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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

ALEXA ROS COLEMAN, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

LL FLOORING, INC., a Delaware corporation;
and DOES 1 through 100, inclusive,

Defendant.

Case No. BCV-23-103493

[*Assigned to Hon. Gregory Pulskamp, Division J*]

**DECLARATION OF SCOTT M.
LIDMAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SETTLEMENT APPROVAL OF
CLAIMS BROUGHT UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT AND REASONABLE ATTORNEYS'
FEES, COSTS, AND ENHANCEMENT
AWARD**

Date: March 18, 2024

Time: 8:30 a.m.

Div.: J, 1215 Truxton Ave., Bakersfield 93301

Complaint Filed: October 18, 2023

Trial Date: None Set

DECLARATION OF SCOTT M. LIDMAN IN SUPPORT OF PLAINTIFF'S MOTION FOR SETTLEMENT
APPROVAL OF CLAIMS BROUGHT UNDER THE PRIVATE ATTORNEYS GENERAL ACT AND REASONABLE
ATTORNEYS' FEES, COSTS, AND ENHANCEMENT AWARD

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ALEXA ROS COLEMAN

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel for the
3 named Plaintiff Alexa Ros Coleman (“Plaintiff”) in the above-captioned matter. I am a member in good
4 standing of the bar of the State of California and am admitted to practice in this Court. I have personal
5 knowledge of the facts stated in this declaration and could testify competently to them if called upon to
6 do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*
8 *cum laude*. During law school, I worked as a summer associate for the international employment law
9 firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm
13 in the world exclusively devoted to representing management in employment, employee benefits and
14 labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which
16 was at the time one of the largest international firms in the world. During my employment at Jones
17 Day, I worked exclusively in the labor and employment department. In or around 2003, I went to work
18 at the law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In
19 2008, I returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the
20 end of 2017, I practiced exclusively labor and employment law, with a strong emphasis and most of my
21 time working on wage and hour class actions venued in both state and federal courts. During that time
22 and my legal career in general, I also worked on a number of single and multi-plaintiff wage and hour
23 matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In
26 particular, I received a wide-array of wage and hour class action experience performing the following
27 types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions from state court
28

1 to federal court; drafting and responding to written discovery; drafting and opposing discovery related
2 motions; arguing discovery related motions; drafting motions to consolidate related matters;
3 interviewing putative class members and obtaining declarations in connection with class certification;
4 drafting oppositions to motions for class certification; drafting motions for decertification following
5 class certification; conducting exposure analyses to assess the strengths and weaknesses of asserted
6 claims, the likelihood of prevailing at class certification and potential damages resulting from such
7 claims; drafting mediation briefs; serving as the primary contact to in-house counsel; deposing named
8 plaintiffs and putative class members; deposing retained expert witnesses; and defending the depositions
9 of corporate witnesses. I also was involved in the negotiations and settlements of many large wage and
10 hour class actions. In short, I played an integral role in all aspects of litigation from the inception of a
11 matter through and beyond class certification. I also supervised the work of several junior attorneys
12 who were staffed on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
14 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United
16 States District Court, Central District of California, Honorable Gary Klausner,
17 presiding¹.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
19 Superior Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 20 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior
21 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 22 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
23 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.

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27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States Court of
28 Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,
2 United States District Court, Central District of California, Honorable Percy
3 Anderson, presiding.
- 4 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California
5 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.²
- 6 ► *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
7 States District Court, Central District of California, Honorable Percy Anderson,
8 presiding.
- 9 ► *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
10 States District Court, Central District of California, Honorable Percy Anderson,
11 presiding.
- 12 ► *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
13 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.³
- 14 ► *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
15 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 16 ► *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-
17 KSC, United States District Court, Southern District of California.⁴
- 18 ► *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County
19 of Solano, Honorable Paul Berman, presiding.
- 20 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California
21 Superior Court, County of Orange, Honorable William Claster, presiding.
- 22 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California
23 Superior Court, County of Orange, Honorable William Claster, presiding.
- 24
- 25

26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal
27 and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

1 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
2 Court, County of San Francisco.

3 ▶ *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District
4 Court, Northern District of California, Honorable Richard Seeborg, presiding.

5 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own
6 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily
7 wage and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder
8 of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the
9 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-
10 five (65) wage and hour class actions filed in State courts throughout California, with several of them
11 having been removed to Federal courts. I believe that my professional experience renders me more than
12 qualified to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum
13 wages, meal and rest period violations, and derivative penalty claims. Not only have I litigated dozens
14 of wage and hour cases throughout my career involving similar claims, including the wage and hour
15 class actions identified above, I have litigated similar claims from both plaintiff and defense
16 perspectives. As a result, I am able to realistically assess and evaluate the facts and legal arguments
17 that can be made in pursuit and defense of similar wage and hour claims, as well as those facts and
18 arguments in support and in opposition to class certification. Consequently, I am able to appreciate the
19 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

20 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
21 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
22 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
23 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-
24 2017-00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge
25 William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412,
26 California Superior Court, County of San Bernardino, Honorable Judge David Cohn presiding; *Molina*
27 *v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los Angeles,
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Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al. v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; and *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S. Cunningham presiding.

9. As co-lead counsel for Plaintiff, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is a reasonable result for the Aggrieved Employees.

10. LL Flooring does business by selling a wide variety of premium flooring, including vinyl, hardwood and laminate.

11. On August 30, 2023, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code including: (1) pay all minimum wages owed; (2) pay all overtime wages owed; (3) provide legally compliant meal periods or premium pay for non-compliant meal periods; (4) reimburse necessary business expenditures; (5) provide accurate, itemized wage statements; (6) failure to pay sick pay at the legal pay rate; (7) failure to provide and pay all earned wages at least twice during each calendar month; (8) maintain accurate records; and (9) pay and/or timely pay all wages owed at the time of separation of employment. A true and correct copy of the LWDA letter is attached hereto as **Exhibit 1**. On October 18, 2023, Plaintiff submitted a supplemental letter to the LWDA stemming from further violations of the Labor Code including: (1) failure to provide rest periods; and (2) failure to provide sick leave pay and written notice/wage statements itemizing available paid sick leave hours. A true and correct copy of the LWDA letter is attached hereto as **Exhibit 2**.

