarding unpaid accrued vacation wages,
9 Plaintiffs' expert determined that of the 39 employees in the 30% sample who appear terminated,
10 25 had vacation paid in the last month of their employment, making it unlikely that accrued
11 vacation remained owing following termination. This is in line with Defendant's facially compliant
12 vacation pay policies. Additionally, given that it is difficult to obtain information concerning
13 employees' accrual and use of vacation throughout their entire tenure, it is difficult to determine
14 whether there actually were any unpaid vacation wages. This renders this claim difficult to certify.
15 Accordingly, Class Counsel did not allocate significant damages to these claims due to the lack of
16 evidence supporting liability and damages.

17 **b. Meal Breaks**

18 Plaintiffs allege that Defendant's records show 26,164 meal period violations. Defendant
19 argued that its employees signed meal period waivers, and that when taking meal period waivers
20 into consideration, there are only 4,806 alleged violations, resulting in a low 2.7% violation rate.
21 Defendant further argued that it paid 7,130 meal premium payments. Defendant further argued
22 that this claim is subject to individualized proof and that it will be difficult to prove that each meal
23 period violation is the fault of Defendant. According to Plaintiffs' expert, based on the data
24 Defendant owes a maximum possible \$582,699 in unpaid meal premiums during the Class Period.
25 Given the challenges of certifying this claim and maintaining certification through trial, in addition
26 to Defendant's arguments that it had compliant policies and practices, Class Counsel determined
27 it was appropriate to discount this amount by 50% to a more realistic claim value of \$291,349.50.
28

1 **c. Rest Periods**

2 Plaintiffs allege that rest breaks were noncompliant and under ten minutes in length
3 because of the walk time from their workstations to the break area. Plaintiffs also allege frequently
4 taking late rest periods, and often having their first rest period and meal period within the same
5 hour. Plaintiffs further alleged that rest breaks were noncompliant because Defendant allegedly
6 failed to provide its employees with adequate seating and potable drinking water. Based on Class
7 Counsel's investigation and anticipated testimony, Plaintiffs' expert assumed a violation rate of
8 20%, resulting in maximum underpaid rest premiums of \$1,149,292. Defendant argued that
9 individual reasons regarding whether or why an employee took a noncompliant rest break would
10 be a barrier to class certification. Recovery of this amount is unrealistic given the difficulties in
11 certifying a rest break claim, and Defendant may effectively argue that whether or not an employee
12 chose to take a rest period, or the individual reasons why a rest period was missed is subject to
13 individualized proof. Defendant also argued that it had compliant rest break policies, and it is
14 possible that without certifying this claim, employees might recover zero for allegedly missed rest
15 breaks. Accordingly, it is appropriate to discount this amount by 80% to a more realistic damages
16 estimate of \$229,858.40.

17 **d. Unreimbursed Business Expenses**

18 Plaintiffs allege that Defendant required its employees to use their personal cell phone to
19 authenticate their identity to gain access to the online computer system, but did not reimburse its
20 employees for this expense. In addition to the phone and cell service expenses, Plaintiffs allege
21 that employees were required to purchase supplies and apparel required for work. Assuming \$25
22 per month in unreimbursed expenses, maximum damages amount to \$259,125. Defendant argued
23 that Defendant did not require employees to use their phones while on the job. Defendant further
24 argued that this claim would require individualized proof as the items allegedly purchased by
25 employees for work purposes varied. Defendant further argued that it had procedures in place for
26 employees to request reimbursement, and that any failure to obtain reimbursement was the fault
27 of the employee. Understanding the risks associated with certifying and proving this claim, Class
28

Counsel determined it is appropriate to discount this amount by 75% to a more realistic damages estimate of \$64,781.25.

e. Wage Statement and Waiting Time Penalties

Plaintiffs allege that derivative of the unlawful acts and practices alleged above, Defendant failed to furnish accurate wage statements to Plaintiffs and Class Members. According to Plaintiffs' expert, wage statement penalties for 326 employees from May 23, 2022, through June 25, 2024, amount to a maximum of \$960,700. Defendant argued that Plaintiffs' claims are derivative and therefore dependent on the success of the underlying claims. Accordingly, this claim is subject to a substantial 75% discount to arrive at a realistic settlement value of \$240,175.

Waiting time penalties for 128 terminated employees beginning May 23, 2020, amount to a maximum of \$990,098. Similar to Plaintiff's wage statement claim, this claim for waiting time penalties is also derivative and therefore dependent on the success of the underlying claims and thus subject to a 50% discount to arrive at a realistic settlement value of \$495,0

f. Summary of Class Damages Analysis

Based on the analysis above, the maximum possible recovery for Plaintiffs' class claims, excluding PAGA, amounts to \$4,140,214, including unpaid wages assuming 10 minutes of off the clock work per shift (\$138,198), underpaid overtime due to regular rate miscalculation (\$22,725), underpaid meal premiums due to regular rate miscalculation (\$3,164), underpaid sick pay due to regular rate miscalculation (\$34,213), meal break premiums based on facial violations (\$582,699), rest break premiums presuming 20% of breaks were not noncompliant (\$1,149,292), business-expenses reimbursements (\$259,125), waiting time penalties (\$990,098), and wage statement penalties (\$960,700). This presumes that the Court first certifies a class for all claims asserted, and then following a trial determines that Plaintiffs and the class are entitled to a full 10 minutes of unpaid hours worked each shift and agrees that each alleged missed meal and rest period was the fault of Defendant. However, as discussed above, the reasonable discounted settlement value of class claims utilizing the discounts discussed above amounts to a total of \$1,373,612.50, excluding PAGA. The settlement reached on the class claims amounts to 68.4% ($\$940,000 / \$1,373,612.50 = 0.684$) of the discounted realistic recovery, but without the risks and delay of continued litigation.

h. PAGA Penalties Analysis

Plaintiffs allege that Defendant is liable for PAGA penalties based on the violations discussed above. In informal discovery, Defendant disclosed that there were approximately 11,752 pay periods during the PAGA Period as of the date of mediation. The Parties chose to allocate \$50,000 of the settlement to Plaintiffs' PAGA Claim. Because PAGA Aggrieved Employees are a subset of the Class, allocating a greater percentage of funds to class claims results in higher payments to the employees affected by this Settlement. The maximum PAGA penalties for any individual claim are \$1,175,200 at the \$100/\$100 initial violation rate, which was used to calculate damages because there is no evidence that Defendant has previously been cited for the violations alleged in this case. Any award exceeding this amount would require the Court to stack PAGA penalties, assessing a penalty for more than one Labor Code violation per pay period, which is unrealistic given the broad discretion afforded courts in awarding penalties. In light of all considerations, the Parties' allocation of \$50,000 to Plaintiffs' PAGA Claim is reasonable.

Loss at Trial

16. Although confident that any trial would be meritorious and successful, I am not blind to the significant risk of losing such a trial, including the enormous costs, and potentially the hurdle that must be overcome on appeal: an abuse of discretion standard. I have a thorough understanding of the practical and legal issues my clients and the classes would continue to face litigating this matter, and Defendant mounted a vigorous defense.

17. The Parties attended mediation on June 25, 2024, with Steve Serratore, Esq., a prominent well-respected wage and hour mediator. At mediation, each Party came armed with expert reports and Defendant raised compelling arguments.

18. Defendant raised numerous arguments regarding the labor code violations as detailed above. Furthermore, PAGA claims are discretionary and, thus, uncertain. There is a substantial risk that the Court could reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiffs' evidence that Defendant intentionally violated the law. These uncertainties increase Plaintiffs' risk of pursuing the PAGA claims and required a significant discount for settlement purposes.

19. Considering the strength of Plaintiffs' claims and Defendant's defenses, my co-counsel and I determined that a recovery of \$940,000.00 for the claims asserted in this Action is fair and reasonable under the circumstances.

Qualifications

20. I received a B. A. in Communication Studies in 2005 from UCLA. I received my J.D. from University of Maryland School of Law in 2008. I became an Active Member of the State Bar of California in June 2009, and have been an Active Member in good standing continuously since then. I am a current member of the California Employment Lawyers Association (CELA). I have also been named as one of the Rising Stars for the Super Lawyers of Southern California during 2016, 2017, and 2018.

21. I founded Koul Law Firm in 2017. Prior to starting Koul Law Firm, I was a Senior Associate at Joseph Farzam Law Firm, which was founded in 2002, and where I worked from 2013 through to the end of 2016.

22. During the approximately fifteen years since I began practicing law, I have built my practice to have a heavy emphasis on employment and related litigation. I have been heavily, successfully, and continuously involved in active litigation and trial work, including without limitation, wage and hour class action litigation, employees' rights, civil rights, discrimination, and sexual harassment claims, and other forms of employment litigation.

23. During my time at Farzam Law Firm, and currently with Koul Law Firm, I have litigated hundreds of cases against the largest firms in the country. Because of the unique history and nature of my practice, I operate with a high level of knowledge and experience in areas of wage and hour class actions, and labor and employment law. Currently, more than half of my active caseload includes wage and hour class action cases.

24. My office is qualified to handle this litigation because we are experienced in litigating Labor Code violations in both individual and class actions. I have served as lead counsel in numerous wage and hour class actions, and have successfully negotiated several settlements, including multiple six and seven-figure cases, amounting to millions of dollars in settlements. Of Counsel to Koul Law Firm, Hilary Silvia, has actively participated in this litigation since the outset.

Ms. Silvia has 20 years of practice experience. Ms. Silvia received a B.B.A. in Business Management and a second major in Philosophy from the University of Notre Dame in 2000, and a J.D. from Loyola University, Chicago, in 2003. She became a member of the Illinois State Bar in 2003 (currently inactive) and a member of the California Bar in 2005. She has been practicing plaintiff-side wage and hour class action litigation since 2008 and, in addition to her law practice, is currently a tenured professor of business law at Calif. State University, Northridge. Ms. Silvia is a published academic author, law and motion specialist, and recognized expert in the wage theft arena.

25. I am currently counsel for over twenty class and PAGA matters pending in state and federal court across the state of California. Below is a representative sample of cases wherein I was recently appointed class counsel for cases certified final approval and/or PAGA counsel for approved PAGA settlements:

- ESTELA MONTIJO v. CENTRAL VALLEY LABOR (Case No. 18-CV-03456) in Merced County Superior Court: In Montijo, the Court approved final approval of myself as lead class counsel representing a class of approximately 858 employees for wage and hour violations.
- ELIZABETH PARTIDA v. STATER BROS. MARKETS (Case No. CIVDS1828290) in San Bernardino Superior Court: In Partida, the Court granted preliminary approval on February 4, 2020, for a wage and hour violations on behalf of approximately 1,291 class members.
- RIGOBERTO SANDOVAL v. NOVITEX ENTERPRISE SOLUTIONS, INC. (Case No. BC702200) in Los Angeles County Superior Court: In Sandoval, the Court approved a representative action for wage and hour violations on behalf of 971 aggrieved employees.
- FRANCISCO CISNEROS & ARMONDO ORTIZ v. LAZY DOG RESTAURANTS, LLC (Case No. 56-2017-00501824-CU-OE-VTA) in Ventura County Superior Court: In Cisneros, the Court approved a representative action for wage and hour violations on behalf of approximately 6,927 aggrieved employees.

- EDUARDO MARQUEZ & BEATRIZ MARQUEZ v. THREE SONS, INC. DBA AMERICAN MEAT COMPANIES, ET AL. (Case No. BC701526) in Los Angeles Superior Court: In Marquez, the Court approved final approval of myself as lead class counsel representing a class of approximately 249 employees for wage and hour violations.
- JOSE ESTRADA v. BURLINGAME INDUSTRIES, ET. AL. (Case No. CIVDS1712815 - Consolidated with Case No. CIVDS1805057) in San Bernardino Superior Court: In Estrada, I was lead class counsel representing a class of approximately 740 employees for wage and hour violations.
- LUIS AVILA v. AL DAHRA ACX, INC., ET. AL. (Case No. BC685992) in Los Angeles Superior Court: In Avila, I was preliminarily approved as lead class counsel representing a class of approximately 280 employees for wage and hour violations.
- ARMANDO M. BARRETO v. ETIVISTA CONCRETE, ET. AL. (Case No. CIVDS1712018) in San Bernardino Superior Court: In Barreto, I was lead class counsel representing a class of approximately 800 employees for wage and hour violations.
- DIAZ/JONES v. THE ENSIGN GROUP, INC. ET. AL. (Case No. 19STCV21041) Los Angeles Superior Court: In Diaz/Jones I was lead class counsel representing a class of approximately 240 employees for wage and hour violations.
- BALDWIN v. FLEXCARE LLC, ET. AL. (Case No. 34-2020-00289550-CU-OE-GDS) in Sacramento Superior Court: In Baldwin, I was appointed class counsel representing class of 4,741 employees for wage and hour violations.
- CASEMENT v. SOLIANT, ET. AL. (KSC Case No. BCV-19-102213) a class action filed on behalf of healthcare workers alleging labor code violations.
- TERRY v. SOLIANT, ET. AL. (LASC Case No. 20STCV34826) a PAGA only action filed on behalf of healthcare workers alleging labor code violations.
- LEWIS v. AUREUS MEDICAL GROUP, INC. (Orange County Case No. 30-2020-01150700-CU-OE-CXC) a class and PAGA action filed on behalf of hourly healthcare workers.

- DOMINGUEZ v. COMMUNITY VETERINARY CLINICS, LLC, ET AL. (LASC Case No. 20STCV34601) a class and PAGA action filed on behalf of 820 hourly employees alleging labor code violations.
- WOEHRLE v. AMN SERVICES, LLC, ET AL. (LASC Case No. 19STCV15213) a class, FLSA collective, and PAGA action filed on behalf of 2,272 California Class Members, 15,226 FLSA collective members, and 8,494 aggrieved employees, all healthcare workers alleging wage and hour violations.
- ORTEGA v. MICHAEL L. MANNA RANCH, INC., (San Joaquin Superior Court Case No. STK-CV-UOE-2021-5442), a class and PAGA action filed on behalf of over 1,000 field laborers alleging wage and hour violations.
- THOMAS v. PLATINUM EMPIRE GROUP, INC. (Case No. 21-CIV-00277) in San Mateo Superior Court, a class and PAGA action filed on behalf of 1,400 hourly healthcare workers.
- BROWN v. TEMPUS, LLC (Case No. 22STCV27967) in Los Angeles Superior Court, a PAGA action filed on behalf of 1,500 healthcare workers.
- MCCRARY v. SCOOT EDUCATION, INC. (Case No. 22STCV29832) in Los Angeles Superior Court, a PAGA action filed on behalf of 3,400 hourly education workers.
- MEJIA v. THE ANTI-RECIDIVISM COALITION (Case No. 22STCV333021) in Los Angeles Superior Court, a class and PAGA action on behalf of 248 hourly workers.
- ZARAZUA v. INDUSTRIAL CLERICAL RECRUITERS, INC., et al., (Case No. CIVSB2126751) San Bernardino Superior Court, a class and PAGA action on behalf of 6,353 workers.

26. My prior firm, Farzam Law Firm, had a number of cases where my partner and I served as lead class counsel in a practice consisting predominately of trial work. I have successfully represented clients in over 60 cases filed in federal court, as well as in over 300 matters filed in California Superior Court. My adequacy to serve as Class Counsel is not contested.

27. I have incurred significant out-of-pocket expenses to date, including filing fees, mediation, expert fees, and the cost of informal discovery and investigation. I anticipate additional

costs between now and final approval. Concerning the cost of claims administration, prior to selecting ILYM Group, Inc., I requested and received bids from numerous administrators. ILYM submitted the lowest and most competitive bid. ILYM has an excellent reputation and Defense counsel, and Class Counsel agreed to use ILYM here.

28. Because most individuals cannot afford to pay for representation in litigation on an hourly basis, Koul Law Firm represents virtually all its employment law clients on a contingency fee basis. Pursuant to this arrangement, we are not compensated for our time and costs unless we prevail at trial or successfully settle our clients' cases. Because Koul Law Firm is taking the risk that we will not be reimbursed for our time and costs unless our client settles or wins his or her case, we cannot afford to represent an individual employee on a contingency basis if, at the end of our representation, all we are to receive is our regular hourly rate for services. It is essential that we recover more than our regular hourly rate when we win if we are to remain in practice to be able to continue representing other individuals in civil rights employment disputes.

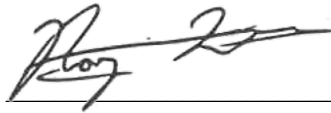
29. I believe that the fee and costs provision is reasonable. The fee percentage requested is less than the usual customary percentage fee for most employment cases. Moreover, the efforts of my office have resulted in substantial benefits to the class members, in the form of a substantial settlement fund established to compensate settlement class members for unpaid overtime and the other wage and hour violations noted above. I am informed and believe that, without the efforts of my office, the Labor Code and Wage Order violations alleged in the Complaint would have gone completely unremedied. The requested fee award, i.e. 33.33% of Settlement Amount, and cost award provided for in the Settlement are reasonable given the result achieved.

30. As a result of my prior experience as class counsel in other class actions, I am fully aware of the responsibilities I would owe as Class Counsel to the Class. I am not aware of any conflict of interest between myself, on the one hand, and Plaintiffs or any other Class Member or Aggrieved Employee on the other hand, which would interfere with my duties as Class Counsel or impede my representation of the proposed class. I have no conflicts with any class members, aggrieved employees, or the settlement administrator ILYM Group, Inc.

1 31. For all the reasons provided above, I respectfully request that this Court grant
2 preliminary approval of the proposed settlement and certification of the provisional settlement
3 class.

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

6 Executed on December 11, 2024, at Los Angeles, California.

7
8 

9 Nazo Koulloukian
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

1. This Class Action Settlement Agreement and Release (the “Settlement Agreement,” “Settlement,” or “Agreement”) is entered into between Plaintiffs Marvin Kinney (“Kinney”) and Raul Valdes (“Valdes”), individually and on behalf of all other similarly situated persons, and Defendant Kindeva Drug Delivery, L.P. (“Defendant”), subject to the approval of the Court. Plaintiffs and Defendant are collectively referred to as the “Parties.”