12. On October 18, 2023, Plaintiff filed her complaint in this action which asserted a sole claim for civil penalties pursuant to California Labor Code Private Attorney General Act, Labor Code section 2698, *et seq.* (“PAGA) stemming from alleged violations of the California Labor Code set forth in the August 30, 2023 and October 18, 2023 LWDA notices. On December 19, 2023, Plaintiff submitted a second supplemental letter to the LWDA stemming from additional violations of the Labor Code including: (1) clarifying that the alleged overtime violations included failure to include bonuses in the regular rate when computing overtime; and (2) clarifying that the alleged reimbursement violations included failure to reimburse for use of personal cellular phones. A true and correct copy of the LWDA letter is attached hereto as **Exhibit 3**.

13. On December 19, 2023, Plaintiff filed the operative First Amended Complaint (“FAC”) which asserted a sole cause of action under the PAGA asserting violations of the Labor Code as set forth in Plaintiff’s August 30, 2023, October 18, 2023 and December 19, 2023 letters.

14. After agreeing to participate in a private mediation, LL Flooring informally produced to Plaintiff information and documents pertaining to Plaintiff and other Aggrieved Employees, including sampling of timekeeping records and payroll data, wage and hour policies and other relevant documents and information for the underlying claims. After the detailed review of the payroll and time records analysis and other documents and policies produced by LL Flooring, Plaintiff's Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. This discovery allowed the parties to assess the merits and value of Plaintiff's claims, and determine if a settlement could be reached.

15. On December 8, 2023, the Parties participated in mediation with Kevin Barnes Esq., a well-respected wage and hour class and representative action mediator. During mediation, the Parties vigorously debated their opposing legal positions and the likelihood of Plaintiff's ability to proceed on a representative basis. Ultimately, the Parties reached a settlement through a mediator's proposal, the terms of which were subsequently finalized in writing after mediation. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 4**. The Proposed Notice of PAGA Settlement and Release of Claims is attached as Exhibit B to the Settlement.

16. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount:	\$390,000.00
Minus Court-approved attorneys' fees (1/3):	\$130,000.00
Minus Court-approved attorneys' costs:	\$6,100.65
Minus Court-approved enhancement award:	\$7,500.00
Minus settlement administrator costs:	\$4,000.00
Net Settlement Amount:	\$242,399.35

Net Settlement Amount:	\$242,399.35
75% to LWDA	\$181,799.51
25% to Aggrieved Employees	\$60,599.84

The payment of the GSA shall be made within 30 calendar days of Court approval of the settlement and when the judgment becomes final. See Settlement, ¶¶ I.7 and III.2. Within 10 business days of the court signing the approval order, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees in order to calculate and distribute checks to Aggrieved Employees. See Settlement, ¶ IV.2. Upon receipt of this information, the Settlement Administrator

1 will prepare and circulate an anonymized spreadsheet containing the estimated individual settlement
2 payments to each Aggrieved Employee for the Parties approval. The Settlement Administrator shall
3 also determine whether the Escalator Clause in Section III.3 has been triggered. Within two business
4 days of receiving the Parties' approval, the Settlement Administrator shall mail copies of the
5 explanatory letter to all Aggrieved Employees with their checks. *See* Settlement, ¶ IV.3. The
6 Settlement does not require Aggrieved Employees to submit a claim form to reap financial benefit from
7 the Settlement. *Id.* Any checks remaining uncashed for more than 180 days will be tendered to the
8 State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved
9 Employees to whom the checks were issued.

10 17. According to Defendant, there are approximately 324 Aggrieved Employees defined as
11 "all current and former hourly, non-exempt employees of Defendant LL Flooring, Inc. who worked in
12 California at any time from August 30, 2022 through February 6, 2024."⁶ The Aggrieved Employees,
13 including Plaintiff, worked a total of 13,480 pay periods worked by the Aggrieved Employees during
14 the PAGA Period of August 30, 2022 through February 6, 2024. The average payment to an
15 Aggrieved Employee is estimated to be \$183.64.

16 18. Plaintiff alleges that LL Flooring required its non-exempt employees to complete pre-
17 opening tasks, including without limitation, unlocking the doors, disarming the alarm and booting up
18 computers in order to clock in for the start of the shifts. Additionally, at the end of a shift, LL Flooring
19 required non-exempt employees to complete post-closing tasks, including without limitation, turning
20 off the computer, arming the alarm, throwing away the garbage, and locking the doors. Plaintiff
21 estimates that it took about 10 minutes per shift to complete the pre-opening and post-closing tasks.
22 Plaintiff contends that LL Flooring failed to compensate its non-exempt employees at least minimum

23 ⁶ Defendant represents that there are an estimated 13,480 pay periods worked by the Aggrieved Employees
24 during the PAGA Period of August 30, 2022 through February 6, 2024. If the number of pay periods worked by
25 the Aggrieved Employees during the PAGA period is more than 10% greater than this figure, Defendant agrees
26 to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number
27 of pay periods worked by the PAGA Period (i.e., if there was an 11% increase in the number pay periods
28 during the PAGA Period, Defendant agrees to increase the Gross Settlement Amount by 11%). Alternatively,
to avoid any increase in the Gross Settlement Amount, Defendant may choose to limit the PAGA Period to the
date that the number of pay periods worked by the Aggrieved Employees reaches 10% above 13,480. *See*
Settlement, ¶ III.3.

1 wages for these pre-opening and post-closing tasks. Plaintiff contends that the aforementioned alleged
2 violations occurred in each and every pay period during the relevant time period, which is
3 approximately 13,480 pay periods. Accordingly, pursuant to Labor Code section 1197.1, Plaintiff
4 calculated Defendant's exposure at \$1,348,000 (13,480 x \$100 initial violation).

5 19. LL Flooring counters that it compensated Plaintiff and all other non-exempt employees
6 for all their time worked. LL Flooring also contends that its practices were lawful, employees kept
7 track of and reported their own time, and any unpaid time was *de minimis* and therefore non-
8 compensable. LL Flooring also contends that any pre-opening or closing tasks were performed by
9 only a few individuals. In light of these defenses and Defendant's argument that the Court would
10 exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable
11 law, Plaintiff discounted the maximum recovery on this claim by 85% to account for the risk that
12 Defendant could prevail in their defenses, to arrive at a projected total of \$202,000.00.

13 20. Plaintiff alleges that Defendant provides various types of health and other related
14 benefits to its non-exempt employees and makes employer-sponsored contributions to same. Plaintiff
15 further alleges that all of these benefits were and are assignable by the employees and, as such, the
16 employer contributions should have been included in the regular rate of pay for purposes of calculating
17 overtime for the employees. Plaintiff also alleges that Defendant paid bonuses to the non-exempt
18 employees which should have been included in the regular rate of pay for purposes of calculating
19 overtime for the employees. These bonuses and received assignable benefits and/or other forms of pay
20 provided to the non-exempt employees were not excludable as a matter of law when calculating an
21 employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as
22 "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Plaintiff and other hourly, non-
23 exempt employees, Plaintiff alleges that its policies and/or procedures failed to include all forms of
24 Incentive Pay when calculating the regular rate of pay, thereby causing Plaintiff and other hourly, non-
25 exempt employees to be underpaid all of their required overtime wages. Based on a review of the
26 relevant timekeeping and payroll data, Plaintiff believes that the aforementioned alleged violations
27 occurred in approximately 8,605 pay periods during the relevant time period. Accordingly, pursuant

1 to Labor Code section 510, Plaintiff calculated Defendant's exposure at \$860,500 (8,605 x \$100 initial
2 violation).

3 21. Defendant counters that it compensated Plaintiff and all other non-exempt employees
4 all of their overtime at the proper rate of pay as it contends it included the bonuses in the regular rate
5 for purpose of overtime. Further, Defendant contends that the contributions for benefits are properly
6 excludable from the computation of overtime pursuant to state and federal laws and regulations. In
7 light of these defenses and Defendant's argument that the Court would exercise its discretion to reduce
8 any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted the
9 maximum recovery on this claim by 75% to account for the risk that Defendant could prevail in their
10 defenses, to arrive at a projected total of \$215,125.00.

11 22. Plaintiff alleges that as a result of the work demands imposed by Defendant and, meal
12 periods often were less than 30 minutes in length or did not start before the end of their fifth hour of
13 work, meaning the meal periods were late or otherwise short or unlawful in violation of Labor Code
14 section 512. Further, Plaintiff contends that when Defendant paid meal period premiums, it failed to
15 pay them at the legal regular rate of pay. Based on the time data produced in connection with
16 mediation, there appears to be at least one meal period violation in approximately 53% of the pay
17 periods, or approximately 6,740 pay periods. Accordingly, pursuant to Labor Code section 558,
18 Plaintiff calculated Defendant's maximum exposure at \$337,000.00 (6,740 pay periods x \$50 initial
19 violation).

20 23. Defendant counters that it has always provided non-exempt employees with an
21 opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected in
22 employee timekeeping records were solely the result of employee choice, rather than any policy or
23 practice of Defendant. Defendant also contends that it paid meal period premiums every time an
24 employee may not have been provided with a lawful meal period. *Id.* Defendant also points out that
25 under *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, it is only required to
26 "provide" the opportunity to take meal periods, not "ensure" meal periods are taken, and that they have
27 always done so. *Brinker, supra*, 53 Cal.4th at 1038 (rejecting "ensure" standard). Defendant also

1 contends that Plaintiff could not recover the \$100 civil penalty for “subsequent violations” because it
2 did not have notice of any initial violation. *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209
3 (2008); *In re Taco Bell Wage and Hour Actions*, 2016 WL 2755938, at *7 (E.D. Cal. April 8, 2016).
4 Lastly, Defendant contends that the Court would use its discretion provided for in the PAGA to reduce
5 the maximum penalty exposure due to its good faith efforts to comply with applicable law. In light of
6 these defenses, Plaintiff discounted the maximum recovery on this claim by 45% to account for the
7 risk that Defendant could prevail in its defenses, to arrive at a projected total of \$185,350.00.

8 23. Plaintiff alleges that LL Flooring failed to authorize and permit all legally required rest
9 periods. Specifically, Plaintiff alleges that due to work demands, she and the other non-exempt
10 employees were not authorized to take all required rest periods. Plaintiff contends that the
11 aforementioned alleged violations occurred in each and every pay period during the relevant time
12 period, which is approximately 13,480 pay periods. Accordingly, pursuant to Labor Code section 558,
13 Plaintiff calculated Defendant’s exposure at \$1,348,000 (13,480 x \$100 initial violation).

14 24. LL Flooring counters contends it has always maintained and enforced lawful rest period
15 policies and practices, and Plaintiff and other non-exempt employees were authorized and permitted
16 to take all off-duty rest periods in compliance with California law. Defendant also contends that
17 Plaintiff could not recover the \$100 civil penalty for “subsequent violations” because it did not have
18 notice of any initial violation. *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008); *In*
19 *re Taco Bell Wage and Hour Actions*, 2016 WL 2755938, at *7 (E.D. Cal. April 8, 2016). Lastly,
20 Defendant contends that the Court would use its discretion provided for in the PAGA to reduce the
21 maximum penalty exposure due to its good faith efforts to comply with applicable law. In light of
22 these defenses, Plaintiff discounted the maximum recovery on this claim by 85% to account for the
23 risk that Defendant could prevail in its defenses, to arrive at a projected total of \$215,125.00.