DEFINITIONS

2. The following terms used in this Settlement Agreement shall have the meanings ascribed to them below:

a. “Actions” means collectively the Kinney Class Action, Kinney PAGA Action, Valdes Class and PAGA Action, and the Consolidated Kinney Class Action as set forth in Paragraph 12 below.

b. “Aggrieved Employees” means all persons who are employed or have been employed by Defendant in the State of California as a non-exempt employee at any time within the period beginning May 17, 2022 and ending on the date the Court grants Preliminary Approval.

c. “Class” or “Class Members” or “Members of the Class” means all persons who are employed or have been employed by Defendant in the State of California as a non-exempt employee at any time within the Class Period.

d. “Class Counsel” means Koul Law Firm, APC, and Haines Law Group, APC.

e. “Class Counsel’s Costs” refers to the actual amount of reasonable litigation expenses Class Counsel incurred in connection with the Actions, including their pre-filing investigation, their filing of the Actions and all related litigation activities, and all post-Settlement compliance procedures.

f. “Class List” means an electronic database containing a list of Class Members that Defendant will compile from its records. The Class List shall include: each Class Member’s: (1) full name; (2) last known address; (3) last known telephone number (if any); and (4) Social Security number or tax ID number. The Class List shall also include: (5) the total number of workweeks that each Class Member worked in the state of California during the Class Period; and (6) the total number of workweeks that Aggrieved Employees worked in the state of California during the PAGA Period. The total number of workweeks may be determined by reference to weeks worked as reflected in timekeeping, payroll, and/or other records.

g. “Class Period” shall mean May 23, 2019 through the date the Court grants Preliminary Approval.

h. “Costs Award” means the award of attorneys’ costs that the Court authorizes to be paid to Class Counsel for the costs they advanced to Named Plaintiffs and the

Class in the Actions. Defendant agrees not to oppose Class Counsel's request for a Costs Award up to \$30,000.00.

i. "Court" means the Superior Court of the State of California for the County of Los Angeles.

j. "Defendant" means Kindeva Drug Delivery, L.P.

k. "Defendant's Counsel" means Constangy, Brooks, Smith & Prophete LLP.

l. "Effective" or "Effective Date" means ten (10) calendar days after the Settlement becomes Final, as set forth in Paragraph 2.n.

m. "Fee Award" means the award of attorneys' fees that the Court authorizes to be paid to Class Counsel for the services they rendered to Named Plaintiffs and the Class in the Actions. Class Counsel will not seek more than one-third, i.e., thirty-three and a third percent (33 1/3%) of the Gross Settlement Amount as their Fee Award.

n. "Final" shall mean the later of: (a) the date which is sixty-five (65) calendar days after Notice of Entry of the Final Approval Order, as defined in Paragraph 2.o, and no appeal, motion, objection, or petition to review or intervene has been taken with respect to the Final Approval Order and all times to appeal, move, object, or petition to review or intervene therefrom have expired, or (b) if an appeal, motion or petition to intervene or other review proceeding of the Final Approval Order has been commenced, the date such appeal, motion, objection, or petition to review or intervene or other review is finally concluded and no longer is subject to review by any court, whether by appeal, petitions for rehearing or re-argument, petitions for rehearing en banc, petitions for writ of certiorari or otherwise, and such appeal or other review has been finally resolved in such manner that affirms the Final Approval Order in its entirety.

o. "Final Approval" or "Final Approval Order" means the Court's Final Approval Order approving the Settlement and entering judgment.

p. "Final Approval Hearing" means the hearing to be held by the Court to consider the Final Approval of the Settlement.

q. "Gross Settlement Amount" means the maximum non-reversionary total amount that Defendant shall pay in connection with this Settlement in exchange for the release of the Released Claims. The Gross Settlement Amount is the gross sum of Nine Hundred and Forty Thousand Dollars (\$940,000.00). The Gross Settlement Amount includes: (a) all Settlement Awards to Participating Individuals; (b) the PAGA Payment; (c) Named Plaintiffs' Service Awards; (d) Fee Award and Costs Award; and (e) Settlement Administrator Costs. The Parties agree that Defendant will have no obligation to pay any amount in connection with this Settlement Agreement apart from the Gross Settlement Amount and Defendant's employer's portion of payroll taxes on Settlement Awards to Participating Individuals. There will be no reversion.

r. “Kinney Class Action” means the action *Marvin Kinney v. Kindeva Drug Delivery L.P.*, Los Angeles County Superior Court Case No. 23STCV11677, including any and all complaints filed, any amended complaint necessary to effectuate release of the Released Claims, and the Operative Complaint as referenced in Paragraph 13 below.

s. “Kinney PAGA Action” means the action *Marvin Kinney v. Kindeva Drug Delivery L.P.*, Los Angeles County Superior Court Case No. 23STCV17839, including any and all complaints and any amended complaint necessary to effectuate release of the Released Claims, the Operative Complaint as referenced in Paragraph 13 below, any and all related letters to the LWDA, including but not limited to the letter to the LWDA dated May 17, 2023, any amended letters necessary to effectuate release of the Released Claims, and the Amended PAGA Letter as referenced in Paragraph 13 below.

t. “Named Plaintiffs” means Marvin Kinney, Jr. and Raul Valdes, collectively. “Named Plaintiff Kinney” or “Kinney” means Marvin Kinney, Jr. “Named Plaintiff Valdes” or “Valdes” means Raul Valdes.

u. “Net PAGA Amount” means the twenty-five percent (25%) of the PAGA Payment payable to the Aggrieved Employees, or \$12,500.

v. “Net Settlement Amount” means the Gross Settlement Amount less: (i) Named Plaintiffs’ Service Award; (ii) Class Counsel’s Fee Award; (iii) Class Counsel’s Costs Award; (iv) Settlement Administrator Costs; and (v) the PAGA Payment. The Parties acknowledge that all of these amounts are subject to the Court’s approval.

w. “Notice Deadline” means the date forty-five (45) calendar days after the Settlement Notice is initially mailed to the Class. Class Members shall have until the Notice Deadline to object to or opt-out of the Settlement, or submit a workweek dispute.

x. “PAGA Payment” means the amount of the Gross Settlement Amount allocated to settle all claims and remedies under the Private Attorneys’ General Act, California Labor Code sections 2698, et seq. (“PAGA”). The PAGA Payment shall be \$50,000, or an amount to be approved by the Court, of which 75%, or \$37,500, shall be paid to the LWDA out of the Gross Settlement Amount and 25%, or \$12,500, shall be paid to the Aggrieved Employees out of the Gross Settlement Amount.

y. “PAGA Period” means the period from May 17, 2022 through the date the Court grants Preliminary Approval.

z. “Participating Individual(s)” means (a) any Class Member(s) who do not submit a valid letter requesting to be excluded from the Settlement, consistent with the terms set forth in this Settlement Agreement and (b) all Aggrieved Employees. All Participating Individuals will be bound by all terms and conditions of the Settlement Agreement, including the release of the Class Released Claims and PAGA Released Claims (as set forth in Paragraphs 17 and 18).

aa. “Preliminary Approval” or “Preliminary Approval Order” means the Court’s Preliminary Approval Order preliminarily approving the terms and conditions of this Settlement Agreement.

bb. “Released Claims” means Class Released Claims (as set forth in Paragraph 17) and PAGA Released Claims (as set forth in Paragraph 18) and Named Plaintiff Kinney’s Released Claims (as set forth in Paragraph 19) and Named Plaintiff Valdes’ Released Claims (as set forth in Paragraph 20).

cc. “Released Parties” means Defendant and any of its past, present, and future parents, affiliates, subsidiaries, divisions, joint employers, predecessors, successors, and assigns, and each of their officers, directors, board members, trustees, owners, shareholders, employees, agents, attorneys, auditors, accountants, experts, contractors, stockholders, representatives, partners, insurers, and reinsurers, and other persons acting on their behalf, as well as any individual or entity that could be liable for any of the Released Claims.

dd. “Service Award” means the payment to the Named Plaintiffs for their efforts in bringing and prosecuting the cases against the Defendant. The Service Award will not exceed the following amount: Ten Thousand Dollars (\$10,000.00) for each Named Plaintiff, i.e., the gross amount of Twenty Thousand Dollars (\$20,000.00).

ee. “Settlement Administrator” means ILYM Group, Inc., the third-party class action settlement administrator that will handle the administration of this Settlement, subject to approval by the Court.

ff. “Settlement Administrator Costs” refer to the costs the Settlement Administrator will incur to distribute the Settlement Notice to Class Members and to distribute the Settlement Awards to Participating Individuals, including translation of the Settlement Notice, which are estimated to be less than \$9,000.

gg. “Settlement Award” means the payment that each Class Member shall be entitled to receive pursuant to the terms of this Settlement Agreement.

hh. “Settlement Notice” means the Notice of Class Action Settlement to be issued to Class Members, including Aggrieved Employees and the Named Plaintiffs, an example of which is attached hereto as **Exhibit 1**, or as approved by the Court.

ii. “Valdes Class and PAGA Action” means the action *Raul Valdes v. Kindeva Drug Delivery L.P.*, Los Angeles County Superior Court Case No. 23STCV21051, including any and all complaints, any amended complaint necessary to effectuate release of the Released Claims, the Operative Complaint as referenced in Paragraph 13 below, any and all related letters to the LWDA, any amended letters necessary to effectuate release of the Released Claims, and the Amended PAGA Letter as referenced in Paragraph 13 below.

jj. “Valdes PAGA Letter” means the letter to the LWDA dated August 31, 2023, and any and all related letters to the LWDA and any amended letters necessary to effectuate release of the Released Claims, and the Amended PAGA Letter as referenced in Paragraph 13 below.

RECITALS

1. Named Plaintiffs are former employees of Defendant Kindeva Drug Delivery, L.P. Named Plaintiff Kinney was employed from April 4, 2022 to June 14, 2023. Named Plaintiff Valdes was employed from March 16, 2020 to November 15, 2022.

2. On May 23, 2023, Kinney filed the Kinney Class Action in the Los Angeles County Superior Court, asserting claims under the California Labor Code and Unfair Competition Law.

3. Kinney filed a separate Kinney PAGA Action against Defendant on July 28, 2023, in the Superior Court of California, County of Los Angeles, to assert additional claims for penalties under PAGA arising from alleged violations of the California Labor Code. Named Plaintiff Kinney released any and all individual claims except those alleged in the Kinney Class Action and Kinney PAGA Action in a confidential settlement agreement dated January 11, 2024.

4. On August 31, 2023, Valdes filed the Valdes Class and PAGA Action against Kindeva Drug Delivery, L.P. in the Los Angeles County Superior Court, asserting claims under the California Labor Code and Unfair Competition Law.

5. On August 31, 2023, Valdes sent the Valdes PAGA Letter to the Labor and Workforce Development Agency (LWDA) alleging claims that are identical to his class claims. On November 6, 2023, Valdes filed a First Amended Complaint in the Valdes Class and PAGA Action adding a cause of action for Civil Penalties under the Private Attorneys General Act based on the allegations in the Valdes PAGA Letter.

6. The Parties agreed to attempt to resolve the Actions through mediation with mediator Steve Serratore. To allow the Parties to focus their efforts on mediation preparation, the Parties agreed to stay all formal discovery in the Actions.

7. On June 25, 2024, the Parties participated in a full-day mediation before mediator Steve Serratore. The Parties thereafter negotiated the specific terms of this Settlement and have agreed to settle all pending claims as provided in this Settlement Agreement.

8. Class Counsel has made a thorough and independent investigation of the facts and law relating to the allegations in the Actions and of other potential claims that could have been asserted in the Actions, including those for meal and rest period violations and waiting time penalties. In agreeing to this Settlement Agreement, Named Plaintiffs have considered: (a) the facts developed during pre-mediation, informal discovery and the Parties' mediation process and the law applicable thereto; (b) the attendant risks of continued litigation and the uncertainty of the outcome of the claims alleged against the Released Parties; and (c) the desirability of consummating this Settlement according to the terms of this Settlement Agreement. Named Plaintiffs have concluded that the terms of this Settlement are fair, reasonable and adequate, and that it is in the best interests of the Class to settle their claims against the Released Parties pursuant to the terms set forth herein.

9. Defendant denies all claims as to liability, damages, penalties, interest, fees, and all other forms of relief, as well as deny the allegations asserted in the Actions. Defendant has agreed to resolve the Actions via this Settlement, but to the extent this Settlement Agreement is deemed

void or the Effective Date does not occur, Defendant does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations in the Actions upon all procedural, merits, and factual grounds, including, without limitation, the ability to challenge class and/or representative action treatment on any grounds, as well as asserting any and all other privileges and potential defenses. This Settlement Agreement shall not be construed as an admission by Defendant or any of the Released Parties of any fault, liability or wrongdoing, which Defendant expressly denies.

10. The Parties recognize that Court approval of this Settlement is required to effectuate the Settlement, and that the Settlement will not become operative until the Court grants Final Approval of it and the Settlement Effective Date occurs.

11. The Parties have stipulated to certification of the Class for settlement purposes only and this Settlement Agreement requires Preliminary Approval and Final Approval by the Court. Accordingly, this Settlement Agreement is contingent upon the approval and certification by the Court. If the Court does not grant Preliminary Approval or Final Approval of the Settlement, the fact that the Parties were willing to stipulate to class certification for the purposes of this Settlement Agreement shall have no bearing on, nor be admissible in connection with, the issues of whether any class should be certified or whether it is appropriate for any claims to proceed on a representative basis. Defendant expressly reserves the right to challenge the propriety of class certification for any purpose if the Settlement does not become final. Defendant denies that class action treatment is appropriate in the litigation context or for trial or that it is appropriate to proceed on a representative basis in the litigation context or for trial.

12. The Parties stipulate and agree that for settlement purposes only, the Parties shall file a stipulation in the Kinney Class Action, the Kinney PAGA Action, and the Valdes Class and PAGA Action to consolidate the Actions under the Kinney Class Action pending approval of this Settlement (the “Consolidated Kinney Class Action”). In the event that any of the stipulated requests for consolidation is not granted by the Court, the Parties stipulate and agree that for settlement purposes only, the Parties shall meet and confer regarding a process for approval that is acceptable to and maintains all Parties in the same position as prior to the Settlement. In the event the Settlement is not approved, the Parties agree that the Parties shall be placed in the same position as they were in immediately prior to the Settlement. These agreements will be effectuated through stipulations to be filed with the Court as appropriate.

13. The Parties stipulate and agree that for settlement purposes only, following consolidation of the Actions under the Kinney Class Action and prior to seeking preliminary approval of this Settlement Agreement, to the prompt filing of a Consolidated Amended Class Action and PAGA Complaint in the Consolidated Kinney Class Action (“Operative Complaint”) after execution of this Settlement Agreement that consolidates the claims, legal allegations, and factual allegations pled in the Actions, and to assert additional claims, legal allegations, and factual allegations necessary to effectuate the Released Claims in this Settlement Agreement. The Operative Complaint will be in the form attached hereto as **Exhibit 2**. The Parties stipulate and agree that for settlement purposes only, Defendant consents to the filing of the Operative Complaint and to personal and subject matter jurisdiction in the Court. The Parties further stipulate and agree that, prior to filing the Operative Complaint, Named Plaintiffs shall file an amended PAGA letter(s) (“Amended PAGA Letter”) to the LWDA consistent with this Settlement

Agreement to effectuate this Settlement Agreement and the Released Claims in Paragraphs 17 and 18. The Amended PAGA Letter will be in the form attached hereto as **Exhibit 3**. The Settlement is expressly conditioned upon the approval by all Parties of the Operative Complaint and Amended PAGA Letter.

14. This Settlement is conditioned on the consolidation of the Kinney PAGA action and the Valdes Class and PAGA Action under the Kinney Class Action, and the release of the Released Claims. If the Court does not approve this Settlement, the Parties shall meet and confer to make reasonable efforts to obtain approval of this Settlement and secure a release of the claims against the Released Parties in the Operative Complaint in the Consolidated Kinney Class Action. Defendant shall not be required under any circumstances to increase or pay more than the Gross Settlement Amount, except as provided in Paragraph 35 below. If the Parties cannot obtain judicial approval of this Settlement and secure a release of the claims against the Released Parties in the Consolidated Kinney Class Action, this Settlement Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used in the Actions or any other legal proceeding.

15. In the event the Settlement is not approved, the Parties agree that the Parties shall be placed in the same position as they were in immediately prior to execution of this Settlement Agreement.

16. In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, IT IS HEREBY AGREED, by and between the undersigned, subject to Final Approval of the Court and the other conditions set forth herein, that Named Plaintiffs' and the Participating Individuals' claims as described herein against the Released Parties shall be settled, compromised, and that the Released Claims shall be finally and fully compromised and settled as to the Released Parties in the manner and upon the terms and conditions set forth below.

RELEASES

In exchange for the consideration set forth in this Settlement Agreement, Named Plaintiffs, on behalf of the LWDA, Aggrieved Employees, and Participating Individuals agree to release all claims against the Released Parties as set forth herein as applicable.

17. **Class Released Claims.** Upon final approval of this Settlement Agreement and upon the complete funding of the Gross Settlement Amount, Named Plaintiffs on their own behalf and as the class representatives, all Class Members who did not opt out of this Settlement by filing a timely, valid request for exclusion from the class, and all persons purporting to act on their behalf, including, but not limited to, their dependents, attorneys, heirs and assigns, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and successors-in-interest, whether in their individual, class, representative, legal, equitable, direct or indirect capacity, or in any other capacity (collectively, the "Releasing Parties") hereby forever completely and irrevocably release and discharge Released Parties, from any and all causes of action, claims, rights, damages, liquidated damages, premiums, wages, compensation, reimbursement, statutory damages, penalties, liabilities, costs, expenses, attorneys' fees, interest, restitution, equitable relief, injunctive relief, declaratory relief, accounting, and/or losses arising

out of, or reasonably relating to, the claims, facts and allegations pled in the Actions, including but not limited to those alleged in any of the complaints filed in the Actions through the time of final approval of the Settlement by the Court, including: failure to pay wages, failure to pay overtime, failure to pay minimum wage, failure to timely pay wages during employment, failure to pay wages at termination/resignation, failure to provide meal breaks, failure to provide rest breaks, failure to provide potable water, failure to reimburse for all reasonable business expenses (including but not limited to cell phones, internet, home office, uniforms, required clothing, equipment, vehicle usage), failure to accurately record time, including all time worked (including, but not limited to, off-the-clock, meal periods, rounding, editing and/or manipulation of time entries, and auto-deduction of meal periods), failure to provide timely and compliant wage statements and to maintain records, failure to comply with the Wage Theft Protection Act and the Labor Code section 2810.5 notice requirement, failure to pay sick and vacation pay, waiting time penalties, unlawful and unfair business practices (Bus. & Prof. Code §17200, et seq.), failure to pay reporting time wages, failure to provide safe working conditions, failure to incorporate non-discretionary bonuses and/or other forms of pay when calculating an employee's regular rate, failure to compensate employees for all meal and rest period premium wages and sick time pay at an accurate regular rate of pay, failure to pay overtime based on an accurate regular rate of pay, failure to provide adequate or suitable seating and space, and failing to comply with California Labor Code, including, but not limited to, §§ 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 226, 226(a), 226.7, 510, 512, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2441, 2802, and 2804, applicable Wage Order(s), and Civil Code § 3287(b) and 3289 (collectively, "Class Released Claims").