24 25. As Plaintiff’s PAGA claim was based on the underlying failure to pay all wages and
25 meal and rest period premiums and deficient wage statements, Plaintiff asserts PAGA penalties for
26 each Aggrieved Employee for each pay period in the PAGA limitations period. Therefore, pursuant to
27
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1 Labor Code § 226.3 and only applying the initial violation rate of \$100, the estimated exposure is
2 \$1,348,000 (13,480 pay periods x \$100 initial violation).

3 26. Defendant argues that Plaintiff's underlying claims will fail and, as a result, the wholly
4 derivative wage statement claim will also fail. *See Price v. Starbucks Corp.* (2011) 192 Cal.App.4th
5 1136, 1147 ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also
6 fail."). Further, Defendant argues that the "second violation" should not be applied where the LWDA
7 has not previously cited Defendant for any wrongdoing. Finally, Defendant argues that since the
8 primary allegations in this case are that Defendant failed to pay all wages and provide all meal and rest
9 periods, imposing multiple penalties based on different Labor Code section under derivative theories
10 of liability for the same conduct would be inappropriate and unfair. As such, Plaintiff discounted that
11 figure by 90% to account for the risk of losing on the merits and for the risk of the Court reducing
12 penalties, to arrive at a realistic recovery for Aggrieved Employees of \$134,800.00. *See, e.g., Thurman,*
13 *supra*, 203 Cal.App.4th at 1136 (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc.*,
14 Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047 at *5 (C.D Cal. Aug. 12, 2011) (reducing
15 PAGA penalties by more than 82%).

16 27. Plaintiff alleges that Defendant failed to reimburse her and other non-exempt employees
17 for necessary business expenditures, including for driving personal vehicles and using personal cell
18 phones, as required under Labor Code section 2802. Accordingly, applying \$100 for each of the 324
19 employees at issue, Plaintiff calculated Defendant's maximum exposure at \$32,400.00.

20 28. Defendant denies that it failed to reimburse for any necessary expenses, notes that its
21 employees did not have to use their vehicles for work-related purposes and that use of personal cellular
22 phones was not required or necessary. Lastly, Defendant contends that the Court would use its
23 discretion provided for in the PAGA to reduce the maximum penalty due to its good faith efforts to
24 comply with applicable law. Given these defenses, the maximum recovery on this claim is discounted
25 by 50% to account for the risk that Defendant could prevail in its defenses, to arrive at a projected total
26 of \$16,200.00.

1 account for the risk that Heimark could prevail in its defenses, to arrive at a projected total of
2 \$539,200.00.

3 33. Based on the sum of the foregoing estimated figures, Plaintiff predicts the realistic total
4 recovery for the Aggrieved Employees to be approximately \$1,513,900.00. The proposed settlement
5 of \$390,000.00 therefore represents approximately 25.8% of the realistic total recovery for Aggrieved
6 Employees and avoids the risks of proceeding through trial.

7 34. My firm and co-counsel's firms request one-third of the GSA currently estimated at
8 \$130,000.00 in attorneys' fees, and a total of \$6,100.65 (including costs associated with the instant
9 motion) in actual litigation costs. This fee request is consistent with my firm and co-counsel's
10 experience in similar wage-and-hour class and PAGA matters. My firm and/or co-counsel's firms
11 conducted extensive legal research regarding the merits of Plaintiff's claims, Plaintiff's ability to
12 recover penalties under the PAGA, and Defendant's potential defenses. My firm and co-counsel's
13 firms spent significant time reviewing Defendant's informal discovery production. My firm and co-
14 counsel's firm also conducted significant research and analysis of data and information produced
15 informally prior to mediation and used this data and analysis to complete an exposure analysis for
16 PAGA penalties. My firm and co-counsel's firms Counsel also expended significant additional effort
17 in preparing subsequent settlement documents, this Motion for settlement approval, and supporting
18 declarations, and will oversee the settlement administration process.

19 35. My experience in matters similar to this one was integral in evaluating the strengths and
20 weaknesses of this case and the reasonableness of the Settlement. Practice in the narrow field of wage
21 and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and
22 federal law, as well as the procedural law of class action litigation. This case involved nuanced legal
23 issues regarding both substantive and procedural law, including complex issues with respect to
24 providing meal periods and the propriety of statutory penalties.

25 36. My law firm and co-counsel's firm maintain records of our hours worked on this case
26 by billing our time in increments of one-tenth (1/10) of an hour into a timekeeping system. I access
27 the timekeeping system regularly for purposes of assessing the number of attorney and paralegal hours
28

worked for each case that my law firm handles. I relied on the timekeeping records for this case to prepare this declaration.

37. Plaintiff's Counsel have a lodestar of \$147,145.00 without the use of any multiplier, which is more than the \$130,000.00 fee request. The following is a general summary showing the number of hours of work performed by each attorney and paralegal in my firm and co-counsel's firm on this case:

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (25 th Year Attorney)	\$900	84.3	\$75,870.00
Raphael A. Katri (21 st Year Attorney)	\$725	22.5	\$23,562.50
Paul K. Haines (17 th Year Attorney)	\$800	23.3	\$18,640.00
Milan Moore (8 th Year Attorney)	\$600	42.3	\$25,380.00
Paralegals	\$175	21.1	\$3,692.50
Total Lodestar			\$147,145.00

38. My proposed hourly rate of \$900, Mr. Katri's proposed hourly rate of \$725, Mr. Haines' proposed hourly rate of \$800, and Ms. Moore's proposed hourly rate of \$650, in light of our respective skills, wage and hour class action litigation experience, reputation, and fee awards to other attorneys of similar experience in California. Moreover, our requested hourly rates are in line with the *Laffey* Matrix, a true and correct copy of which is attached hereto as **Exhibit 5**.

39. The attorneys' fee award requested is consistent with those routinely awarded by California superior courts. California superior courts frequently grant common fund awards of 33%. *See, e.g., Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008); *see also, In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% fee award); *Chavez v. Saticoy Lemon Ass'n*, Case No. 56-2015-00468600-CU-OE-VTA, 2015 WL 5561118 (Ventura Cty. Super. Ct., Aug. 29, 2015) (approving attorneys' fees of one-third of settlement fund in representative PAGA settlement)..

40. Indeed, numerous courts have awarded attorneys' fees of up to, or in excess of 40% of the common fund. *Ammari Electronics, et al. v. Pacific Bell Directory*, Alameda County Sup. Ct.,

Case No. RG05198014 (awarded 43.8%) (2015); *In re California Indirect Purchaser X Ray Film Antitrust Litigation*, San Francisco Sup. Ct. 1998 (citing *Abzug v. Kerkorian*, Los Angeles Sup. Ct., Nov. 19, 1990, Case No. CA-00981 (45%) and *Haitz v. Meyer*, Alameda County Sup. Ct., August 20, 1990, Case No. 5729683 (45%)); *Hall v. Cinema 7, Inc.*, San Francisco Sup. Ct., July 16, 2008, Case No. CGC-01-409105 (53%); and *Rundberg v. Intrawest Napa Dev. Co.*, Napa County Sup. Ct., January 15, 2014, Case No. 26-56886 (40%).

41. Being a private law practice my firm can only properly litigate a limited number of cases at one time. The professional demands of this case were significant, including a significant number of hours of attorney and paralegal time. This litigation precluded my firm from other employment due to the time and financial commitments required by the case. Indeed, because my firm takes on cases on a purely contingency fee, we are only compensated for our time if we successfully settle a case or prevail at trial. Accordingly, I believe the requested fees are reasonable.

42. Plaintiff has provided written approval of the split of attorneys' fees in this action: 42% to Haines Law Group, APC, 28% to Lidman Law, APC, and 30% to Law Offices of Raphael A. Katri.

43. Since undertaking representation of Plaintiff, my firm and/or co-counsel's firm dedicated substantial resources to this litigation, including expending (or will expend) a total of \$6,100.65 (including costs associated with the instant motion) in actual litigation costs, without receiving any compensation to date. A true and correct copy of my firm's and Haines Law Group's costs summary in this matter is attached hereto as **Exhibit 6**. My office and co-counsel conducted legal research regarding the merits of Plaintiff's claims, the ability to recover penalties under the PAGA, and Defendant's potential defenses. Plaintiff's Counsel conducted legal research regarding the merits of Plaintiff's claims, the ability to recover penalties under the PAGA, and Defendant's potential defenses. Plaintiff's Counsel also analyzed the data and information produced informally prior to mediation and prepared an exposure analysis on the PAGA penalties. Plaintiff's Counsel also expended significant additional effort in preparing subsequent settlement documents, this Motion for settlement approval, and supporting declarations, and will oversee the settlement administration process.

39. Plaintiff also seeks an enhancement award of \$7,500.00, which is reasonable given Plaintiff's efforts in this case and the risks she undertook on behalf of the Aggrieved Employees. Plaintiff provided substantial factual information and documents to my firm and co-counsel's firms, and attended multiple meetings. Plaintiff also made herself available on the day of the mediation, and responded to all questions that I had as various issues arose. Further, Plaintiff put her future employment prospects at risk by becoming a representative, as the fact that she filed a lawsuit "is searchable on the internet and may become known to prospective employers when evaluating" them for employment.

40. The Parties committed to an exchange of informal documents and information in association with mediation. Preparation for trial remained for the parties as well as the prospect of appeals in the wake of a summary judgment ruling for either party. As a result, the Parties would incur considerably more attorneys' fees and costs through trial. This settlement avoids those risks and the accompanying expense.

41. On February 12, 2024, Plaintiff submitted the proposed Settlement to the LWDA pursuant to Labor Code § 2699(1)(2). A true and correct copy of the confirmation is attached hereto as **Exhibit 7**.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 13, 2024, at El Segundo, California.


Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, after receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

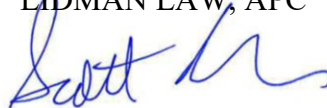
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

October 18, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699(c) due to Defendant’s numerous violations of the Labor Code as set forth below and in her prior correspondence to the Labor and Workforce Development Agency (“LWDA”) dated August 30, 2023 (the “LWDA Letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. By this letter, Ms. Coleman hereby supplements her prior LWDA Letter. The purpose of the LWDA Letter and the instant supplement letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the LWDA of the specific provisions of the Labor Code allegedly violated.

In *Huff v. Securitas Security Services USA, Inc.*, 23 Cal. App. 5th 745, 757 (2018), the court held that the Private Attorneys General Act (“PAGA”) “allows an ‘aggrieved employee’ – a person affected by at least one Labor Code violation committed by an employer – to pursue penalties for all the Labor Code violations committed by that employer” that the aggrieved employee alleges, which Ms. Coleman does here and in her prior LWDA Letter.

In addition to the Labor Code violations identified in the LWDA Letter, Ms. Coleman alleges Defendant is also liable for the following:

Rest Period Violations

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally required and compliant rest periods due to Defendant’s rest period policies

and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*.