18. **PAGA Released Claims.** Upon final approval of this Settlement Agreement and upon the complete funding of the Gross Settlement Amount, Aggrieved Employees and Named Plaintiffs on behalf of the LWDA, shall and hereby do release and discharge all Released Parties, finally, forever and with prejudice, from any and all claims and rights to recover civil penalties, costs, expenses, attorneys' fees, interest, injunctive relief, declaratory relief, and/or accounting, against the Released Parties from any and all causes of action under the Private Attorneys' General Act ("PAGA") arising out of, or reasonably relating to, the claims, facts and allegations pled in the Actions, including but not limited to those alleged in any of the complaints filed in the Actions, as well as and any and all related letters to the LWDA and any amended letters, during the PAGA Period. This shall include any claims during the PAGA Period pursuant to PAGA for failure to pay wages, failure to pay overtime, failure to pay minimum wage, failure to timely pay wages during employment, failure to pay wages at termination/resignation, failure to provide meal breaks, failure to provide rest breaks, failure to provide potable water, failure to reimburse for all reasonable business expenses (including but not limited to cell phones, internet, home office, uniforms, required clothing, equipment, vehicle usage), failure to accurately record time, including all time worked (including, but not limited to, off-the-clock, meal periods, rounding, editing and/or manipulation of time entries, and auto-deduction of meal periods), failure to provide timely and compliant wage statements and to maintain records, failure to comply with the Wage Theft Protection Act and the Labor Code section 2810.5 notice requirement, failure to pay sick and vacation pay, waiting time penalties, unlawful and unfair business practices (Bus. & Prof. Code §17200, et seq.), failure to pay reporting time wages, failure to provide safe working conditions, failure to incorporate non-discretionary bonuses and/or other forms of pay when calculating an employee's regular rate, failure to compensate employees for all meal and rest period premium wages and sick time pay at an accurate regular rate of pay, failure to pay overtime based on an

accurate regular rate of pay, failure to provide adequate seating and space suitable seating, and failing to comply with California Labor Code, including, but not limited to, §§ 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 226, 226(a), 226.7, 510, 512, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2441, 2802, and 2804, applicable Wage Order(s), and Civil Code § 3287(b) and 3289 (collectively, “PAGA Released Claims”). The Parties agree that there shall be no right for any Aggrieved Employees to opt out or otherwise exclude themselves from the release of PAGA claims. The Parties intend and agree that the Final Approval Order and the Judgment entered as a result of this Settlement shall have res judicata and preclusive effect to the fullest extent allowed by law and shall also be effective to adjudicate and release the claims and/or rights of the LWDA to recover civil penalties against the Released Parties on behalf of the Aggrieved Employees for any PAGA Released Claims (i.e., the Judgment on this Settlement will have res judicata effect as to those claims of the LWDA, whether pursued directly by the LWDA or by a representative pursuant to PAGA).

19. **Named Plaintiff Kinney’s Released Claims.** In addition to any and all claims which were previously released by Named Plaintiff Kinney as referenced in Paragraph 3 above, upon the Effective Date and the complete funding of the Gross Settlement Amount, Named Plaintiff Kinney shall and hereby does generally release, finally, forever and with prejudice, any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law or contract, whether known or unknown, and whether anticipated or unanticipated, including all unknown claims covered by California Civil Code section 1542 that could be or are asserted based upon any theory or facts whatsoever, arising at any time up to and including the date of the execution of this Settlement Agreement, for any type of relief, including, without limitation, claims for minimum wages, straight time wages, or overtime wages, meal breaks, rest breaks, premium pay, other damages, penalties (including, but not limited to, waiting time penalties), liquidated damages, punitive damages, interest, attorneys’ fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief. This shall include, but is not limited to, the Class Released Claims and PAGA Released Claims, as well as any other claims under any provision of federal, state, or local law. Upon the Effective Date, Named Plaintiff Kinney shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he may otherwise have had relating to the Released Claims pursuant to Section 1542 of the California Civil Code, which provides as follows:

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.

Named Plaintiff Kinney understands that this release does not apply to any claims or rights that cannot be waived as a matter of law. Named Plaintiff Kinney acknowledges, however, that he has no workers’ compensation claim pending at the time of signing this Settlement Agreement. Nothing in this Settlement Agreement shall be construed to prohibit Named Plaintiff Kinney from filing a charge or cooperating with any investigation by any federal, state, or local government agency (including without limitation the United States Department of Labor, the Equal

Employment Opportunity Commission, the Securities and Exchange Commission, the Department of Justice, and/or the National Labor Relations Board). However, Named Plaintiff Kinney understands that he will not be entitled to recover any monetary damages or any other form of personal relief in connection with such a claim, investigation or proceeding.

- a. **Release of ADEA and OWBPA Claims.** Named Plaintiff Kinney, who is 40 years old or older at the time of this Settlement, agrees and understands that he is specifically releasing all claims under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 et seq., the Older Workers Benefit Protection Act, Pub. L. 101-433 (“OWBPA”), and any federal, state or local fair employment acts arising up to the date of his execution of this Settlement. Named Plaintiff Kinney affirms that he has read this Settlement in its entirety and has had a full and fair opportunity to consider and understand its terms and to be advised by Class Counsel. Named Plaintiff Kinney further acknowledges that he is executing this Settlement in exchange for consideration, that Named Plaintiff Kinney understands the Settlement, and has, of his own free will, without coercion, agreed to the terms of the Settlement. Named Plaintiff Kinney further understands that he has been advised herein in writing that: (i) Named Plaintiff Kinney should consult with an attorney before signing this Settlement; (ii) Named Plaintiff Kinney, 40 years old or older at the time of this Settlement, has forty-five (45) days to consider the Settlement; (iii) if Named Plaintiff Kinney signs this Settlement, Named Plaintiff Kinney may revoke it within seven (7) days after signing; and (iv) this Settlement shall not be enforceable, with respect to Named Plaintiff Kinney until the seven (7) day revocation period has expired without the Settlement having been revoked as provided herein. Revocation can be made by delivering a written notice of revocation to: Barbara Antonucci, Esq., Constangy, Brooks, Smith & Prophete LLP, 601 Montgomery Street, Suite 350, San Francisco, CA 94111. The Parties expressly agree that, in the event that Named Plaintiff Kinney revokes this Settlement, the Settlement shall be null and void and have no legal or binding effect whatsoever with respect to Named Plaintiff Kinney. The Parties to this Settlement recognize that Named Plaintiff Kinney may elect to sign this Settlement before the expiration of the forty-five (45) day consideration period specified herein.
20. **Named Plaintiff Valdes’ Released Claims.** Except as set forth in Paragraph 20(a), upon the Effective Date and the complete funding of the Gross Settlement Amount, Named Plaintiff Valdes shall and hereby does generally release, finally, forever and with prejudice, any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law or contract, whether known or unknown, and whether anticipated or unanticipated, including all unknown claims covered by California Civil Code section 1542 that could be or are asserted based upon any theory or facts whatsoever, arising at any time up to and including the date of the execution of this Settlement Agreement, for any type of relief, including, without limitation, claims for minimum wages, straight time wages, or overtime wages, meal breaks, rest breaks, premium pay, other damages, penalties (including, but not limited to, waiting time penalties), liquidated damages, punitive damages, interest, attorneys’

fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief. This shall include, but is not limited to, the Class Released Claims and PAGA Released Claims, as well as any other claims under any provision of federal, state, or local law. Upon the Effective Date, Named Plaintiff Valdes shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he may otherwise have had relating to the Released Claims pursuant to Section 1542 of the California Civil Code, which provides as follows:

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.

Named Plaintiff Valdes understands that this release does not apply to any claims or rights that cannot be waived as a matter of law. Named Plaintiff Valdes acknowledges, however, that he has no workers' compensation claim pending at the time of signing this Settlement Agreement. Nothing in this Settlement Agreement shall be construed to prohibit Named Plaintiff Valdes from filing a charge or cooperating with any investigation by any federal, state, or local government agency (including without limitation the United States Department of Labor, the Equal Employment Opportunity Commission, the Securities and Exchange Commission, the Department of Justice, and/or the National Labor Relations Board). However, Named Plaintiff Valdes understands that he will not be entitled to recover any monetary damages or any other form of personal relief in connection with such a claim, investigation or proceeding.

- a. **Named Plaintiff Valdes' Non-Wage Individual Claims.** Named Plaintiff Valdes' existing claims and causes of action as currently alleged in *Raul Valdes v. Kindeva Drug Delivery L.P.*, Los Angeles County Superior Court Case No. 23STCV06782 (specifically, Valdes' claims for discrimination under the Fair Employment Housing Act (FEHA) (Gov. Code 12940(a)), failure to engage in the interactive process under FEHA (Gov. Code 12940(n)), failure to provide a reasonable accommodation under FEHA (Gov. Code 12940(m)), retaliation under FEHA (Gov. Code 12940(h)), failure to prevent discrimination under FEHA (Gov. Code 12940(k)), wrongful termination in violation of public policy, claims for declaratory relief and/or injunctive relief based upon the aforementioned causes of action), are expressly carved out and not resolved or released in this Settlement.

CERTIFICATION, NOTICE, AND SETTLEMENT IMPLEMENTATION

21. The Parties agree to the following procedures for obtaining Preliminary Approval of the Settlement, certifying the Class, and notifying the Class of this Settlement:

- a. **Complaint.** The Parties stipulate and agree that for settlement purposes only, the Parties consent to the filing of the Operative Complaint that consolidates the claims, legal allegations, and factual allegations pled in the Actions and assert additional claims, legal allegations, and factual allegations necessary to effectuate the release of the Released Claims in this Settlement Agreement, and to personal and subject matter jurisdiction in the

Court. Named Plaintiffs shall file, with Defendant's stipulation, the Operative Complaint in the Court before the filing of the Unopposed Motion for Preliminary Approval of Settlement Agreement discussed in Paragraph 21(b) and shall take any other necessary steps to effectuate the release of the Released Claims in this Settlement Agreement, including the filing of Amended PAGA Letter(s) with the LWDA.

- b. **Request for Class Certification and Preliminary Approval Order.** Named Plaintiffs shall file an Unopposed Motion for Preliminary Approval of Settlement Agreement, requesting that the Court certify the Class for the sole purpose of settlement; preliminarily approve the Settlement Agreement and its terms; approve the proposed form of the Settlement Notice and find that the proposed method of disseminating the Settlement Notice meets the requirements of due process and is the best notice practicable under the circumstances; set a date for Named Plaintiffs' Motion for Final Approval of the Settlement, and approval of the requested Service Award, Fee Award, Costs Award, and Settlement Administrator's Costs; and set a date for the Final Approval Hearing. Class Counsel shall provide Defendant's Counsel a copy of a draft Unopposed Motion for Preliminary Approval of Settlement Agreement at least two (2) business days in advance of filing it with the Court.
- c. **Notice.** The Settlement Administrator shall be responsible for preparing, printing and mailing the Settlement Notice to all Class Members. The Settlement Administrator shall also create a toll-free telephone number to field telephone inquiries from Class Members during the notice and settlement administration periods. The Settlement Administrator will be directed to take the call center down after the 180-day check cashing period for Settlement Award Checks. The Settlement Administrator shall also post the Final Judgment on its website.
- d. Within thirty (30) calendar days after the Court's Preliminary Approval of the Settlement, Defendant shall provide to the Settlement Administrator the Class List.
- e. In order to provide the best notice practicable, prior to mailing the Settlement Notice, the Settlement Administrator will take reasonable efforts to identify current addresses via public and proprietary systems.
- f. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class List, the Settlement Administrator shall send to all Class Members identified in the Class List, via first-class United States Postal Service ("USPS") mail, the Settlement Notice (with Spanish translation) substantially in the form attached to this Settlement Agreement as **Exhibit 1**. The first page of the Settlement Notice shall prominently estimate the dollar amounts of any Settlement Award to Class Members, and the number of workweeks used to calculate these

amounts. Before mailing Settlement Notices, the Administrator shall update Class Members' addresses using the National Change of Address database. Any Settlement Notice returned to the Settlement Administrator with a forwarding address shall be re-mailed within three (3) business days following receipt of the returned mail. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved and shall re-mail the Notice of Settlement. Under no circumstances shall such re-mailing extend the Notice Deadline.

- g. Within ten (10) calendar days after the Notice Deadline, the Settlement Administrator shall provide Defendant's Counsel and Class Counsel, respectively, a report showing: (i) a list of Participating Individuals by unique identifier; (ii) the Settlement Awards owed to each of the Participating Individuals; (iii) the final number of Class Members who have submitted objections or valid letters requesting exclusion from the Settlement; (iv) the number of undeliverable Notices of Settlement; (v) the estimated average and median recovery per Class Member who have not submitted valid letters requesting exclusion from the Settlement; (vii) the largest and smallest estimated amounts to be paid to Class Members who have not submitted valid letters requesting exclusion from the Settlement.
- h. Defendant will not take any adverse action against any current or former employee on the grounds that they are eligible to participate and/or do participate in the Settlement. Defendant will not discourage participation in this Settlement Agreement or encourage objections or opt-outs.
- i. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to counsel for all Parties and the Court. This written certification shall include the total number of Participating Individuals; the average and median recovery per Participating Individual; the largest and smallest amounts paid to Participating Individuals; and the number and value of checks not cashed. Within ten (10) business days after the conclusion of the 180-day check cashing period below, the Settlement Administrator shall provide Defendant's Counsel and Class Counsel, respectively, a report regarding the total amount of any funds that remain from checks that are returned as undeliverable or are not negotiated.

22. **Disputes Regarding Workweeks.** To the extent that any Class Member disputes the number of workweeks that the Class Member worked, as shown in their Settlement Notice, such Class Members may produce evidence to the Settlement Administrator establishing the dates they contend to have worked for Defendants. Weeks "worked" for purposes of this settlement will be determined by reference to timekeeping, payroll, and/or other records. The deadline for Class Members to submit disputes pursuant to this Paragraph is the Notice Deadline (disputes must be postmarked by the Notice Deadline). Unless the Class Member presents convincing evidence

proving they worked more workweeks than shown by Defendant's records, their Settlement Award will be determined based on Defendant's records. The Settlement Administrator shall notify counsel for the Parties of any disputes it receives. Defendant shall review their records and provide further information to the Settlement Administrator, as necessary. The Settlement Administrator shall provide a recommendation to counsel for the Parties. Counsel for the Parties shall then meet and confer in an effort to resolve the dispute. If the dispute cannot be resolved by the Parties, it shall be presented to the Court for a resolution. The Settlement Administrator will notify the disputing Class Member of the decision.

23. **Objections.** The Settlement Notice shall provide that Class Members who wish to object to the Settlement must, on or before the Notice Deadline, file with the Court a written statement objecting to the Settlement. Such objection shall not be valid unless it includes the information specified in the Settlement Notice. The statement must be signed personally by the objector, and must include the objector's name, address, telephone number, email address (if applicable), the factual and legal grounds for the objection, and whether the objector intends to appear at the Final Approval Hearing. The Settlement Notice shall advise Class Members that objections shall only be considered if the Class Member has not opted out of the Settlement. None of the Parties, their counsel, nor any person on their behalf, shall seek to solicit or otherwise encourage anyone to object to the Settlement, or appeal from any order of the Court that is consistent with the terms of this Settlement.

24. **Requests for Exclusion.** The Settlement Notice shall provide that Class Members, other than Named Plaintiff, who wish to exclude themselves from the Settlement ("opt out") must mail to the Settlement Administrator a written statement indicating that they do not wish to participate or be bound by the Settlement. The written request for exclusion must contain the Class Member's full name, address, telephone number, email address (if applicable), and last four digits of their social security number, and must be signed individually by the Class Member. No opt-out request may be made on behalf of a group. Such written statement must be postmarked by the Notice Deadline. None of the Parties, their counsel, nor any person on their behalf, shall seek to solicit or otherwise encourage anyone to exclude themselves from the settlement. Aggrieved Employees are bound by and cannot exclude themselves from the PAGA component of the Settlement even if they request exclusion.

25. **Termination or Revocation of Settlement.** If five percent (5%) or more of the Class Members request exclusion from the Settlement, Defendant may, at its election and in its sole discretion, rescind and nullify the Settlement Agreement. Defendant must exercise this right of rescission in a writing that is provided to Class Counsel within fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the total number of requests for exclusion received by the Notice Deadline.

- a. If Defendant exercises its right to rescind and or nullify the Settlement Agreement pursuant to this Paragraph, Defendant shall pay the Settlement Administrator Costs incurred by the Settlement Administrator as of the date of Defendant's rescission and/or nullification.
- b. If there is a material change in the scope of the Released Claims, Class Period, PAGA Period, or Released Parties under the Settlement Agreement, Defendant

may, at its election, rescind the Settlement Agreement and all actions taken in furtherance of it will thereby be null and void, however this option to rescind the Settlement Agreement may only be exercised within ten (10) business days of a change in the scope of the Released Claims, Class Period, PAGA Period, or Released Parties under the Settlement.

- c. If the Court finds the Gross Settlement Amount to be insufficient to warrant Preliminary Approval or Final Approval of the Settlement, Defendant may, at its election, rescind the Settlement Agreement and all actions taken in furtherance of it will thereby be null and void.

26. **Cure Period.** In the event any request for exclusion is timely submitted but does not contain sufficient information to be valid, the Settlement Administrator shall provide the Class Member, within seven (7) calendar days, a letter requesting the information that was not provided and giving the Class Member fourteen (14) calendar days from the mailing of such cure letter to respond. Any invalid submission that is not timely cured will be considered a nullity.

27. **Final Approval Hearing.** Class Counsel will be responsible for drafting the Unopposed Motion for Final Approval of Settlement Agreement, and approval of the requested Service Awards, Fee Award, Class Counsel's Costs, and Settlement Administrator's Costs to be heard at the Final Approval Hearing. Class Counsel shall provide Defendant's Counsel a copy of a draft Unopposed Motion for Final Approval of Settlement Agreement at least two (2) business days in advance of filing it with the Court. Named Plaintiffs shall request that the Court schedule the Final Approval Hearing no earlier than 100 calendar days after Preliminary Approval, and at least thirty (30) calendar days after the Settlement Administrator's deadline to provide the report of objections, opt-outs and awards, as further outlined in Paragraph 21(g), to determine Final Approval of the settlement and to enter a Final Approval Order:

- a. certifying the Settlement Class for settlement purposes;
- b. finding dissemination of the Settlement Notice was accomplished as directed and met the requirements of due process;
- c. approving the Settlement as final and its terms as a fair, reasonable and adequate;
- d. approving the payment of the Service Award to Named Plaintiffs;
- e. approving Class Counsel's application for an award of attorneys' fees and reimbursement of out-of-pocket litigation costs and expenses;
- f. approving the Settlement Administrator's fees and expenses for settlement administration;
- g. directing that the Settlement funds be distributed in accordance with the terms of this Settlement Agreement;

- h. directing a full and final discharge of any and all Released Claims, and the related claims, if any, of the LWDA;
- i. directing that a Final Judgment be entered; and
- j. retaining continuing jurisdiction over the Actions for purposes only of overseeing all settlement administration matters.

28. **Post Judgment Report.** At the conclusion of the 180-day check cashing period set forth below and following receipt of the Settlement Administrator's report showing the total funds that were actually paid to Participating Individuals, Class Counsel shall submit a post-judgment report to the Court of regarding any funds that remain from checks that are returned as undeliverable or are not negotiated.

SETTLEMENT FUNDS AND AWARD CALCULATION

29. **Funding of Settlement.** The Settlement Administrator will administer this Settlement. Within forty-five (45) calendar days of the Effective Date of the Settlement, Defendant shall deposit the Gross Settlement Amount into the Settlement Administrator's designated account. Defendant shall not have access to the Gross Settlement Amount once those funds are deposited into the Settlement Administrator's designated account, including any earned interest accrued following deposit. Any interest gained on the Gross Settlement Amount in the Settlement Administrator's designated account shall be deemed part of the Gross Settlement Amount. The Gross Settlement Amount is fully non-reversionary. All disbursements shall be made from the Gross Settlement Amount.

30. **Payments.** Subject to the Court's Final Approval Order and the occurrence of the Effective Date, the following amounts shall be paid by the Settlement Administrator from the Gross Settlement Amount:

- a. **Service Awards to Named Plaintiffs.** Named Plaintiffs shall each receive Ten Thousand Dollars (\$10,000.00), i.e., the gross amount of Twenty Thousand Dollars (\$20,000.00). This payment shall be made within ten (10) calendar days after Defendant's deadline to deposit the Gross Settlement Amount into the Settlement Administrator's designated account or as soon as reasonably practicable thereafter. If the Court approves the Service Award in amounts less than what Named Plaintiffs requests, the reduction in the Service Award shall not be a basis for nullification of this Settlement. Nor shall a reduction in the Service Award in any way delay or preclude the judgment from becoming a final judgment or the Settlement from becoming Effective. The Named Plaintiffs assume full responsibility for paying all taxes, if any, due as a result of the Service Award.
- b. **Fee Award and Costs Award.**
 - i. Class Counsel shall receive the Fee Award, which will compensate Class Counsel for all work performed in the Actions as of the date of this Settlement Agreement as well as all of the work remaining to

be performed, including but not limited to documenting the Settlement, securing Court approval of the Settlement, making sure that the Settlement is fairly administered and implemented, and obtaining final dismissal of the Actions. In addition, Class Counsel shall, subject to Court approval, receive the Costs Award. These payments of attorneys' fees and costs shall be made within ten (10) calendar days after Defendant's deadline to deposit the Gross Settlement Amount into the Settlement Administrator's designated account or as soon as reasonably practicable thereafter.

- ii. The approved Fee Award and Costs Award, even if less than what Class Counsel requests, shall constitute full satisfaction of the Released Parties' obligations to pay amounts to any person, attorney, or law firm for attorneys' fees or costs in the Actions on behalf of Named Plaintiffs and/or any other Participating Individual, and shall relieve the Released Parties from any other claims or liability to any other attorney or law firm for any attorneys' fees or costs which any of them may claim to be entitled on behalf of Named Plaintiffs or any other Participating Individual. If the Court approves a Fee Award and/or Costs Award in an amount less than what Class Counsel requests, the reduction in the Fee Award and/or Costs Award shall not be a basis for nullification of this Settlement. Nor shall a reduction in the Fee Award and/or Costs Award in any way delay or preclude the judgment from becoming a Final or the Settlement from becoming effective.
- iii. An IRS Form 1099 shall be provided to Class Counsel for the payments made to Class Counsel. Class Counsel shall be solely and legally responsible to pay any and all applicable taxes on the payment(s) made to Class Counsel.

- c. **Labor and Workforce Development Agency Payment and Net PAGA Amount for Distribution.** The Parties agree that the amount of \$50,000 from the Gross Settlement Amount will be paid in settlement of all individual and representative claims pursuant to PAGA in the Actions. Seventy-Five Percent (75%), or \$37,500, of this sum will be paid to the LWDA. Twenty-Five Percent (25%), or \$12,500, will be allocated to the Net PAGA Amount to be distributed to Aggrieved Employees as set forth below. The payment to the LWDA shall be made by the Settlement Administrator within ten (10) calendar days after Defendant's deadline to deposit the Gross Settlement Amount into the Settlement Administrator's designated account or as soon as reasonably practicable thereafter.
- d. **Settlement Administration Costs.** Settlement Administrator's Costs shall be paid from the Gross Settlement Amount. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts

to control and minimize the costs incurred in the administration of the Settlement.

- e. **Settlement Awards to Eligible Class Members.** Settlement Awards shall be made to Participating Individuals as set forth below in Paragraphs 32 to 44.

31. **No Claim Based Upon Distributions or Payments in Accordance with This Settlement Agreement.** No person shall have any claim against the Released Parties, Class Counsel, or Defendant's Counsel based on distributions or payments made in accordance with this Settlement Agreement.

CALCULATION AND DISTRIBUTION OF SETTLEMENT AWARDS

32. **Settlement Award Eligibility.** Subject to the Court's Final Approval Order and the occurrence of the Effective Date, all Participating Individuals shall be paid a Settlement Award from the Net Settlement Amount and/or the Net PAGA Amount as set forth below:

33. Any Class Member who fails to submit a timely request to exclude themselves from the Settlement by following the procedure set forth in the Settlement Notice shall automatically be deemed a Participating Individual whose rights and claims with respect to the issues raised in the Actions are determined by any order the Court enters granting Final Approval, and any judgment the Court ultimately enters in the Actions and are subject to the Class Released Claims (as defined in Paragraph 17 above). Any such Class Member's rights to pursue any Class Released Claims will be extinguished if they do not timely request exclusion. Any Aggrieved Employee will be automatically deemed a Participating Individual as determined by any order by the Court approving the Settlement, and their rights to pursue any PAGA Released Claims (as defined in Paragraph 18 above) will be extinguished. Any Aggrieved Employee will not have a right to request exclusion from the Settlement.

34. **Settlement Award Calculations.** The Settlement Administrator shall be responsible for determining the amount of the Settlement Award to be paid to Participating Individuals based on the below formulas:

- a. Class Members who do not timely request exclusion shall receive a *pro rata* portion of the Net Settlement Amount as follows: For each week during which the Class Member who did not timely request exclusion performed work for Defendant, they shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Class Member who did not timely request exclusion worked at any time in California during the Class Period. The total number of workweeks may be determined by reference to weeks worked by Class Member who did not timely request exclusion as reflected in timekeeping, payroll, and/or other records. A Class Member who timely requests exclusion will not receive a *pro rata* portion of the Net Settlement Amount other than the payment described in Paragraph 34(b) below.

- b. Aggrieved Employees shall also receive a *pro rata* portion of the Net PAGA Amount as follows:
 - i. For each week during which the Aggrieved Employees performed work for Defendant, they shall be eligible to receive a *pro rata* portion of the Net PAGA Amount based on the number of workweeks the Aggrieved Employee worked at any time in California during the PAGA Period. The resulting share of the Net PAGA Amount per Participating Individual, if any, will be added to the Participating Individual's share of the Net Settlement Amount, to determine the Participating Individual's Settlement Award. The total number of workweeks may be determined by reference to weeks worked as reflected in timekeeping, payroll, and/or other records.

35. The Class is estimated to include approximately 431 people who collectively worked approximately 45,000 workweeks from April 27, 2020 through June 25, 2024. The Parties anticipate that the number of workweeks will increase between the date of this Agreement and the end of the Class Period. Should the number of work weeks during the Class Period increase by more than 10% of the total estimate stated ($45,000 \times 110\% = 49,500$ workweeks), then Defendant shall have the option to either (1) increase the Gross Settlement Amount on a proportional basis (i.e., if there is a 11% increase in the number work weeks, the Gross Settlement Amount shall increase by 1%), or (2) end the Class Period on the date after the number of workweeks reaches 49,500.

36. In addition to other information contained on the Settlement Notice, the Settlement Notice shall state the estimated minimum payment the class member is expected to receive assuming full participation of all Class Members.

37. All Settlement Award determinations shall be based on the weeks worked as reflected by the Released Parties' timekeeping, payroll, and/or other records. If the Parties determine, based upon further review of available data, that a person previously identified as being a Class Member is not a Class Member, or an individual who was not previously identified as a Class Member is in fact a Class Member but was not so included, the Settlement Administrator shall promptly make such addition or deletion as appropriate.

38. **Settlement Award Allocations.** Any portion of each Settlement Award that is provided from the Net PAGA Amount shall be allocated as penalties. For the remainder of each Settlement Award that is provided from the Net Settlement Amount, ten percent (10%) of each Settlement Award shall be allocated as wages, and ninety percent (90%) of each Settlement Award shall be allocated as penalties and interest. Any payment from the Net PAGA Amount will be allocated as 100% penalties. Settlement Awards will be paid out to Participating Individuals subject to reduction for all employees' share of withholdings and taxes associated with the wage-portion of the Settlement Awards, for which Participating Individuals shall be issued an IRS Form W-2 for the portions of the Settlement Awards that are allocated to wages, if any. Participating Individuals will also be issued an IRS Form 1099 for the portions of the Settlement Awards that are allocated to penalties and interest. The Settlement Administrator shall provide Defendant's

Counsel with a final Settlement Award calculation award for each Participating Individual within seven (7) calendar days after the Effective Date. Amounts withheld will be remitted by the Settlement Administrator from the Net Settlement Amount to the appropriate governmental authorities. Defendant shall cooperate with the Settlement Administrator to provide payroll tax information as necessary to accomplish the income and employment tax withholding on the wage portion of each Settlement Award, and the Form 1099 reporting for the non-wage portion of each Settlement Award.

39. Class Counsel and Defendant's Counsel do not intend this Settlement Agreement to constitute legal advice relating to the tax liability of any Class Member. To the extent that this Settlement Agreement, or any of its attachments, is interpreted to contain or constitute advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties.

40. The payments made to Participating Individuals pursuant to this Settlement Agreement are not being made for any other purpose and shall not be construed as compensation for purposes of determining eligibility for any health and welfare benefits or unemployment compensation, and no benefits, including but not limited to pension and/or 401(k), shall increase or accrue as a result of any payment made as a result of this Settlement, unless required by the plan documents or otherwise required by law.

41. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a final report of all Settlement Awards, no more than ten (10) business days after the Effective Date.

42. The Settlement Administrator shall mail all Settlement Awards to Participating Individuals who do not timely request exclusion within ten (10) calendar days after Defendant's deadline to deposit the Gross Settlement Amount into the Settlement Administrator's designated account or as soon as reasonably practicable thereafter. The Settlement Administrator shall then provide written certification of mailing to Class Counsel and Defendant's Counsel.

43. All Settlement Award checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance and may thereafter automatically be canceled if not cashed within that time, at which time the right to recover any Settlement Award will be deemed void and of no further force and effect. With ninety (90) calendar days remaining, a reminder letter, an example of which is attached hereto as **Exhibit 4**, will be sent via U.S. mail to those who have not yet cashed their settlement check. At the conclusion of the 180-day check cashing deadline, Participating Individuals who have not cashed their Settlement Award checks shall nevertheless be deemed to have finally and forever released the Released Claims.

44. **Remaining Monies.** If, at the conclusion of the 180-day check cashing period set forth above, any funds remain from checks that are returned as undeliverable or are not negotiated, those monies shall be distributed, subject to the Court's approval, to the California State Controller Unclaimed Property Fund in the name of the Participating Individual to be held by the Controller's Office for the benefit of the Participating Individual until such time as they claim their property, as allowed by law.

- a. Within twenty-one (21) calendar days after the distribution of any remaining monies to the, Class Counsel will file a “Post-Distribution Accounting.” The Post-Distribution Accounting will set forth the Gross Settlement Amount, the total number of Class Members, the total number of Class Members to whom notice was sent and not returned as undeliverable, the number and percentage of opt-outs, the number and percentage of objections, the average and median recovery per Participating Individual, the largest and smallest amounts paid to Participating Individuals, the method(s) of notice and the method(s) of payment to Participating Individuals, the number and value of checks not cashed, the amounts distributed to the California State Controller Unclaimed Property Fund (if applicable), the PAGA Payment, the Settlement Administrator’s Costs, the Fee Award and Costs Award, the attorneys’ fees in terms of percentage of the Gross Settlement Amount, and the multiplier, if any.

MISCELLANEOUS

45. **Submissions to the LWDA.** At the same time as they submit this Class Action Settlement Agreement and Release to the Court for Preliminary Approval, Class Counsel shall submit a copy of this Settlement Agreement to the LWDA, as required by California Labor Code § 2699(l)(2). Within ten (10) calendar days following the Effective Date, Class Counsel shall submit a copy of the Final Approval Order and Judgment entered by the Court to the LWDA, as required by California Labor Code § 2699(l)(3).

46. **Confidentiality.** The Named Plaintiffs and their Counsel agree to keep the facts and terms of this Settlement confidential until approval of the Settlement is sought from the Court to the extent permitted by law. Thereafter, the Named Plaintiffs and their Counsel agree that they will not issue a press release or hold any press conferences or initiate contact with a member of the press, including on social media, about this case and/or the fact, amount or terms of the Settlement to the extent permitted by law. If the Named Plaintiffs are contacted by the press about the Settlement, they will respond only that the case has been resolved. Nothing in this Paragraph shall prevent Class Counsel from communicating with the Class Members, the LWDA, or the Court in which the Actions are pending, as may be required to carry out the terms of this Settlement and/or fulfill their ethical responsibilities under the Settlement and to their respective clients. Nothing in this provision is intended to violate applicable state law and this provision will be interpreted in accordance with applicable state law.

47. **No Admission of Liability.** Defendant expressly denies all of the allegations in the Actions. Defendant expressly denies that the Released Parties have violated the PAGA, California wage and hour laws, or any other provision of federal or state law with respect to any of their employees. This Settlement Agreement and all related documents are not and shall not be construed as an admission by the Released Parties of any fault or liability or wrongdoing. If this Settlement Agreement does not become Final, this Settlement Agreement, and/or the circumstances leading to this Settlement Agreement, may not be used as an admission by the Released Parties of any wrongdoing or evidence of any wrongdoing by the Released Parties.

48. **Defendants' Legal Fees.** Defendant's legal fees and expenses in the Actions shall be borne by Defendant.

49. **Nullification of the Settlement Agreement.** In the event that (a) the Court does not preliminarily or finally approve the Settlement as provided herein, (b) the Settlement does not become Final for any other reason, or (c) the Effective Date does not occur, the Parties agree to engage in follow up negotiations with the intent of resolving the Court's concerns that precluded approval, and if feasible, to resubmit the Settlement for approval within thirty (30) calendar days, or by the deadline set by the Court. If the Settlement is not approved as resubmitted or if the Parties are not able to reach another agreement, then either Party may void this Settlement Agreement; at that point, the Parties agree that each shall return to their respective positions on the day before this Settlement Agreement and that this Settlement Agreement shall not be used in evidence or argument in any other aspect of their litigation.

50. **Reduced Service Awards, Fee Award, or Costs Award Not a Basis for Voiding Settlement.** If the Court approves a Service Award, a Fee Award, and/or Costs Award in amounts less than what Named Plaintiffs and/or Class Counsel request, the Parties agree that the reduction in the Service Award, Fee Award, and/or Costs Award will not be a basis for nullification of this Settlement. Nor will a reduction in the Service Award, Fee Award, or Costs Award in any way delay or preclude the judgment from becoming Final or the Settlement from becoming effective. Any amount resulting from the reduction in the Service Award, Fee Awards, and/or Costs Award shall be included in the Net Settlement Amount.

51. **Inadmissibility of Settlement Agreement.** Except for purposes of settling the Actions, or enforcing this Settlement Agreement's terms (including that claims were settled and released), resolving an alleged breach, or for resolution of other tax or legal issues arising from a payment under this Settlement Agreement, neither this Settlement Agreement, nor its terms, nor any document, statement, proceeding, or conduct related to this Settlement Agreement, nor any reports or accounts thereof, shall be construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to any of the Parties or the Released Parties, including, without limitation, evidence of a presumption, concession, indication, or admission by any of the Parties or the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage.

52. **Computation of Time.** For purposes of this Settlement Agreement, if the prescribed time period in which to complete any required or permitted action expires on a Saturday, Sunday, or legal holiday, such time period shall be continued to the following business day. The term "days" shall mean calendar days unless otherwise noted.

53. **Interim Stay of Proceedings.** The Parties agree to hold in abeyance all proceedings in the Actions, except such proceedings necessary to implement and complete the Settlement. Further, without further order of the Court, the Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

54. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors in

interest. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all Parties hereto.

55. **Entire Settlement Agreement.** This Settlement Agreement with exhibits constitutes the entire agreement among the Parties, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement other than the representations, warranties, and covenants contained and memorialized in such documents. All prior or contemporaneous negotiations, memoranda, agreements, understandings, and representations, whether written or oral, are expressly superseded hereby and are of no further force and effect. Each of the Parties acknowledges that they have not relied on any promise, representation, or warranty, express or implied, not contained in this Settlement Agreement. No rights hereunder may be waived except in writing.

56. **Authorization to Enter into Settlement Agreement.** The Parties warrant and represent that they are authorized to enter into this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel shall cooperate with each other and use their best efforts to effect the implementation of the Settlement Agreement. In the event that the Parties are unable to reach resolution on the form or content of any document needed to implement this Settlement Agreement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties shall seek the assistance of a mediator.

57. **Binding on Successors and Assigns.** This Settlement shall be binding upon, and inure to the benefit of Named Plaintiffs, the Released Parties, the Participating Individuals and their heirs, beneficiaries, executors, attorneys, administrators, successors, transferees, successors, assigns, or any corporation or any entity with which any party may merge, consolidate, or reorganize. The Parties hereto represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged except as set forth herein.

58. **Counterparts.** This Settlement Agreement may be executed in one or more counterparts, including by facsimile or email. All executed counterparts and each of them shall be deemed to be one and the same instrument. All executed copies of this Settlement Agreement, and photocopies thereof (including facsimile and/or emailed copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.

59. **No Signature Required by Participating Individuals.** Only the Named Plaintiffs and Defendant will be required to execute this Settlement Agreement. The Settlement Notice will advise all Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were executed by each Participating Individual.

60. **Cooperation and Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement Agreement; hence the drafting of this Settlement Agreement shall not be construed against any of the Parties. The Parties agree that the terms and conditions of this Settlement Agreement were negotiated at arm's length and in good faith by the Parties and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

61. **Mutual Full Cooperation.** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court to effectuate this Settlement and the terms set forth herein. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of this Settlement, the Parties shall seek the assistance of the mediator and/or the Court to resolve such disagreement. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement, noting that the cost of administering the Settlement shall be deducted from the Gross Settlement Amount subject to approval by the Court.

62. **Governing Law.** All terms of this Settlement Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

63. **Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement and all orders and judgments entered in connection therewith, and the Parties and their Counsel submit to the jurisdiction of the Court for this purpose. The Parties agree that the Los Angeles County Superior Court shall have continuing jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6, and California Rule of Court 3.769.

IN WITNESS WHEREOF, the Parties and their Counsel have executed this Settlement Agreement as follows:

PLAINTIFF:  Signed by: 11/15/2024
Date: _____, 2024

 Marvin Kinney 7024E54166FC4EE...

PLAINTIFF: _____ Date: _____, 2024
 Raul Valdes

60. **Cooperation and Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement Agreement; hence the drafting of this Settlement Agreement shall not be construed against any of the Parties. The Parties agree that the terms and conditions of this Settlement Agreement were negotiated at arm's length and in good faith by the Parties and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

61. **Mutual Full Cooperation.** The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court to effectuate this Settlement and the terms set forth herein. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of this Settlement, the Parties shall seek the assistance of the mediator and/or the Court to resolve such disagreement. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement, noting that the cost of administering the Settlement shall be deducted from the Gross Settlement Amount subject to approval by the Court.

62. **Governing Law.** All terms of this Settlement Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

63. **Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement and all orders and judgments entered in connection therewith, and the Parties and their Counsel submit to the jurisdiction of the Court for this purpose. The Parties agree that the Los Angeles County Superior Court shall have continuing jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6, and California Rule of Court 3.769.

IN WITNESS WHEREOF, the Parties and their Counsel have executed this Settlement Agreement as follows:

PLAINTIFF: _____ Date: _____, 2024
Marvin Kinney

PLAINTIFF: _____ Date: 11/22/2024, 2024

Raul Valdes (Nov 22, 2024 17:00 PST)
Raul Valdes

APPROVED AS TO FORM BY CLASS COUNSEL:

Nazo Koulloukian
Hilary Silvia
KOUL LAW FIRM, APC
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010

Date: _____, 2024



Paul K. Haines
Sean M. Blakely
HAINES LAW GROUP, APC
2155 Campus Drive, Suite 180
El Segundo, California 90245

Date: November 25, 2024

DEFENDANT:

On behalf of Kindeva Drug Delivery, L.P.