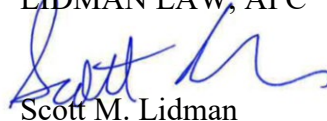
On those occasions when Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other aggrieved employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Failure to Provide Sick Pay Leave and Written Notice/Wage Statement Itemizing Available Paid Sick
Leave Hours

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Defendant failed to provide an additional 24 hours of paid sick leave to aggrieved employees as promised, in violation of Labor Code 246, 246(a), 246(b), and 246(c). Defendants also violated Labor Code 246(i) by failing to provide a written notice or itemized wage statement accurately itemizing the aggrieved employees' available paid sick leave hours.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

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c/o CSC-Lawyers Incorporating Service, Agent for
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Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, after receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

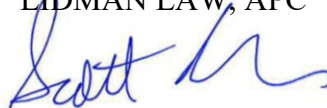
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 3

EXHIBIT 3

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

December 19, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699(c) due to Defendant’s numerous violations of the Labor Code as set forth below and in her prior correspondence to the Labor and Workforce Development Agency (“LWDA”) dated August 30, 2023 (the “LWDA Letter”). Attached collectively hereto as **Exhibit 1** are true and correct copies of the prior LWDA letters sent by Ms. Coleman and are incorporated herein by reference. By this letter, Ms. Coleman hereby supplements her prior LWDA Letters. The purpose of the LWDA Letters and the instant additional supplement letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the LWDA of the specific provisions of the Labor Code allegedly violated.

In *Huff v. Securitas Security Services USA, Inc.*, 23 Cal. App. 5th 745, 757 (2018), the court held that the Private Attorneys General Act (“PAGA”) “allows an ‘aggrieved employee’ – a person affected by at least one Labor Code violation committed by an employer – to pursue penalties for all the Labor Code violations committed by that employer” that the aggrieved employee alleges, which Ms. Coleman does here and in her prior LWDA Letter.

In addition to the Labor Code violations identified in the LWDA Letter, Ms. Coleman alleges Defendant is also liable for the following:

Overtime Violations

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working

overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. Further, Defendant paid Ms. Coleman and other non-exempt, hourly employees various bonuses and other forms of remuneration but failed to include such bonuses in the regular rate of pay for purposes of overtime. These received assignable benefits, 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Failure to Reimburse Business Expenses

During Ms. Coleman's employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal cellular phones to discharge their duties. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal cellular phones. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.")

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC

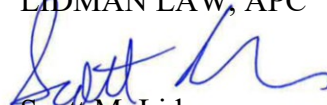

Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, *after* receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

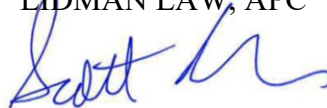
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

October 18, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699(c) due to Defendant’s numerous violations of the Labor Code as set forth below and in her prior correspondence to the Labor and Workforce Development Agency (“LWDA”) dated August 30, 2023 (the “LWDA Letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. By this letter, Ms. Coleman hereby supplements her prior LWDA Letter. The purpose of the LWDA Letter and the instant supplement letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the LWDA of the specific provisions of the Labor Code allegedly violated.

In *Huff v. Securitas Security Services USA, Inc.*, 23 Cal. App. 5th 745, 757 (2018), the court held that the Private Attorneys General Act (“PAGA”) “allows an ‘aggrieved employee’ – a person affected by at least one Labor Code violation committed by an employer – to pursue penalties for all the Labor Code violations committed by that employer” that the aggrieved employee alleges, which Ms. Coleman does here and in her prior LWDA Letter.

In addition to the Labor Code violations identified in the LWDA Letter, Ms. Coleman alleges Defendant is also liable for the following:

Rest Period Violations

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally required and compliant rest periods due to Defendant’s rest period policies

and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*.

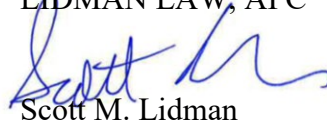
On those occasions when Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other aggrieved employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Failure to Provide Sick Pay Leave and Written Notice/Wage Statement Itemizing Available Paid Sick
Leave Hours

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Defendant failed to provide an additional 24 hours of paid sick leave to aggrieved employees as promised, in violation of Labor Code 246, 246(a), 246(b), and 246(c). Defendants also violated Labor Code 246(i) by failing to provide a written notice or itemized wage statement accurately itemizing the aggrieved employees' available paid sick leave hours.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, *after* receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

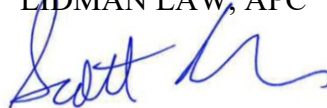
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 4

EXHIBIT 4

PAGA SETTLEMENT AND RELEASE AGREEMENT

This PAGA Settlement and Release Agreement (“Settlement” or “Agreement”) is made and entered into by and between Plaintiff Alexa Ros Coleman (“Plaintiff”), acting in a Private Attorney General capacity, and Defendant LL Flooring, Inc. (“Defendant”). By and through this Agreement, this Settlement shall be binding upon Plaintiff, Defendant, Aggrieved Employees (defined in Section I below), Released Parties (defined in Section I below), and the State of California with respect to Plaintiff’s claim(s) under the Private Attorneys’ General Act of 2004 (“PAGA”), California Labor Code section 2699 et seq., advanced and alleged in Plaintiff’s Complaint and all relevant and associated pleadings therewith, in the case entitled *Alexa Ros Coleman v. LL Flooring, Inc.*, Kern County Superior Court, Case No. BCV-23-103493. This Agreement shall be subject to the terms and conditions set forth herein, as well as the approval of the Court.

I. DEFINITIONS

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

1. “Action” means Plaintiff’s lawsuit initiated on October 18, 2023 against Defendant with the sole claim at issue, pursuant to Plaintiff’s Complaint on file and all relevant and associated pleadings therewith, being under the Private Attorneys’ General Act of 2004 (“PAGA”) as set forth in California Labor Code section 2699, *et seq.* The Action is currently at issue before the Kern County Superior Court, entitled *Alexa Ros Coleman v. LL Flooring, Inc.*, Kern County Superior Court, Case No. BCV-23-103493.