Date: _____, 2024

APPROVED AS TO FORM BY DEFENDANTS' COUNSEL:



Barbara I. Antonucci
Sarah K. Hamilton
Stacy Lall
Dongying Zhang
CONSTANGY, BROOKS, SMITH & PROPHETE LLP
601 Montgomery Street, Suite 350
San Francisco, CA 94111

Date: November 27, 2024

APPROVED AS TO FORM BY CLASS COUNSEL:

11/15/2024

DocuSigned by:

Nazo Koulloukian

5F97388C1D414C7...

Date: _____, 2024

Nazo Koulloukian
Hilary Silvia
KOUL LAW FIRM, APC
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010

Date: _____, 2024

Paul K. Haines
Sean M. Blakely
HAINES LAW GROUP, APC
2155 Campus Drive, Suite 180
El Segundo, California 90245

DEFENDANT:

Date: _____, 2024

On behalf of Kindeva Drug Delivery, L.P.

APPROVED AS TO FORM BY DEFENDANTS' COUNSEL:

Date: _____, 2024

Barbara I. Antonucci
Sarah K. Hamilton
Stacy Lall
Dongying Zhang
CONSTANGY, BROOKS, SMITH & PROPHETE LLP
601 Montgomery Street, Suite 350
San Francisco, CA 94111

APPROVED AS TO FORM BY CLASS COUNSEL:

Nazo Koulloukian
Hilary Silvia
KOUL LAW FIRM, APC
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010

Date: _____, 2024

Paul K. Haines
Sean M. Blakely
HAINES LAW GROUP, APC
2155 Campus Drive, Suite 180
El Segundo, California 90245

Date: _____, 2024

DEFENDANT:

Signed by:


72A9872D2553489
On behalf of Kindeva Drug Delivery, L.P.

Date: 11/18/2024, 2024

APPROVED AS TO FORM BY DEFENDANTS' COUNSEL:

Barbara I. Antonucci
Sarah K. Hamilton
Stacy Lall
Dongying Zhang
CONSTANGY, BROOKS, SMITH & PROPHETE LLP
601 Montgomery Street, Suite 350
San Francisco, CA 94111

Date: _____, 2024

EXHIBIT 1

EXHIBIT 1

Marvin Kinney v. Kindeva Drug Delivery L.P.,
California Superior Court, County of Los Angeles, Case No. 23STCV11677
consolidated with
Marvin Kinney v. Kindeva Drug Delivery L.P.,
Los Angeles County Superior Court Case No. 23STCV17839
and
Raul Valdes v. Kindeva Drug Delivery L.P.,
Los Angeles County Superior Court Case No. 23STCV21051

NOTICE OF SETTLEMENT **PLEASE READ THIS NOTICE CAREFULLY.**

You received this Notice of Settlement (“Settlement Notice”) because the records of Kindeva Drug Delivery, L.P. (“Defendant”) show you performed work for Defendant in California sometime between May 23, 2019 and **<CLOSE OF CLASS PERIOD>**. Because you fit this definition, **you may be entitled to receive money from a Settlement¹ in this case, as described below.**

1. Why Should You Read This Settlement Notice?

This Settlement Notice explains your right to share in the monetary proceeds of this Settlement, exclude yourself (“opt out”) from the Settlement, or object to the Settlement. If you object to the Settlement, you cannot opt out of the Settlement, and you will be bound by the terms of Settlement in the event the Court denies your objection.

The California Superior Court, County of Los Angeles has preliminarily approved the Settlement as fair and reasonable. The Court will hold a Final Approval Hearing on _____, 2025 at _____, before the Honorable _____ at **Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012**, Courtroom ____.

2. What Is This Case About?

This class action lawsuit alleges, on behalf of individuals whom Defendant employed as non-exempt employees in California between May 23, 2019 and **<CLOSE OF CLASS PERIOD>** (“Class Members”), failure to pay wages, failure to pay overtime, failure to pay minimum wage, failure to timely pay wages during employment, failure to pay wages at termination/resignation, failure to provide meal breaks, failure to provide rest breaks, failure to provide potable water, failure to reimburse for all reasonable business expenses (including but not limited to cell phones, internet, home office, uniforms, required clothing, equipment, vehicle usage), failure to accurately record time, including all time worked (including, but not limited to, off-the-clock, meal periods, rounding, editing and/or manipulation of time entries, and auto-deduction of meal periods), failure to provide timely and compliant wage statements and to maintain records, failure to comply with the Wage Theft Protection Act and the Labor Code section 2810.5 notice requirement, failure to

¹ This notice summarizes the proposed Settlement. The capitalized terms in this Settlement Notice have defined meanings that are set out in detail in the Settlement Agreement. To review a copy of the Settlement Agreement, please visit the Settlement website at **[INSERT URL]**.

EXHIBIT 1

pay sick and vacation pay, waiting time penalties, unlawful and unfair business practices (Bus. & Prof. Code §17200, et seq.), failure to pay reporting time wages, failure to provide safe working conditions, failure to incorporate non-discretionary bonuses and/or other forms of pay when calculating an employee's regular rate, failure to compensate employees for all meal and rest period premium wages and sick time pay at an accurate regular rate of pay, failure to pay overtime based on an accurate regular rate of pay, failure to provide adequate or suitable seating and space, and failing to comply with California Labor Code (collectively, "Class Released Claims"). This lawsuit seeks recovery of unpaid wages, statutory damages, restitution, interest, and attorneys' fees and costs. The claims in this lawsuit are brought under California law. The lawsuit has been consolidated with related lawsuits, *Marvin Kinney v. Kindeva Drug Delivery L.P.*, Superior Court of California, County of Los Angeles Case No. 23STCV17839 and *Raul Valdes v. Kindeva Drug Delivery L.P.*, Los Angeles County Superior Court Case No. 23STCV21051, which seek civil penalties under the California Labor Code Private Attorneys General Act ("PAGA").

Defendant contends that it has legal and factual defenses to these claims, but recognizes the risks, distractions, and costs associated with litigation. Defendant contends that the wage and hour policies and practices at issue, including those regarding payment for time worked, overtime pay, meal breaks, rest breaks, and record keeping, are lawful and have been lawful throughout the relevant time period. Defendant also contends that Plaintiff's claims do not meet the requirements for class certification.

This Settlement is the result of good faith, arm's length negotiations between Plaintiff and Defendant, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Class Members. This Settlement is a compromise and is not an admission of liability on the part of Defendant.

The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses.

The Settlement Administrator has created a Settlement website, which can be accessed at [INSERT URL]. The Settlement website allows interested persons to view the Settlement Agreement, all papers filed by Class Counsel to obtain Court approval of the Settlement Agreement, and this Settlement Notice (in generic form). The Settlement website also provides contact information for Class Counsel and the Settlement Administrator.

3. What Are the Terms of the Settlement?

Defendant has agreed to pay Nine Hundred and Forty Thousand Dollars (\$940,000.00) to settle this lawsuit and dismiss the related PAGA lawsuit ("Gross Settlement Amount"). Deductions from this amount will be made for attorneys' fees and costs for Class Counsel (up to \$313,333.33, plus actual attorneys' costs up to \$30,000; see Section 9 below), settlement administration costs (estimated to be \$,000), service awards in an amount not to exceed Ten Thousand Dollars (\$10,000.00) each to Named Plaintiffs (i.e. Marvin Kinney, Jr. and Raul Valdes), for their service to the Class, and penalties of Thirty-Seven Thousand Five Hundred Dollars (\$37,500) to the Labor and Workforce Development Agency, and Twelve Thousand and Five Hundred Dollars (\$12,500) to Aggrieved Employees for their portion of the "Net PAGA Amount" (i.e. the twenty-five percent (25%) of the PAGA Payment payable to the Aggrieved Employees, or \$12,500), regardless of

EXHIBIT 1

whether they opt-out of the Class. After deductions of these amounts, what remains of the Gross Settlement Amount (the total of the “Net Settlement Amount”) will be available to pay monetary Settlement Awards to (i) Named Plaintiffs and (ii) all Class Members who do not opt out of the Class.

The following individuals will be eligible to receive a monetary award from the Net Settlement Amount: (1) Named Plaintiffs and (2) all non-exempt individuals who worked for Defendant between May 23, 2019 and <CLOSE OF CLASS PERIOD> in the state of California (“Class Period”).

Individuals who worked for Defendant between May 17, 2022 and <CLOSE OF PAGA PERIOD> (“PAGA Period”) in the state of California (“Aggrieved Employees”) will also receive a monetary award from the Net PAGA Amount.

4. How Much Can I Expect to Receive?

All Class Members who do not timely request exclusion will receive a *pro rata* portion of the Net Settlement Amount based on the total number of workweeks that each Class Member who did not timely request exclusion worked for Defendant during the Class Period. Class Members shall receive a *pro rata* portion of the Net Settlement Amount as follows: Each Class Member who did not timely request exclusion shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Class Member who did not timely request exclusion worked during this Class Period. A Class Member who timely requests exclusion will not receive a *pro rata* portion of the Net Settlement Amount other than the Net PAGA Amount per Aggrieved Employee described in the paragraph below.

Aggrieved Employees who worked for Defendant between May 17, 2022 and <CLOSE OF PAGA PERIOD> in the state of California shall be eligible to receive a *pro rata* portion of the Net PAGA Amount based on the number of workweeks the Aggrieved Employee worked at any time in California during the PAGA Period. The Net PAGA Amount is \$12,500. The resulting portion of the Net PAGA Amount per Aggrieved Employee, if any, will be added to the Participating Individual’s portion (if any) of the Net Settlement Amount, to determine the Participating Individual’s Settlement Award. Aggrieved Employees cannot opt out of the PAGA Released Claims (defined in section 6 below) and will still receive their *pro rata* portion of the Net PAGA Amount.

All Settlement Award determinations will be based on Defendant’s timekeeping, payroll, and/or other records for Class Members. According to records maintained by Defendant, your total estimated settlement payment will be \$[REDACTED]. This amount is an estimated amount, and your final settlement payment is expected to differ from this amount (i.e., it could be higher or lower) and will be calculated as set forth above. Based on Defendant’s records, you are estimated to have worked [REDACTED] workweeks for Defendant.

If you dispute the number of workweeks as shown on this Settlement Notice, you may produce evidence to the Settlement Administrator establishing the dates you contend to have worked for Defendant. To do so, send a letter to the Settlement Administrator explaining the basis for your

EXHIBIT 1

dispute and attach copies of the supporting evidence. Unless you present convincing evidence proving you worked more workweeks than shown by Defendant's records, your Settlement Award will be determined based on Defendant's records. Any disputes must be postmarked by [INSERT DATE], which is **forty-five (45) days** from the mailing of this Settlement Notice] and should be mailed to [INSERT SETTLEMENT ADMINISTRATOR ADDRESS]. The Settlement Administrator will notify you of the decision on the dispute.

For tax reporting purposes, Settlement Awards to Participating Individuals will be allocated as follows: any portion of each Settlement Award that is provided from the Net PAGA Amount shall be allocated as penalties; for the remainder, if any, of each Settlement Award, ten percent (10%) shall be allocated as wages, and ninety percent (90%) of each Settlement Award shall be allocated as penalties and interest. You will receive an IRS form 1099 for your portion of the Net PAGA Amount and, where applicable, penalties and interest portion of your Settlement Award, and an IRS Form W-2 for the wage portion of your Settlement Award. None of the Parties (Plaintiffs or Defendant) or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Participating Individuals should consult with their own tax advisors concerning the tax consequences of the Settlement.

If you participate in the Settlement, you will have 180 days to cash the check that will be sent to you, and if not cashed by then, the check will be void. If at the conclusion of the 180-day check void period, there are any uncashed checks, those monies will be submitted to the California State Controller Unclaimed Property Fund in the participant's name, subject to the Court's approval in the Final Approval Order. You can search for unclaimed property at the Controller's website: <https://ucpi.sco.ca.gov/en/Property/SearchIndex>.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award. You may contact the Settlement Administrator [name] at [contact information] to update your address.

5. How Do I Appear at the Final Approval and Fairness Hearing?

If you do not request to be excluded from the settlement, you may appear at the Final Approval Hearing. You do not have to attend the Final Approval Hearing, but you may do so at your own expense. You may also pay your own lawyer to attend, but it is not necessary.

You may remotely appear at the Final Approval Hearing by scheduling an appearance via Zoom at <LINK TBD>. You may also attend the Fairness Hearing in person, but due to the evolving nature of the pandemic, you should check for the latest updates on accessing the courthouse by viewing the Court's website at <https://www.lacourt.org/online services/ON0001.aspx>.

6. What Are The Releases?

Upon final approval of this Settlement Agreement and upon the complete funding of the Gross Settlement Amount, all Participating Individuals release claims as follows ("Class Released Claims" and "PAGA Released Claims") against Defendant Kindeva Drug Delivery, L.P., and any

EXHIBIT 1

of its past, present, and future parents, affiliates, subsidiaries, divisions, joint employers, predecessors, successors, and assigns, and each of their officers, directors, board members, trustees, owners, shareholders, employees, agents, attorneys, auditors, accountants, experts, contractors, stockholders, representatives, partners, insurers, and reinsurers, and other persons acting on their behalf, as well as any individual or entity that could be liable for any of the Class Released Claims and/or PAGA Released Claims (collectively, the “Released Parties”):

- **Participating Individual(s)** means (a) any Class Member(s) who do not submit a valid letter requesting to be excluded from the Settlement, consistent with the terms set forth in the Settlement Agreement and (b) all Aggrieved Employees (collectively, “Participating Individuals”).
- **Class Released Claims.** Named Plaintiffs on their own behalf and as the class representatives, all Class Members who did not opt out of this Settlement by filing a timely, valid request for exclusion from the class, and all persons purporting to act on their behalf, including, but not limited to, their dependents, attorneys, heirs and assigns, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and successors-in-interest, whether in their individual, class, representative, legal, equitable, direct or indirect capacity, or in any other capacity (collectively, the “Releasing Parties”) hereby forever completely and irrevocably release and discharge Released Parties, from any and all causes of action, claims, rights, damages, liquidated damages, premiums, wages, compensation, reimbursement, statutory damages, penalties, liabilities, costs, expenses, attorneys’ fees, interest, restitution, equitable relief, injunctive relief, declaratory relief, accounting, and/or losses arising out of, or reasonably relating to, the claims, facts and allegations pled in the Actions, including but not limited to those alleged in any of the complaints filed in the Actions through the time of final approval of the Settlement by the Court, including: failure to pay wages, failure to pay overtime, failure to pay minimum wage, failure to timely pay wages during employment, failure to pay wages at termination/resignation, failure to provide meal breaks, failure to provide rest breaks, failure to provide potable water, failure to reimburse for all reasonable business expenses (including but not limited to cell phones, internet, home office, uniforms, required clothing, equipment, vehicle usage), failure to accurately record time, including all time worked (including, but not limited to, off-the-clock, meal periods, rounding, editing and/or manipulation of time entries, and auto-deduction of meal periods), failure to provide timely and compliant wage statements and to maintain records, failure to comply with the Wage Theft Protection Act and the Labor Code section 2810.5 notice requirement, failure to pay sick and vacation pay, waiting time penalties, unlawful and unfair business practices (Bus. & Prof. Code §17200, et seq.), failure to pay reporting time wages, failure to provide safe working conditions, failure to incorporate non-discretionary bonuses and/or other forms of pay when calculating an employee’s regular rate, failure to compensate employees for all meal and rest period premium wages and sick time pay at an accurate regular rate of pay, failure to pay overtime based on an accurate regular rate of pay, failure to provide adequate or suitable seating and space, and failing to comply with California Labor Code, including, but not limited to, §§ 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 226, 226(a), 226.7, 510, 512, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2441, 2802, and 2804, applicable Wage Order(s), and Civil Code § 3287(b) and 3289 & Prof. Code §17200, et seq.), failure to pay reporting time wages,

EXHIBIT 1

failure to provide safe working conditions, failure to incorporate non-discretionary bonuses and/or other forms of pay when calculating an employee's regular rate, failure to compensate employees for all meal and rest period premium wages and sick time pay at an accurate regular rate of pay, failure to pay overtime based on an accurate regular rate of pay, failure to provide adequate or suitable seating and space, and failing to comply with California Labor Code, including, but not limited to, §§ 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 226, 226(a), 226.7, 510, 512, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2441, 2802, and 2804, applicable Wage Order(s), and Civil Code § 3287(b) and 3289 (collectively, "Class Released Claims").

- **PAGA Released Claims.** Upon final approval of the Settlement Agreement and upon the complete funding of the Gross Settlement Amount, Aggrieved Employees and Named Plaintiffs on behalf of the LWDA, shall and hereby do release and discharge all Released Parties, finally, forever and with prejudice, from any and all claims and rights to recover civil penalties, costs, expenses, attorneys' fees, interest, injunctive relief, declaratory relief, and/or accounting, against the Released Parties from any and all causes of action under the Private Attorneys' General Act arising out of, or reasonably relating to, the claims, facts and allegations pled in the Actions, including but not limited to those alleged in any of the complaints filed in the Actions, as well as and any and all related letters to the LWDA and any amended letters, during the PAGA Period. This shall include any claims during the PAGA Period pursuant to PAGA for failure to pay wages, failure to pay overtime, failure to pay minimum wage, failure to timely pay wages during employment, failure to pay wages at termination/resignation, failure to provide meal breaks, failure to provide rest breaks, failure to provide potable water, failure to reimburse for all reasonable business expenses (including but not limited to cell phones, internet, home office, uniforms, required clothing, equipment, vehicle usage), failure to accurately record time, including all time worked (including, but not limited to, off-the-clock, meal periods, rounding, editing and/or manipulation of time entries, and auto-deduction of meal periods), failure to provide timely and compliant wage statements and to maintain records, failure to comply with the Wage Theft Protection Act and the Labor Code section 2810.5 notice requirement, failure to pay sick and vacation pay, waiting time penalties, unlawful and unfair business practices (Bus. & Prof. Code §17200, et seq.), failure to pay reporting time wages, failure to provide safe working conditions, failure to incorporate non-discretionary bonuses and/or other forms of pay when calculating an employee's regular rate, failure to compensate employees for all meal and rest period premium wages and sick time pay at an accurate regular rate of pay, failure to pay overtime based on an accurate regular rate of pay, failure to provide adequate seating and space suitable seating, and failing to comply with California Labor Code, including, but not limited to, §§ 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 226, 226(a), 226.7, 510, 512, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2441, 2802, and 2804, applicable Wage Order(s), and Civil Code § 3287(b) and 3289 (collectively, "PAGA Released Claims"). There shall be no right for any Aggrieved Employees to opt out or otherwise exclude themselves from the release of PAGA claims. The Final Approval Order and the Judgment entered as a result of this Settlement shall have res judicata and preclusive effect to the fullest extent allowed by law and shall also be effective to adjudicate and release the claims and/or rights of the LWDA to recover civil penalties against the Released Parties on behalf of the Aggrieved Employees for any PAGA Released Claims (i.e., the Judgment on this Settlement will have res judicata effect as to

EXHIBIT 1

those claims of the LWDA, whether pursued directly by the LWDA or by a representative pursuant to PAGA).