2. “Aggrieved Employees” means all current and former hourly, non-exempt employees of Defendant LL Flooring, Inc. who worked in California at any time during the PAGA Period.

3. “Complaint” means the operative First Amended Complaint entitled *Alexa Ros Coleman v. LL Flooring, Inc.*, Kern County Superior Court, Case No. BCV-23-103493, and filed on December 19, 2023, of which Plaintiff’s PAGA claim, set forth as the sole Cause of Action, is the only claim at issue in this Action.

4. “Court” means the Superior Court of California for the County of Kern, the Honorable David Zulfa of Division J presiding, or any other Judge of the Superior Court of California for the county of Kern to whom the Action may be assigned.

5. “Defendant” means LL Flooring, Inc.

6. “Defendant’s Counsel” means Tim L. Johnson and Cameron O. Flynn of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

7. “Effective Date” means the date upon entry of an Order by the Court approving this Settlement Agreement, and the Superior Court’s Final Judgment (“Final Judgment” or Judgment”) becomes Final.

8. “Final” means the latest of: (i) if there are objections and no appeal is filed, thirty days after the Final Approval Order is entered; (ii) if there are objections and an appeal is filed,

the day after appeal is dismissed or withdrawn, or appeal is decided upholding propriety of the Settlement; (iii) if no objections are filed, the day the Final Approval Order is entered; and (iv) if an appeal is filed, the day after appeal is dismissed or withdrawn, or appeal is decided upholding propriety of the Settlement.

9. “Gross Settlement Amount” is the non-reversionary sum of Three Hundred Ninety Thousand Dollars and Zero Cents (\$390,000.00), which represents the total amount payable under this Settlement by Defendant, including, without limitation, for payment of all claims at issue under this Action, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s Counsel’s fees and costs, payment of Plaintiff’s enhancement award, payment to the Settlement Administrator for administration costs, and payment in exchange for and in consideration of releases of claims by Plaintiff and Aggrieved Employees.

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

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

12. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff’s Counsel’s fees up to one-third of the Gross Settlement Amount (currently estimated at \$130,000.00); (b) Plaintiff’s verified costs up to \$25,000.00; (c) Plaintiff’s enhancement award in an amount not to exceed \$7,500.00; and (d) administration costs in an amount not to exceed \$4,000.

13. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

14. “PAGA Period” means the time period from August 30, 2022 through February 6, 2024, the date that the Court grants approval of this Settlement, whichever is earlier, or a date earlier chosen by Defendant pursuant to section III.3.

15. “PAGA Released Claims” means as follows: Plaintiff, the State of California, and all Aggrieved Employees shall and will fully and finally release Defendant and the Released Parties as set forth below from and with respect to any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code and Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.*, against the Released Parties as pled, or could have been pled based on the facts alleged, in the operative complaint in the Action and any future amendments to the operative complaint, including: (a) failure to pay all minimum wages owed (Labor Code sections 204, 218, 558, 1194, 1194.2, 1197, and 1198, as well as applicable Wage Order(s)); (b) failure to pay all overtime wages (Labor Code sections 204, 510, 558, 1194 and 1198, as well as applicable Wage Order(s)); (c) failure to provide meal periods, or pay premium pay at the correct rate for non-compliant meal periods (Labor Code sections 226.7, 512 and 558, as well as applicable Wage Order(s)); (d) failure to authorize and permit rest periods, or pay premium pay at the correct rate for non-compliant rest periods (Labor Code sections 226.7, 516 and 558, as well as applicable Wage Order(s) including); (e) failure to reimburse necessary business expenditures (Labor Code sections 2802 and 2804, as well as applicable Wage Order(s)); (f) failure to provide accurate, itemized wage statements (Labor Code section 226 *et seq.*), (g) failure to provide and

pay all earned wages at least twice during each calendar month (Labor Code section 204), (h) failure to pay sick pay at the legal pay rate, failure to provide sufficient amount of sick leave and failure to provide written notices itemizing available sick leave (Labor Code sections 246 and 248.5), and (i) failure to pay and/or timely pay all wages owed at the time of their separation and/or termination of employment (Labor Code sections 201-203), as well as including any related claims for attorneys' fees, costs, expenses, penalties, declaratory relief, restitution, and/or interest resulting therefrom ("PAGA Released Claims").

16. "Parties" mean Plaintiff and Defendant, collectively.

17. "Plaintiff" means Alexa Ros Coleman.

18. "Plaintiff's Counsel" means Scott M. Lidman, Elizabeth Nguyen, and Milan Moore, of Lidman Law, APC; Paul K. Haines of Haines Law Group, APC; and Raphael A. Katri of Law Offices of Raphael A. Katri, APC.

19. "Released Parties" means Defendant and its former, present and future owners, parents, subsidiaries, franchisees, and/or affiliates; all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, heirs, administrators, executors, joint venturers, accountants, insurers, reinsurers, and/or legal representatives; and any individual and/or entity acting on behalf of or concert with Defendant or which could be jointly liable with respect to this Action.

20. "Settlement Administrator" means Phoenix Settlement Administrators and, with respect thereto, administrator costs are to be payable from the Gross Settlement Amount to Administrator for services performed and completed with respect to administering the settlement.

II. RECITALS

1. Plaintiff's sole cause of action for civil penalties under the PAGA alleged on behalf of the Aggrieved Employees is based on Defendant's alleged failure to: (1) pay all minimum wages owed; (2) pay all overtime wages owed; (3) provide legally compliant meal periods, and/or remit proper payment of meal period premiums for non-compliant meal periods; (4) permit and authorize compliant rest periods, and/or remit proper payment of rest period premiums for non-compliant rest periods; (5) reimburse necessary business expenditures; (6) pay sick pay at the proper rate, provide proper sick leave and itemize accrued sick leave; (7) provide accurate, itemized wage statements; and (8) pay and/or timely pay all wages owed at the time of separation and/or termination of employment.