7. What Are My Rights?

- **Do Nothing:** If you are a Class Member and do not timely and validly opt-out, you will automatically become a Participating Individual and receive your Settlement Award, and will be bound by the Settlement including its release provisions.
- **Opt-Out:** If you are a member of the Class and do not wish to be bound by the Settlement, you must submit a written exclusion from the Settlement (“opt-out”), postmarked by **[INSERT DATE]**, which is **forty-five (45) days** from the mailing of this Settlement Notice]. The written request for exclusion must contain your full name, address, telephone number, email address (if applicable), last four digits of your social security number, and must be signed individually by you. No opt-out request may be made on behalf of a group. The opt-out request must be sent by mail to the Settlement Administrator at **[INSERT SETTLEMENT ADMINISTRATOR ADDRESS]**. **Any person who requests exclusion (opts out) of the settlement will not be entitled to any Settlement Award and will not be bound as to the Class Released Claims or have any right to object, appeal, or comment on the Settlement, however Class Members may not opt-out as to the PAGA Released Claims.**
- **Object:** If you received this Settlement Notice and wish to object to the Settlement, you must submit a written statement objecting to the Settlement by **[INSERT DATE]**, which is **forty-five (45) days** from the mailing of this Settlement Notice]. The statement must state the factual and legal grounds for your objection to the settlement. The statement must state your full name, address, telephone number, and email address (if applicable), and must be signed by you. If you wish to object to the Settlement but fail to return your timely written objection in the manner specified above, you shall be deemed to have waived any objection and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. The postmark date of mailing to the Settlement Administrator shall be the exclusive means for determining that an objection is timely mailed. Objections shall only be considered if the Class Member has not opted out of the Settlement.

You may also, if you wish, appear at the Final Approval Hearing to discuss your objection with the Court and the parties to the Lawsuit. To be heard at the Final Approval Hearing you must not opt out of the Settlement. Regardless of whether you submit a written objection, you may appear and be heard at the Final Approval Hearing.

8. Can Defendant Retaliate Against Me for Participating in this Lawsuit?

No. Your decision as to whether or not to participate in this Lawsuit will in no way affect your work or employment with Defendant or future work or employment with Defendant. It is unlawful

EXHIBIT 1

for Defendant to take any adverse action against you as a result of your participation in this Lawsuit. In fact, Defendant encourages you to participate in this Settlement.

9. Who Are the Attorneys Representing Plaintiffs and the Class Members?

Plaintiffs and the Class Members are represented by the following attorneys acting as Class Counsel:

Nazo Koulloukian
Hilary Silvia
KOUL LAW FIRM, APC
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010
nazo@koullaw.com
hilary@koullaw.com

Paul K. Haines
Sean M. Blakely
HAINES LAW GROUP, APC
2155 Campus Drive, Suite 180
El Segundo, California 90245
PHaines@haineslawgroup.com
SBlakely@haineslawgroup.com

Defendant is represented by the following attorneys:

Barbara I. Antonucci
Sarah K. Hamilton
Stacy Lall
Dongying Zhang
**CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP**
601 Montgomery Street, Suite 350
San Francisco, CA 94111
Telephone: 415.918.3000
bantonucci@constangy.com
shamilton@constangy.com
slall@constangy.com
dzhang@constangy.com

10. How Will the Attorneys for the Class Be Paid?

Class Counsel will be paid from the Gross Settlement Amount of \$940,000.00. You do not have to pay the attorneys who represent the Class. The Settlement Agreement provides that Class Counsel will receive attorneys' fees of up to thirty-three and one-third (33 1/3%) of \$940,000.00

EXHIBIT 1

(i.e., \$313,333.33) plus their actual out-of-pocket costs, up to \$30,000.00. The amount of attorneys' fees and costs awarded will be determined by the Court at the Final Approval Hearing.

11. Where can I get more information?

If you have questions about this Settlement Notice, or the Settlement, or if you did not receive this Settlement Notice in the mail and you believe that you are or may be a member of the Settlement, you should contact the Class Counsel.

This Settlement Notice is only a summary. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at the Settlement website at [INSERT URL], by contacting the Settlement Administrator toll-free at [dedicated phone number] or Class Counsel at the contact information listed above, by accessing the Court docket in this case by searching the case numbers (23STCV11677, 23STCV17839, and 23STCV21051) through the Court's electronic public records system at <https://www.lacourt.org/online services/ON0001.aspx> or by visiting the office of the Clerk of the Court for the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Court holidays, to simply request to order public court documents filed in the Action.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANT FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.

EXHIBIT 2

EXHIBIT 2

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
KOUL LAW FIRM
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010
Telephone: (213) 761-5484
Facsimile: (818) 561-3938

Attorneys for Plaintiff,
MARVIN KINNEY,
and all putative class members

[additional parties and counsel listed on next page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARVIN KINNEY, an individual, on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

KINDEVA DRUG DELIVERY, L.P., a
Delaware Limited Partnership, and DOES 1-
50, inclusive,

Defendant.

MARVIN KINNEY, an individual, on behalf
of himself, all aggrieved employees, and the
State of California as a Private Attorneys
General,

Plaintiff,

vs.

KINDEVA DRUG DELIVERY, L.P., a
Delaware Limited Partnership, and DOES 1-
50, inclusive,

Defendant.

Case No.: 23STCV11677

CONSOLIDATED WITH
Case No. 23STCV17839 AND
Case No. 23STCV21051

[caption continues on next page]

**CONSOLIDATED AMENDED CLASS
ACTION AND PAGA COMPLAINT
FOR:**

- 1. Failure to Pay Wages, Including
Overtime Wages, Reporting Time
Wages, and Sick Pay**
- 2. Failure to Pay Minimum Wage**
- 3. Failure to Provide Timely Meal
Breaks**
- 4. Failure to Provide Rest Breaks,
Adequate Seating, and Potable Water**
- 5. Failure to Reimburse for Required
Business Expenses**
- 6. Failure to Provide Accurate Itemized
Wage Statements & Violation of
Record Keeping Requirements**
- 7. Unlawful Business Practices
Bus & Prof. Code §17200**
- 8. Violation of the Private Attorneys
General Act of 2004, Cal. Labor Code
§2698 et seq.**

JURY TRIAL DEMANDED

EXHIBIT 2

[counsel continued from previous page]

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Joel M. Gordon (SBN 280721)
jgordon@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
Raul Valdes

[caption continued from previous page]

RAUL VALDES, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

KINDEVA DRUG DELIVERY L.P., a
Delaware Limited Partnership; and DOES 1
through 100,

Defendants.

EXHIBIT 2

Plaintiff MARVIN KINNEY, individually, and on behalf of all others similarly situated, including Plaintiff RAUL VALDES (collectively “Plaintiff”), alleges as follows:

NATURE OF THE ACTION

1. This is an employment class action on behalf of over 100 hourly, non-exempt employees against their employer for violations of numerous wage and hour laws. Plaintiff brings this employment class action complaint on behalf of himself, and all others similarly situated against KINDEVA DRUG DELIVERY, L.P., and DOES 1-50, inclusive, (hereafter collectively “Defendant” or “Defendants”). Plaintiff also brings a representative action on behalf of himself, all other similarly situated aggrieved employees, and the State of California, based upon the claims articulated below. Plaintiff provided notice of his claims pursuant to §2698 *et. seq.*, to the Labor and Workforce and Development Agency (“LWDA”) on May 17, 2023, on August 31, 2023, and on October __, 2024, attached hereto as Exhibits 1 to 3, the content of which is expressly incorporated herein. The LWDA did not provide any notice to Plaintiff following the exhaustion of the 65-day notice period required by 2699.3(a)(2)(B). Accordingly, Plaintiff brings this Consolidated Amended Complaint, including for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

2. Defendant KINDEVA DRUG DELIVERY, L.P., is a drug delivery company in California. Plaintiff MARVIN KINNEY is a current employee of Defendant, working as an hourly, non-exempt employee since April 2022. Plaintiff and the proposed class earn at or near minimum wage.

3. As described further below, Defendant has violated the California Labor Code by (1) failing to pay wages, including overtime wages (§ 216, 218, 510, 558, 1194, 1197, 1197.1, 1198); (2) failing to pay minimum wage (§200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199); (3) failing to provide timely meal breaks (§226 (a), 226.7, 512, 558, 1198); (4) failing to provide rest breaks and potable water (§226, 226.7, 512, 558, 1198, 2441); (5) failing to reimburse for required business expenses (§1198, 2802); (6) failing to provide accurate itemized wage statements (§226, 1174) and; (7) unlawful and unfair business practices (Bus. & Prof. Code §17200, *et. seq.*).

EXHIBIT 2

1 4. The class claims in this action are brought pursuant to Code of Civil Procedure (“CCP”)
2 §382, seeking recovery for unpaid wages, including overtime wages, missed meal and rest period
3 penalty pay, statutory and waiting time penalties, injunctive and other equitable relief, interest, and
4 reasonable attorneys’ fees and costs. Pursuant to the class action procedures provided for under
5 California law, Plaintiff, on behalf of himself and proposed Class Members (also referred to as
6 “Class”), also seeks injunctive relief and restitution of all benefits Defendant has received from
7 their unlawful actions as alleged herein.

8 5. The “Class Period” is designated as the four-year period prior to the filing of this
9 Complaint through the date of the final disposition of this action. From the start of the Class Period
10 through the present, Defendant has had a policy and/or practice of among other violations: late
11 and/or interrupted meal breaks, untimely and/or interrupted rest breaks, issuing inaccurate wage
12 statements, and ignoring and violating California wage and hour laws, in their business as more
13 fully set forth below.

14 6. Defendant has treated all persons employed in California in such a way as to violate
15 California’s laws governing conditions of employment and payment of wages owed. Plaintiff
16 asserts that Defendant has knowingly and with conscious disregard of the law refused to pay the
17 Class Members all wages owed, including overtime wages and meal and rest break penalty wages.
18 Defendant has violated numerous Labor Code provisions, as set forth herein. Class Members are
19 owed their back pay, plus interest and/or premiums and penalties under Business and Professions
20 Code section 17203 to compensate Class Members and Class Members for the delay in receiving
21 wages due.

22 7. Defendant, by and through their actions, has engaged in unfair competition, requiring
23 restitution to persons affected and disgorgement of profits so obtained.

THE PARTIES

24
25 8. Plaintiff MARVIN KINNEY is an individual who resides in California and worked for
26 Defendant.

27 9. Defendant KINDEVA DRUG DELIVERY, L.P., is a California Limited Partnership
28 doing business in California with the capacity to sue and to be sued and doing business, in Los

EXHIBIT 2

Angeles County, State of California. Defendant exercised control over the wages, hours, and/or working conditions of Plaintiff and members of the proposed class throughout the liability period.

10. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their true names and capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein. Plaintiff is informed and believe, and thereon alleges, that each of the fictitiously named Defendant is responsible in some manner for the occurrences herein alleged, and that the damages sustained by Plaintiff and the Class Members herein alleged were proximately caused by such Doe Defendants.

11. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other members of the Class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

JURISDICTION AND VENUE

12. Venue is proper in this judicial district because Defendant conducts business in this County and Defendant has legal obligations to Plaintiff and many of the Class Members in this case that arose in this county.

13. The monetary damages, restitution, and statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation, and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties, and attorney's fees, is more than twenty-five thousand dollars (\$25,000) and less than five million dollars (\$5,000,000).

14. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California and Defendant is incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

EXHIBIT 2

GENERAL ALLEGATIONS

15. During the Class Period, Defendant committed various violations of the California Labor Code, the UCL and the applicable IWC Wage Order, as alleged below in more detail. Defendant enforces multiple policies that violate state law which are intended to increase its own profits to the detriment of its employees.

16. Defendant requires its hourly employees to go through various levels of security where they are required to use a personalized badge to enter through gates, buildings, and other entryways and secured offices, all prior to clocking in. Plaintiff and Class Members were also required to go through various levels of security to enter and walk to the timeclock when returning from unpaid lunch periods which further contributed to unpaid hours worked. Plaintiff and Class Members would also arrive at work early to confirm that they were able to secure scrubs provided and cleaned by Defendant in their size. As a result of Defendant's practices, Plaintiff and Class Members also did not always received all wages earned twice during each calendar month.

17. This also resulted in employees earning less than the statutory minimum wages for all hours worked.

18. Defendant failed to maintain a policy and practice that always provides its employees with timely meal breaks as required by California law.

19. Defendant failed to maintain a policy and practice that consistently provides its employees with off-duty rest periods as required by California law. Defendant also failed to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places.

20. Defendant also from time to time required Plaintiff and Class Members to use their personal phones for work without providing any reimbursement. Personal cell phone numbers were associated with the dual-factor authentication required for employees to log into their email, master control system, or training and quiz system and employees were required to access and use their personal phones in order to access these required work systems. Plaintiff and Class Members were also required to download the Dayforce app which provided access to information concerning their employment.

EXHIBIT 2

21. Defendant further failed to provide timely, accurate, itemized wage statements to employees, as well as maintain accurate records, in accordance with Labor Code §§ 226 and 1174.

22. Based upon the above allegations, Defendant engaged in unfair competition.

CALIFORNIA CLASS ACTION ALLEGATIONS

23. Plaintiff brings this action on behalf of himself, and all other persons similarly situated, to recover from Defendant for failure to comply with California wage and hour laws, and for claims under Business and Professions Code § 17200.

24. This action has been brought and may properly be maintained as a class action pursuant to the provisions of Code of Civil Procedure § 382 because the proposed class is ascertainable and there is a well-defined community of interest. Plaintiff is among in excess of 100 employees who have been similarly injured by Defendant's unlawful employment policies and practices.

25. The "Relevant Time Period" or proposed "Class Period" as defined herein commences four years prior to the date of filing this Complaint.

26. Plaintiff brings this action on their behalf and as a class action under Cal. Code of Civil Procedure §382 on behalf of the following defined groups:

27. Proposed Class: "All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations."

28. Proposed Sub-classes:

A. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shift in excess of five (5) hours.

B. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of six (6) hours.

C. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant

EXHIBIT 2

statute of limitations, who worked one or more shifts in excess of eight (8) hours.

D. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of three and one-half hours (3 ½), but less than or equal to six (6) hours.

E. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of six (6) hours, but less than or equal to ten (10) hours.

F. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who separated their employment from Defendant.

G. All persons who are employed or have been employed by Defendant in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who received pay for one or more pay periods.

29. This action is brought, and may properly be maintained, as a class action under CCP §382 because there is a well-defined community of interest in the litigation, and the proposed Class and Subclasses (collectively “Class”) are easily ascertainable.

30. Numerosity: The Proposed Class is so numerous that joinder of all members is impractical. Plaintiff is informed and believes, and on that basis alleges, that during the relevant time period, Defendant employed over 100 putative Class Members who are geographically dispersed and who satisfy the definition of the proposed Class. As such, a class action is the only available method for the fair and efficient adjudication of this controversy. Membership in the Proposed Class can be easily ascertained by an examination and analysis of employee and payroll records, among other records within Defendant’s possession and control.

31. Typicality: Plaintiff’s claims are typical of the claims of the Class Members. Plaintiff, like others similarly situated, was subjected to Defendant’s common, unlawful policies, practices,

EXHIBIT 2

and procedures described above. The Plaintiff's positions at the company was typical of those of other Class Members. Plaintiff's claims are typical of the claims of each Class Member because each have sustained damages arising out of and caused by Defendant's common course of conduct, as alleged herein. As such, Plaintiff has the same interests in this matter as all members of the Class.

32. Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff has retained counsel competent and experienced in complex class actions and California labor and employment litigation.

33. Commonality: Common questions of law and fact exist, including but not limited to the following:

- i. Whether Defendant violated wage and hour laws by failing to pay overtime wages;
- ii. Whether Defendant violated wage and hour laws by failing to pay a minimum wage;
- iii. Whether Defendant violated wage and hour laws by failing to uninterrupted meal breaks;
- iv. Whether Defendant's policy and practice concerning meal breaks was unlawful;
- v. Whether Defendant violated wage and hour laws by failing to provide rest breaks;
- vi. Whether Defendant's policy and practice concerning rest breaks was unlawful;
- vii. Whether Defendant violated wage and hour laws by failing to provide potable water;
- viii. Whether Defendant's policy and practice concerning potable water was unlawful;
- ix. Whether Defendant violated wage and hour laws by failing to reimburse for required business expenses;

EXHIBIT 2

- x. Whether Defendant unlawfully failed to keep and furnish Class Members with accurate, itemized records of hours worked, in violation of Labor Code §§ 226 and 1174;
- xi. The proper measure of damages sustained and the proper measure of restitution recoverable by Plaintiff, the Class Members, and Subclass Members;
- xii. Whether the Class Members are entitled to injunctive relief to enjoin any further violations of wage and labor laws;
- xiii. Whether Defendant, and each of them, are/were participants in the alleged unlawful and/or tortious conduct;
- xiv. Whether Defendant's conduct was willful and reckless;
- xv. The effect upon and the extent of injuries suffered by Plaintiff and the Plaintiff Class and the appropriate amount of reimbursement, restitution, damages, or other compensation; and
- xvi. What is the extent of liability of each Defendant, including DOE defendants, to each Class and Subclass member?

34. Superiority: A class action is superior to other available methods of the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where the damage suffered by individual plaintiffs, while not inconsequential, makes individual actions impracticable given the expenses and burdens associated with seeking individual relief. Prosecuting over 100 identical, individual lawsuits does not promote judicial efficiency or equity and consistency in judicial results. Moreover, the Class is a group of hourly, low-wage earning employees who rely on their wages and requiring that each individual take time away from work to prosecute individual actions would be inequitable and result in undue hardship for the individual Class members and their families. Public policy favors efficient resolution of their claims and uniform enforcement of California Labor laws against entities skirting their legal obligations at the expense of a vulnerable working population.

EXHIBIT 2

35. Manageability: Plaintiff is informed and believes that all allegations in this Complaint are capable of being determined on the same evidence and based primarily on review of corporate records and key testimony of Defendant's corporate representatives. To the extent statistical analysis and representative evidence is necessary, Plaintiff and proposed class counsel will employ competent experts and consultants in the field to determine and review evidence for both issues of liability and damages in a scientifically reliable manner.

36. Plaintiff requests, pursuant to Rule 1857(a)(1) and Rule 3.766 of the California Rules of Court, that the absent Class and Subclass Members be notified by the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The names and address of the Class and Subclass Members are available from Defendant.

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES, INCLUDING OVERTIME WAGES, REPORTING TIME WAGES, AND SICK PAY

Cal. Labor Code §§218, 218.5, 246, 246(I), 510, 558, 1194, 1197, 1197.1, 1198, Wage Order 1

(Plaintiff Against All Defendants)

37. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

38. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 218, 510, 558, 1194, 1197, 1197.1, 1198, Wage Order 1.

39. Wage Order 1 defines "hours worked" as "the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so." When employees like Plaintiff and his coworkers do not receive payment for all hours worked, the result is that they are earning less than the statutory minimum wages for time spent off the clock and all hours worked. Defendant has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period.

EXHIBIT 2

1 40. Off-the-Clock Hours Worked. Defendant fails to pay for all hours worked, time spent
2 under the control of Defendant, and/or preliminary and postliminary time. For example, Defendant
3 requires its hourly employees to go through various levels of security where they are required to
4 use a personalized badge to enter through gates, buildings, and other entryways and secured
5 offices, all prior to clocking in. Once employees finally reach the primary timeclock in the main
6 office, and because Plaintiff and dozens of other class members would come on shift at the same
7 time, they would sometimes face long lines and delays to clock in. Some employees would choose
8 to wait in line at the primary time clock, while others would choose to leave the main office, badge
9 in and out and enter through another part of the building to reach a different time clock. There was
10 often a lot of stress and pressure around clock-in times because employees were not permitted to
11 clock in any earlier than 3 minutes prior to their shift start time, but would be in trouble if they
12 clocked in one minute late. Plaintiff and Class Members were also required to go through various
13 levels of security to enter and walk to the timeclock when returning from unpaid lunch periods
14 which further contributed to unpaid hours worked. Plaintiff and Class Members would also arrive
15 at work early to confirm that they were able to secure scrubs provided and cleaned by Defendant
16 in their size.

17 41. When employees do not receive payment for all hours worked, including off-the-clock
18 and overtime hours worked, the result is that they are earning less than the statutory minimum
19 wages for all hours worked, in violation of Labor Code §1197.

20 42. During the relevant time period, Defendant failed to pay non-exempt employees for all
21 overtime hours worked pursuant to California Labor Code § 510, § 1194 and applicable Wage
22 Order. Defendant had and has a policy or practice of requiring its employees to work more than
23 eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a
24 workweek without paying them proper overtime wages at the regular rate of pay.

25 43. Plaintiff and his coworkers received non-discretionary bonuses and/or other forms of
26 pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the
27 aforementioned forms of pay are collectively referred to as "Incentive Pay").
28

EXHIBIT 2

1 44. Failure to Pay All Wages Owed Twice Per Month. Defendant is required to pay
2 Plaintiff and class members all wages earned twice during each calendar month pursuant to Labor
3 Code §204(a). Defendant from time to time failed to pay all wages earned to employees as a result
4 of the unlawful employment policies and practices discussed herein. As a result of these practices,
5 Plaintiff and Class Members were underpaid for hours worked, including overtime and penalty
6 wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to
7 this failure, Defendant is liable under Labor Code §210 for failure to pay wages as required by
8 law.

9 45. Failure To Pay Reporting Time Wages. Section 5(A) of the applicable Wage Order
10 requires that when an “employee is required to report for work and does report but is not put to
11 work or is furnished less than half said employee's usual or scheduled day's work, the employee
12 shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours
13 nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the
14 minimum wage.” Wage Order, § 5(A). Defendant is liable to Plaintiff and his coworkers for
15 reporting time pay for each day Defendant caused them to work but were put to work for less than
16 half of their usual or scheduled day's work.

17 46. Failure To Pay Sick Pay. Defendant failed to pay Plaintiff and his coworkers paid sick
18 leave that complied with California Labor Code sections 246 and 246(I), by, for example, failing
19 to pay paid sick leave at non-exempt employee's regular rate of pay.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGE

22 Cal. Lab. Code §§200, 218.5, 226, 558, 1182.12, 1194, 1194.2, 1197, 1197.2, 1198, 1199,

23 Wage Order 1, § 4

24 (Plaintiff Against All Defendants)

25 47. Plaintiff incorporates by reference in this cause of action each allegation of the
26 preceding paragraphs as though fully set forth herein.

27 48. Defendant’s conduct described in this complaint violates the provisions of Labor Code
28 §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199.

EXHIBIT 2

49. Pursuant to Labor Code sections 1194, 1194.2, and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

50. Defendant from time to time failed to pay Plaintiff and class members for all hours worked as a result of Defendant's practices described above. Based on Defendant's unlawful conduct described above, and because Plaintiff and the class members were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, often resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the Wage Order. Additionally, employees receive zero pay for time spent working off the clock which is also a violation of the labor code. Defendant is liable for civil penalties pursuant to Labor Code §§558.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE TIMELY MEAL BREAKS

Cal. Lab. Code §§226 (a), 226.7, 512, 558, 1198, Wage Order

(Plaintiff Against All Defendants)

51. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

52. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 226 (a), 226.7, 512, 558, 1198, Wage Order.

53. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11 of the Wage Order provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked."

54. In this case, Plaintiff and his coworkers were not provided with compliant meal periods. For example, Plaintiff and his coworkers frequently experienced noncompliant meal periods that

EXHIBIT 2

were under 30 minutes in length because of the extensive walk and wait time associated with the clock in procedure described above. The break area was in an entirely different building than Plaintiff's work area resulting in lengthy walk time. Additionally, the timeclocks were programmed to prohibit employees from clocking back in less than 30 minutes after their clock out time, but employees would also get in trouble if they clocked in even one minute late. The result is that employees would return to the timeclock before the 30 minutes were up and wait (off the clock and unpaid) to clock in to ensure they clocked in at the exact time as directed, taking into account the fact that there may be lines. Plaintiff and Class Members would also sometimes be paged while on meal periods and many employees felt pressure to respond, interrupting their meal periods.

55. Full, uninterrupted, off-duty, thirty-minute meal periods were not always provided because Defendant did not account for all hours worked that were unaccounted for on their timecard and further because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy.

56. The Wage Orders require employers to authorize and permit employees to take an uninterrupted 30-minute meal period after no more than 5 hours of work. Pursuant to Labor Code §1198, "the employment of any employee... under conditions of labor prohibited by the order is unlawful." Defendant failed to always permit Plaintiff and others to take timely, off-duty, meal breaks of "not less than 30 minutes" for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Defendant never paid penalty pay to Plaintiff or class members for noncompliant meal periods. As a derivative claim, Plaintiff alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a).

57. During Plaintiff's employment with Defendant, Defendant paid Plaintiff and his coworkers at their base rates of pay for sick time pay earned and for their meal period premiums, in violation of California law.

58. As a result of these violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §558.

EXHIBIT 2

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REST BREAKS, ADEQUATE SEATING, AND POTABLE WATER

Cal. Lab. Code §§226, 226.7, 512, 558, 1198, 2441

(Plaintiff Against All Defendants)

59. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

60. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 226, 226.7, 512, 558, 1198, 1198, 2441.

61. Defendant has from time to time failed to maintain a policy and practice that provides or permits its employees to take off-duty rest periods as required by California law. Plaintiff and Class Members are entitled to at least a ten-minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and the Wage Order. Plaintiff and his coworkers were not authorized and permitted to take all legally compliant rest periods, and Defendant failed to pay the required rest period premium at the regular rate of pay for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7. For example, Plaintiff explains that he and his coworkers frequently experienced noncompliant rest periods because of time spent walking from the work area to the break area, the inadequate seating and space provided for employees in the break area, and the insufficient water made available to employees.

62. Failure to Provide Adequate Seating and Space. Defendant had and has a policy or practice of failing to provide all working employees with suitable seats when the nature of the work reasonably permits the use of seats. Defendant has failed to place an adequate number of seats in reasonable proximity to the work area and/or permitted employees to use such seats when it does not interfere with the performance of their duties when employees are not engaged in the active duties of their employment and the nature of their work requires standing.

63. Potable Drinking Water. California Labor Code §2441 requires employers to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places. Plaintiff and class members were not provided with potable water within reasonable proximity to

EXHIBIT 2

1 their workplace. The only place they could access water was near the locker rooms, a significant
2 walk from the work area. Additionally, if an employee chose to take a break in a location aside
3 from the locker room, they would be unable to conveniently access water.

4 64. Defendant failed to pay Plaintiff and similarly situated employees the premium
5 compensation (one hour of pay at the employee's regular rate of pay for missed or untimely rest
6 periods) mandated by Labor Code §226.7 (b) for these noncompliant rest periods. Rest period
7 violations occurred often, however no rest period penalty pay is listed on any paystubs. Pursuant
8 to Labor Code §1198, "the employment of any employee... under conditions of labor prohibited
9 by the order is unlawful." Accordingly, because Defendant violated Wage Order provisions
10 requiring rest breaks, Defendant violated §1198. As a result of these violations, Defendant is liable
11 for civil penalties pursuant to Cal. Labor Code §558. As a derivative claim, Plaintiff alleges that
12 pay statements were inaccurate, failing to include required rest period penalties, thus failing the
13 requirements of Labor Code §226(a), resulting in further liability under Cal. Labor Code §§ 558.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE FOR REQUIRED BUSINESS EXPENSES

15 Cal. Labor Code §§1198, 2802

16 (Plaintiff Against All Defendants)

17
18 65. Plaintiff incorporates by reference in this cause of action each allegation of the
19 preceding paragraphs as though fully set forth herein.

20 66. Defendant's conduct described in this complaint violates the provisions of Labor Code
21 §§ 1198, 2802.

22 67. Labor Code §2802 requires employers to indemnify employees for necessary
23 expenditures or losses incurred by employees in direct consequence of discharge of duties. Here,
24 Plaintiff and class members were from time to time required to purchase many items for work
25 purposes for which they were never fully reimbursed, including, but not limited to, slip-resistant
26 shoes, flashlights, required clothing, safety goggles, cell phones, internet, home office, uniforms,
27 equipment, and vehicle usage. Regarding the shoes, employees were required to purchase a
28 particular shoe which cost about \$120 but they were only provided with a \$100 voucher. The

EXHIBIT 2

flashlights provided to employees were inadequate and inoperable making it such that employees could not effectively do their jobs without an operational flashlight, necessitating that Plaintiff and class members purchase their own adequate flashlights. The goggles were similarly inadequate and would get fogged up in Defendant's prohibitively hot work environment, again rendering it impossible to effectively complete their work and leading Plaintiff and class members to purchase sufficient goggles that would not fog and impair their vision. Defendant was required to provide these items to employees, or reimburse employees when employees were required to provide them for themselves.

68. Plaintiff and class members were also required to use their cell phones at work. Personal cell phone numbers were associated with the dual-factor authentication required for employees to log into their email, master control system, or training and quiz system and employees were required to access and use their personal phones in order to access these required work systems. Plaintiff and Class Members were also required to download the Dayforce app which provided access to information concerning their employment.

SIXTH CAUSE OF ACTION

PAYSTUB AND RECORD KEEPING VIOLATIONS

Cal. Labor Code §§ 226, 1174

(Plaintiff Against All Defendants)

69. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

70. Defendant's conduct described in this complaint violates the provisions of Labor Code §§ 226, 1174.

71. Defendant knowingly and intentionally failed to consistently provide timely, accurate, itemized wage statements to Plaintiff and the class members, and maintain accurate records, in accordance with Labor Code §§ 226 and 1174. Wage statements issued to employees do not state the true legal address of the entity that is the employer. Wage statements list an address in Woodbury MN, while the California Secretary of State lists the legal address as in New York, NY.

EXHIBIT 2

Wage statements also include sick pay, vacation wages, and penalty wages in the total hours worked, leading to an incorrect statement of hours worked.

72. Additionally, based on and as a result of the above-mentioned Labor Code violations, Defendant maintained and issued inaccurate wage statements, failing to include required hours and overtime hours worked and misrepresenting actual regular hours worked on the final wage statement. Defendant further failed to include meal and rest period penalties, and accurate itemized business expenses, thus failing the requirements of Labor Code §226(a). Defendant also failed to list required sick pay. Such failures caused injury to Plaintiff and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages, penalties, and reimbursements to which they are and were entitled. Defendant's failure to comply with its wage statement obligations was knowing and intentional, and Plaintiff and aggrieved employees have suffered injury as a result. Defendant failed to maintain time records under applicable Wage Orders. Additionally, Defendant also failed to comply with the Wage Theft Protection Act and the Labor Code section 2810.5 notice requirement. As a further result, Defendant failed to pay Plaintiff and his coworkers all wages owed at the time of their separation of employment with Defendant, including sick pay at the regular rate of pay.

73. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Plaintiff and similarly situated individuals was willful and, consequently, entitles Plaintiff and similarly situated individuals to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

74. Plaintiff will seek penalties as permitted under Labor Code §226 for himself and other class members for each violation. Further, Plaintiff seeks recovery of civil penalties under Labor Code §226.3, on behalf of the LWDA against the Defendant.

///

///

///

///

EXHIBIT 2

SEVENTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES IN VIOLATION OF

California Business and Professions Code section 17200, et seq.

(Plaintiff Against All Defendants)

75. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

76. Defendant knowingly committed, and upon information and belief continue to commit, ongoing unlawful business practices within the meaning of the UCL, including, but not limited to unlawful practices as described in the causes of action articulated above, and hereby incorporated herein.

77. Plaintiff lost money and property as a result of Defendant's unlawful business practices described above.

78. Pursuant to the UCL, Plaintiff and all Class Members are entitled to restitution of money or property acquired by Defendant by means of such unlawful business practices, in amounts not yet known, but to be ascertained at trial.

79. Pursuant to the UCL, Plaintiff and Class Members are entitled to injunctive relief against Defendant's ongoing unlawful business practices. If an injunction does not issue enjoining Defendant from engaging in the unlawful business practices described above, Plaintiff and the general public will be irreparably injured.

80. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not enjoined by this Court, will continue to engage in the unlawful business practices described above in violation of the UCL, in derogation of the rights of Plaintiff and Class Members and of the general public.

81. Plaintiff's success in this action will result in the enforcement of important rights affecting the public interest by conferring a significant benefit upon the general public.

82. Defendant's numerous violations of local and California law, as well as the other statutory and regulatory violations alleged herein, constitute unlawful business actions and practices in violation of Business and Professions Code § 17200, et seq.

EXHIBIT 2

83. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff and the Class Members are entitled to restitution of unpaid wages and penalty pay, among other relief alleged herein, that were withheld and retained by Defendant during a period that commences four years prior to the filing of this action. Plaintiff is further entitled to a permanent injunction requiring Defendant to comply with all provisions of California labor law, including properly paying the lawful rate of pay for all hours worked, providing rest periods to all workers as defined herein, timely paying due wages upon termination, maintaining accurate wages statements and payroll records, in addition to an award of attorneys' fees and costs pursuant to Code of Civil Procedure § 1021.5 and other applicable law, and costs.

EIGHTH CAUSE OF ACTION

Against Defendant for Violation of the Private Attorneys General Act ("PAGA")

(California Labor Code §2698 et seq.)

84. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporates said paragraphs herein by reference.

85. Plaintiff is an "aggrieved employee" under PAGA, as he was employed by Defendant during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all other current and former aggrieved employees of Defendant, the civil penalties provided by PAGA, plus reasonable attorneys' fees and costs.

86. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

87. Plaintiff seeks civil penalties pursuant to PAGA for all the violations alleged in this Complaint and the attached Exhibits.

88. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §226(a).

EXHIBIT 2

89. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid.

90. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

91. Plaintiff and the other current and former employees of Defendant are aggrieved employees. They were or are employed by Defendant, and each of them, and the violations alleged herein were committed against them. Plaintiff brings this action on behalf of himself and all other current and former aggrieved employees.

92. At the time of each violation, Defendant employed one or more employees.

93. As a result of the aforesaid wrongful and illegal conduct of Defendant, and each of them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be determined at trial, pre-judgment interest, costs and attorneys' fees.

94. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior to filing this Complaint. By the Notices attached as Exhibits 1-3, submitted online to the Labor and Workforce Development Agency ("LWDA") and served by certified mail upon Defendant, Plaintiff through counsel notified the LWDA and Defendant of the specific Labor Code provisions that Defendant has violated. The LWDA did not respond to Plaintiff's Notice within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code §2699.3, Plaintiff may now pursue his PAGA claims in this action on behalf of aggrieved employees and the State of California.

///

///

///

EXHIBIT 2

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Proposed Class, request judgment and the following specific relief against Defendant as follows:

- A. That the Court determine that this action may be maintained as a class action under Code of Civil Procedure § 382;
- B. Provision of class notice to all members of the Class;
- C. That Defendant is found to have violated the above-referenced provisions of the Labor Code, CCR and the IWC Wage Order as to Plaintiff, Class Members and relevant subclass Members;
- D. For compensatory damages, in an amount according to proof at trial, with interest thereon;
- E. For compensation for not being paid overtime;
- F. For compensation for not being paid a minimum wage;
- G. For compensation for not being provided proper meal breaks;
- H. For compensation for not being provided proper rest breaks;
- I. For compensation and penalties for not being provided potable water;
- J. For compensation for not being reimbursed for required business expenses;
- K. For compensation for not being paid penalty wages;
- L. That Defendant's actions are found to be willful and/or in bad faith to the extent necessary under §§ 201, 202, 203, and 558 of the California Labor Code for willful failure to pay all compensation owed at the time of separation to Plaintiff and Class Members no longer employed by Defendant;
- M. That Plaintiff and Class Members receive penalties for Defendant's violation of §226 and 1174 of the California Labor Code for willful failure to provide and maintain the required accurate and itemized wage statements;
- N. That Plaintiff and Class Members receive an award in the amount of unpaid wages owed, including interest thereon, and penalties as provided in the Labor

EXHIBIT 2

Code, CCR and Wage Order, including under Labor Code §§ 203, 510, and 558, subject to proof at trial;

O. That Plaintiff and Class Members receive damages pursuant to §§248.5 in addition to reasonable attorneys' fees, and costs of suit pursuant to Labor Code § 218.5 and CCP 1021.5;

P. That Defendant be ordered to pay restitution to Plaintiff and Class Members for amounts acquired through Defendant's unlawful activities pursuant to Business and Professions Code §§ 17200-05 and enjoined to cease and desist from unlawful and unfair activities in violation of California Business and Professions Code § 17200 et. seq.;

Q. That Plaintiff and Class Members receive an award of reasonable attorneys' fees and costs pursuant to Code of Civil Procedure §1021.5, Labor Code §226, 218.5, and 1194 and/or applicable laws;

R. That the Court issue declaratory relief that Defendant's challenged policies are unlawful;

S. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be determined at trial, but at least the jurisdictional amount of this Court;

T. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law;

U. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable law;

V. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be determined at trial, but at least the jurisdictional amount of this Court;

W. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law;

EXHIBIT 2

X. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable law;

Y. Pre-judgment and post-judgment interest as provided by law and

Z. That the Court order further relief, in law and equity, as it deems appropriate and just.

DATED: _____, 2023

KOUL LAW FIRM

BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff MARVIN KINNEY
and putative class members

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of himself and the putative class, hereby demands trial by jury to the full extent permitted by law.

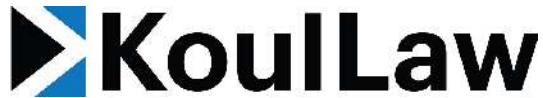
DATED: _____, 2023

KOUL LAW FIRM

BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff MARVIN KINNEY
and putative class members

EXHIBIT 3

EXHIBIT 3



www.koullaw.com

Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Kindeva Drug Delivery, L.P.
11200 Hudson Road
Woodbury, MN 55129

Kindeva Drug Delivery, L.P.
10 East 53rd Street, 31st Floor
New York, NY 10022

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimant: Marvin Kinney
Employer: Kindeva Drug Delivery, L.P.

Dear Sir or Madam:

Claimant Marvin Kinney has retained Nazo Koulloukian, Esq. and the KOUL LAW FIRM for wage and hour claims against his employer Kindeva Drug Delivery, L.P. (hereafter “Employer”). Claimant began working for Employer in April of 2022 and remains a current hourly, non-exempt employee.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and it is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below, or permit claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

EXHIBIT 3

Failure to Pay Wages, including Overtime Wages

(Cal. Labor Code §§ 216, 218, 510, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*,

Wage Order 1)

Wage Order 1 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” When employees like Claimant and his coworkers do not receive payment for all hours worked, the result is that they are earning less than the statutory minimum wages for time spent off the clock and all hours worked. Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period.

Off-the-Clock Hours Worked

Employer fails to pay for all hours worked, time spent under the control of Employer, and/or preliminary and postliminary time, including but not limited to time related to bag checks, security checks, walking, donning and doffing, logging in to computers, phones, or tablets, authentication processes, driving, rounding, editing and/or manipulation of time entries, auto-deductions, locked timeclocks, etc. Employer requires its hourly employees to go through various levels of security where they are required to use a personalized badge to enter through gates, buildings, and other entryways and secured offices, all prior to clocking in. Once employees finally reach the primary timeclock in the main office, and because Claimant and dozens of other aggrieved employees would come on shift at the same time, they would face long lines and delays to clock in. Some employees would choose to wait in line at the primary time clock, while others would choose to leave the main office, walk to another timeclock, badge in and out and enter through another part of the building to reach a different time clock. There was always a lot of stress and pressure around clock-in times because employees were not permitted to clock in any earlier than 3 minutes prior to their shift start time, but would be in trouble if they clocked in one minute late. Employees were also required to go through various levels of security to enter and walk to the timeclock when returning from unpaid lunch periods which further contributed to unpaid hours worked. Employees would also arrive at work early to confirm that they were able to secure scrubs provided and cleaned by Employer in their size.

When employees earning minimum wage do not receive payment for all hours worked, including off-the-clock and overtime hours worked, the result is that they are earning less than the statutory minimum wages for all hours worked, in violation of Labor Code §1197.

Overtime

During the relevant time period, Employer fails to pay non-exempt employees, including Claimant and aggrieved employees, for all overtime hours worked pursuant to California Labor Code § 510, § 1194 and applicable Wage Order. Claimant and aggrieved employees are informed and believe, and based thereon alleges, that Employer had and has a policy or practice of requiring its employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime wages at the regular rate of pay.

EXHIBIT 3

Claimant and his coworkers received non-discretionary bonuses and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay").

Failure to Pay All Wages Owed Twice Per Month

Employer is required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Employer is liable under Labor Code §210 for failure to pay wages as required by law.

Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1182.12, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 et seq., Wage Order 1, § 4.)

Pursuant to Labor Code sections 1194, 1194.2, and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer's practices described above. Based on Employer's unlawful conduct described above, and because Claimant and the aggrieved employees were paid at or near minimum wage, employer's failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and the Wage Order. Additionally, employees receive zero pay for time spent working off the clock which is also a violation of the labor code. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

EXHIBIT 3

Failure to Provide Timely Meal Breaks

(Cal. Labor Code §§226 (a), 226.7, 512, 558, 1198, 2698 et seq., Wage Order)

Labor Code §512 provides, “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes...” Labor Code §226.7(a) provides, “[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission.” Paragraph 11 of the Wage Order provides, in pertinent part, “[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.”

In this case, Claimant and his coworkers were not provided with compliant meal periods. For example, Claimant and his coworkers frequently experienced noncompliant meal periods that were under 30 minutes in length because of the extensive walk and wait time associated with the clock in procedure described above. The break area was in an entirely different building than Claimant’s work area resulting in lengthy walk time. Employer failed to provide Claimant and his coworkers with 30 minutes of net rest in an area appropriate for rest away from the workstation, resulting in short meal periods. Additionally, the timeclocks were programmed to prohibit employees from clocking back in less than 30 minutes after their clock out time, but employees would also get in trouble if they clocked in even one minute late. The result is that employees would return to the timeclock before the 30 minutes were up and wait (off the clock and unpaid) to clock in to ensure they clocked in at the exact time as directed, taking into account the fact that there may be lines. Employees would also sometimes be paged while on meal periods and many employees felt pressure to respond, interrupting their meal periods.

Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer did not account for all hours worked that were unaccounted for on their timecard and further because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy.

The Wage Orders require employers to authorize and permit employees to take an uninterrupted 30-minute meal period after no more than 5 hours of work. Pursuant to Labor Code §1198, “the employment of any employee... under conditions of labor prohibited by the order is unlawful.” Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Employer never paid penalty pay to Claimant or aggrieved employees for noncompliant meal periods. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a). On those occasions when Claimant and his coworkers were not provided with all legally required meal periods to which they were entitled, Employer failed to compensate Claimant and his coworkers with the proper meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7, calculated at the regular rate of pay. Specifically, Claimant and his coworkers received non-discretionary bonuses and/or

EXHIBIT 3

other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Although Employer paid meal period premium payments to Claimant and his coworkers when they were not provided with timely, duty-free 30-minute meal periods, Employer paid meal period premium payments at Claimant's and his coworkers' respective base rates of pay, rather than at their respective regular rates of compensation, thereby miscalculating and underpaying the meal period premiums paid.

During Claimant's employment with Employer, Employer also failed to properly incorporate the value of earned Incentive Pay and any other form of nondiscretionary compensation into the regular rate of pay when calculating the employees' sick time pay and meal period premiums. Instead, Employer paid Claimant and his coworkers at their base rates of pay for sick time pay earned and for their meal period premiums, in violation of California law.

As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Rest Breaks and Potable Water

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2350, 2441, 2698 et seq., 3457, 6712)

Employer has failed to maintain a policy and practice that provides or permits its employees to take off-duty rest periods as required by California law. Employees are entitled to at least a ten-minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and the Wage Order. Claimant and his coworkers were not authorized and permitted to take all legally compliant rest periods due to Employer's rest period policies/practices, which fail to authorize and permit an off-duty rest period for every four hours worked, or major fraction thereof. Specifically, due to work demands imposed by Employer, Claimant and his coworkers were regularly prevented from being relieved of all work duties during required rest periods. Employer also failed to provide Claimant and his coworkers from taking 10 minutes of net rest in areas away from the workstation appropriate for rest. Claimant explains that he and his coworkers frequently experienced noncompliant rest periods because of time spent walking from the work area to the break area, the inadequate seating and space provided for employees in the break area, and the insufficient water made available to employees. On the occasions when Claimant and his coworkers were not provided with all of the legally compliant rest periods to which they were entitled, Employer failed to compensate Claimant and his coworkers with the required rest period premium at the regular rate of pay for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Employer maintained no payroll code or other mechanism for the payment of rest period premiums as required by Labor Code § 226.7 in the event a legally compliant rest period was not provided to their non-exempt employees.

EXHIBIT 3

Potable Drinking Water

Rest breaks did not comply with state laws as required by Labor Code §226.7 for numerous reasons, including because employees were denied sufficient potable water.

California Labor Code §2441 requires employers to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places. 8 CCR §3395 requires the provision of “potable drinking water meeting the requirements of §§1524, 3363, and 3457, as applicable, including but not limited to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge.” 8 CCR § 3457(c) further requires the provision of potable drinking water and single-use cups. Claimant and aggrieved employees were not provided with potable water within reasonable proximity to their workplace. The only place they could access water was near the locker rooms, a significant walk from the work area.

Employer failed to pay Claimant and similarly situated employees the premium compensation (one hour of pay at the employee’s regular rate of pay for missed or untimely rest periods) mandated by Labor Code §226.7 (b) for these noncompliant rest periods. Rest period violations occurred often, however no rest period penalty pay is listed on any paystubs. Pursuant to Labor Code §1198, “the employment of any employee... under conditions of labor prohibited by the order is unlawful.” Accordingly, because Employer violated Wage Order provisions requiring rest breaks, Employer violated §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.* As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required rest period penalties, thus failing the requirements of Labor Code §226(a), resulting in further liability under Cal. Labor Code §§ 558 and 2698 *et. seq.*

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to aggrieved employees at the time their employment terminated. Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202.

Additionally, Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Employer is liable under Labor Code §210 for failure to pay wages as required by law.

EXHIBIT 3

As a result of Employer's failure to compensate Claimant and aggrieved employees for all meal and rest period premium wages, and sick time pay at the correct regular rate of pay, Employer maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements. As a further result, Employer failed to pay Claimant and aggrieved employees all wages owed at the time of their separation of employment with Employer, including sick pay at the regular rate of pay.

Pursuant to Labor Code § 203, Employer's failure to pay all final wages due to Claimant and similarly situated individuals was willful and, consequently, entitles Claimant and similarly situated individuals to waiting time penalties equal to one day of wages at their standard hourly rate for each day Employer failed to pay their final wages after their separation, up to a maximum of thirty days. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Safe Working Conditions **(Cal. Labor Code §1198, Wage Order)**

Employer's workplaces would get unsafely hot due to Employer's lack of adequate climate control facilities.

The Wage Orders require:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

Claimant explains that it would often get unbearably hot in the facility, sometimes to the point where cardboard boxes started to soften given the indoor heat and humidity. In addition to climate control issues, Employer failed to take safety measures required to keep employees safe during COVID-19. Labor Code 1198 makes it unlawful to employ employee in conditions prohibited by the wage order. By violating the wage order, Employer is liable for civil penalties pursuant to §2698 *et. seq.*

Failure to Provide Place Of Employment That Is Safe And Healthful **(Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, 6407, 2699 *et seq.*, 8 CCR 3202)**

Cal. Labor Code § 6400(a) provides that every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein. Cal. Labor Code §6401 provides that "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. Pursuant to Cal. Labor Code §6402, no employer shall require, or permit any employee to go or be in any

EXHIBIT 3

employment or place of employment which is not safe and healthful. Cal. Labor Code §6403 states that no employer shall fail or neglect to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe, or to adopt and use methods and processes reasonably adequate to render the employment and place of employment safe, or to do every other thing reasonably necessary to protect the life, safety, and health of employees. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any place of employment that is not safe and healthful. Cal. Labor Code § 6407 provides that 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.

Employer failed to timely make changes to the workplace at the onset of COVID. Under LC §6409.6(a)(1). “COVID-19” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The Employees continued to work without distancing throughout the pandemic. Claimant and aggrieved employees continued to work in enclosed and improperly socially distanced work environments without any distancing from others throughout the pandemic. There was no enforced written covid prevention program enforced and employees were not consistently advised when a close contact at work had Covid.

Employers employed their employees under other unsafe conditions violative of Cal-OSHA regulations and the Health and Safety Code. For instance, Claimant observed that signs noting the location of fire extinguishers were missing and the fire extinguishers themselves were blocked by ladders and other objects. He also observed pallets in walkways throughout the warehouse blocking aiseways and creating risk of injury.

As a result of these practices, Employers have violated Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for their Employees, as outlined above. Employers are liable for civil penalties pursuant to Cal. Labor Code §2699 *et seq.*

Failure to Reimburse For Required Business Expenses **(Cal. Labor Code §§1198, 2802, 2699 et seq.)**

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Claimant and aggrieved employees were required to purchase many items for work purposes for which they were never fully reimbursed, including but not limited to, slip-resistant shoes, flashlights, required clothing, safety goggles, cell phones, internet, home office, uniforms, equipment, and vehicle usage. Regarding the shoes, employees were required to purchase a particular shoe which cost about \$120 but they were only provided with a \$100 voucher. The flashlights provided to employees were inadequate and inoperable making it such that employees could not effectively do their jobs without

EXHIBIT 3

an operational flashlight, necessitating that Claimant and aggrieved employees purchase their own adequate flashlights. The goggles were similarly inadequate and would get fogged up in Employer's prohibitively hot work environment, again rendering it impossible to effectively complete their work and leading Claimant and aggrieved employees to purchase sufficient goggles that would not fog and impair their vision. Employer was required to provide these items to employees, or reimburse employees when employees were required to provide them for themselves, but never did. Claimant and aggrieved employees were also required to use their cell phones at work. Personal cell phone numbers were associated with the dual-factor authentication required for employees to log into their email, master control system, or training and quiz system and employees were required to access and use their personal phones in order to access these required work systems. Employees were also required to download the Dayforce app which provided access to information concerning their employment. Employer's failure to reimburse for any of these expenses renders employer liable for PAGA penalties for each pay period wherein a violation occurred.

At all relevant times herein, Employer was subject to Labor Code § 2804, which states that, "[a]ny 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 under the laws of this State."

As a proximate result of Employer's policies and/or practices in violation of Labor Code §§ 2802 and 2804, and the applicable Wage Order, Claimant and aggrieved employees were damaged in sums, which will be shown according to proof.

Paystub and Record Keeping Violations

(Cal. Lab. Code §§226, 1174, 2698 *et seq.*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees, and maintain accurate records, in accordance with Labor Code §§ 226 and 1174. Wage statements issued to employees do not state the true legal address of the entity that is the employer. Wage statements list an address in Woodbury MN, while the California Secretary of State lists the legal address as in New York, NY. Wage statements also include sick pay, vacation wages, and penalty wages in the total hours worked, leading to an incorrect statement of hours worked.

Additionally, based on and as a result of the above-mentioned Labor Code violations, Employers maintained and issued inaccurate wage statements, failing to include required hours and overtime hours worked and misrepresenting actual regular hours worked on the final wage statement. Employer further failed to include meal and rest period penalties, and accurate itemized business expenses, thus failing the requirements of Labor Code §226(a). Employer also failed to list required sick pay. Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages, penalties, and reimbursements to which they are and were entitled. Employer's failure to comply with its wage statement obligations was knowing and intentional, and Claimant and aggrieved employees have suffered injury as a result. Employer failed to maintain time records under applicable Wage Orders. Additionally,

EXHIBIT 3

Employer also failed to comply with the Wage Theft Protection Act and the Labor Code section 2810.5 notice requirement.

Claimant will seek penalties as permitted under Labor Code §226 for herself and other aggrieved employees for each violation. Further, claimant will seek recovery of civil penalties under Labor Code §226.3, and PAGA, Labor Code §2698, *et seq.*, on behalf of the LWDA against the Employers if authorized to file a representative action on behalf of the State of California for Employers' paystub violations.

Failure To Pay Reporting Time Wages **(Labor Code Sections 218.5, 1194, 1197, 1198, and Wage Order)**

At all times relevant herein, Employer fails to pay reporting time wages. Labor Code sections 1194 and 1197 require that an employer compensate employees for "hours worked" at least at a minimum wage rate of pay as established by the applicable Wage Order. Labor Code section 1198 provides, "the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Section 5(A) of the applicable Wage Order requires that when an "employee is required to report for work and does report but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage." The applicable Wage Order, § 5(A). Employer is liable to Claimant and aggrieved employees for reporting time pay for each day Employer caused them to work but were put to work for less than half of their usual or scheduled day's work

Pursuant to Labor Code sections 218.5, 1194, 1197, 1198, and the applicable Wage Order, Claimant and aggrieved employees are entitled to recover the full amount of unpaid reporting time pay, interest thereon, liquidated damages, reasonable attorney's fees and costs of suit.

Failure To Pay Sick Leave **(Labor Code Sections 246 and 246 (I))**

California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(I) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. During the relevant time period, Employer failed to pay Claimant and aggrieved employees paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

EXHIBIT 3

Failure to Provide Adequate Seating and Space

Claimant is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to provide all working employees with suitable seats when the nature of the work reasonably permits the use of seats. Claimant is further informed and believes, and based thereon alleges that Employer has failed to place an adequate number of seats in reasonable proximity to the work area and/or permitted employees to use such seats when it does not interfere with the performance of their duties when employees are not engaged in the active duties of their employment and the nature of their work requires standing.

Conclusion

Employers have violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform him if it does not intend to investigate these violations so that he may pursue his claims as a representative action in civil court.

Respectfully Submitted,

Nazo Koulloukian
KOUL LAW FIRM, APC
Attorneys for Claimants

EXHIBIT 4

EXHIBIT 4

Settlement Administrator Contact Information
Claims Admin ID <<ID>>

Mailing Date, 2025

<<FullName>>
<<Address1>>
<<Address2>>
<<City>>, <<State>> <<Zip>>

**Re: REMINDER TO CASH SETTLEMENT CHECK FOR CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

Dear <<FullName>>:

You previously were sent your payment from the settlement of the lawsuits entitled *Marvin Kinney v. Kindeva Drug Delivery L.P.*, California Superior Court, County of Los Angeles, Case No. 23STCV11677, consolidated with *Marvin Kinney v. Kindeva Drug Delivery L.P.*, Los Angeles County Superior Court Case No. 23STCV17839, and *Raul Valdes v. Kindeva Drug Delivery L.P.*, Los Angeles County Superior Court Case No. 23STCV21051. Our records show that you have not yet cashed your settlement check. You will be bound by the settlement whether or not you cash the check.

Please cash your check promptly. Your check will expire on <<ExpirationDate>> and then will be sent to the California State Controller Unclaimed Property Fund to be held in your name.

If you have any questions about the settlement, you can visit the Settlement website at www._____.com; contact Class Counsel toll-free at _____; view the public docket for the case, or you may contact the Settlement Administrator (whose contact information is at the top of this letter). Please do not call the Court about this letter.

Sincerely,

Settlement Administrator

EXHIBIT 2



Nadia Chavez Martinez <nadia@koullaw.com>

Fwd: Thank you for your Proposed Settlement Submission

1 message

Nazo Koulloukian <nazo@koullaw.com>
To: Nadia Chavez Martinez <nadia@koullaw.com>

Wed, Dec 11, 2024 at 11:05 AM

Yours Truly,

Nazo Koulloukian, Esq.

3435 Wilshire Blvd. Suite 1710

Los Angeles, CA 90010

T: (213) 761-5484 | F: (818) 561-3938

E: nazo@koullaw.com | www.koullaw.com

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

----- Forwarded message -----

From: **DIR PAGA Unit** <no-reply@formassembly.com>
Date: Wed, Dec 11, 2024 at 10:53 AM
Subject: Thank you for your Proposed Settlement Submission
To: <nazo@koullaw.com>

12/11/2024 10:53:11 AM

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

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.DIR PAGA Unit on behalf of
Labor and Workforce Development AgencyWebsite: http://labor.ca.gov/Private_Attorneys_General_Act.htm

PROOF OF SERVICE

Case No. 23STCV17839

Kinney v. Kindeva Drug Delivery, L.P.

I, NADIA CHAVEZ, declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the entitled case. The name and address of my residence or business is KOUL LAW FIRM, 3435 Wilshire Blvd. Ste. 1710, Los Angeles, California 90010.

On December 11, 2024, I served the foregoing documents described as:

- 1. NOTICE OF MOTION FOR: (1) PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AGREEMENT; (2) APPROVAL OF NOTICE TO CLASS MEMBERS; (3) APPROVAL OF SETTLEMENT ADMINISTRATOR; AND (4) SETTING HEARING FOR FINAL APPROVAL OF SETTLEMENT;**
- 2. MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT;**
- 3. [PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL;**
- 4. DECLARATION OF MARVIN KINNEY IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL;**
- 5. DECLARATION OF PLAINTIFF RAUL VALDES IN SUPPORT OF APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT;**
- 6. DECLARATION OF NAZO KOULLOUKIAN IN SUPPORT OF PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT;**
- 7. DECLARATION OF PAUL K. HAINES IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT; AND**
- 8. DECLARATION OF LISA MULLINS**

 X

BY E-MAIL: I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address from e-mail nadia@koullaw.com pursuant to California Rules of Court. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

SEE ATTACHED SERVICE LIST

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

Executed on this December 11, 2024, in Los Angeles, California.



NADIA CHAVEZ

PROOF OF SERVICE

Case No. 23STCV17839

Kinney v. Kindeva Drug Delivery, L.P.

BARBARA I. ANTONUCCI

bantonucci@constangy.com

SARAH K. HAMILTON

shamilton@constangy.com

ELISE G. DVOROCHKIN

edvorochkin@constangy.com

CONSTANGY, BROOKS, SMITH & PROPHETE LLP

601 Montgomery Street, Suite 350

San Francisco, CA 94111

Telephone: (415) 918-3000

Attorneys for Defendant KINDEVA DRUG DELIVERY, L.P.