2. On August 30, 2023, October 18, 2023 and December 15, 2023, Plaintiff sent a written PAGA notice and supplementary notices pursuant to Labor Code section 2698 et seq. to the LWDA and Defendant asserting claims for civil penalties pursuant to the PAGA stemming from alleged violations of the California Labor Code described in Paragraph II.1 above, true and correct copies of which are attached collectively hereto as **Exhibit A**.

3. On October 18, 2023, Plaintiff filed her original complaint in the Action which asserts a sole claim under the PAGA based on the alleged Labor Code violations set forth in Paragraph II.1. above.

4. On December 19, 2023, Plaintiff filed her First Amended Complaint in the Action which added additional theories but still asserts a sole claim under the PAGA based on the alleged Labor Code violations set forth in Paragraph II.1. above

5. Prior to mediation in this action, the Parties engaged in extensive informal discovery including, but not limited to, production and analysis of a sampling of hourly, non-exempt wage and time records of a reasonable sampling, as well as production of various applicable wage and hour policies. In response to Plaintiff's Counsel's informal discovery requests, Plaintiff's Counsel obtained information and documents pertaining to Plaintiff and other Aggrieved Employees, as well as with respect to the claim at issue in this Action, in order for Plaintiff's Counsel to investigate Plaintiff's allegations and evaluate the substance and value of the PAGA claim.

6. On December 8, 2023, the Parties participated in a full-day mediation before mediator Kevin Barnes, Esq. During and following the mediation and with the assistance of the mediator, the Parties were able to reach a settlement and agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

7. By and through this Agreement, the Parties wish to avoid the expense of further proceedings and any future and further prosecution of Plaintiff's PAGA claim, as alleged in the Action.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission and Purpose.** Nothing in this Settlement shall be construed to be an admission by Plaintiff that the claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. Neither the existence of this Settlement nor anything contained herein shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. This Settlement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. The Parties recognize that, absent this Settlement, the issues presented in this Action are likely to be resolved only with further extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits. The Parties have taken into account the risk and uncertainty of the outcome inherent hereto. The Parties have at all times diligently pursued investigation and matters relevant and material to this Action. The purpose of this Settlement is to settle and compromise all of the PAGA Released Claims during the PAGA Period that Plaintiff and Aggrieved members may have against Defendant and/or any of the Released Parties.

2. **Gross Settlement Amount.** Defendant shall pay Three Hundred Ninety Thousand Dollars and Zero Cents (\$390,000.00) as the **non-reversionary** Gross Settlement Amount. Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator by no later than thirty (30) calendar days of the Effective Date. The Settlement Administrator shall hold

all portions of the Gross Settlement Amount in an interest-bearing account for the benefit of the Aggrieved Employees until the time for disbursement. The releases identified herein shall be null and void if Defendant fails to fully fund the Gross Settlement Amount.

3. **Escalator Clause.** Defendant represents that there are an estimated 13,480 pay periods worked by the Aggrieved Employees during the PAGA Period. If the number of pay periods worked by the Aggrieved Employees during the PAGA Period is more than 10% greater than this figure, Defendant agrees to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number of pay periods worked by the PAGA Period (i.e., if there was an 11% increase in the number pay periods during the PAGA Period, Defendant agrees to increase the Gross Settlement Amount by 1%). Alternatively, to avoid any increase in the Gross Settlement Amount, Defendant may choose to limit the PAGA Period to the date that the number of pay periods worked by the Aggrieved Employees reaches 10% above 13, 480.

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

a. **Plaintiff's Attorneys' Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to one-third (1/3) of the Gross Settlement Amount, including one-third of any increase pursuant to the Escalator Clause (currently estimated to be One Hundred Thirty Thousand Dollars and Zero Cents (\$130,000.00)). Defendant will not oppose Plaintiff's request for costs incurred in prosecuting this Action in amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys' fees and costs). If the Court believes the attorneys' fees and/or costs should be reduced, the other terms of this Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. **Plaintiff's Enhancement Award.** Defendant will not oppose Plaintiff's request for an enhancement award in the amount of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for her service to the LWDA and the Aggrieved Employees by and through filing the Action, actively participating in informal discovery, and the risk she undertook by attaching her name to the Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for Plaintiff's enhancement award). If the Court believes the enhancement award should be reduced, the other terms of the Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.

c. **Administration Costs.** The Parties agree that the Administration Costs shall be paid from the Gross Settlement Amount, currently estimated to be approximately Four Thousand Dollars and Zero Cents (\$4,000.00), for purposes of administering the Settlement. The Settlement Administrator will report this payment on IRS Form 1099 issued to the Settlement Administrator.

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

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

b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period.

This paragraph regarding allocation is based on the Parties' collective understanding that all payments will be considered "penalties" and that there will be no employer-side tax consequence to Defendant as a result of an allocation of the penalty amount being wages. If the Parties later determine otherwise, they will meet and confer regarding changes to this allocation provision. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Net Settlement Amount, the Parties agree to re-negotiate in good faith in an effort to obtain approval of the Settlement.

6. **Representative PAGA Release.** In her capacity as a Private Attorney General or "aggrieved employee" acting on behalf of herself, the State of California, and Aggrieved Employees, and in consideration of the enhancement award awarded to her, upon the Effective Date of this Settlement, Plaintiff hereby releases Defendant and Released Parties from any and all of the PAGA Released Claims that arose during the PAGA Period. Moreover, Plaintiff specifically represents, warrants, acknowledges, affirms, and agrees that upon approval of this Settlement by the Court, she is forever releasing and discharging all of her individual claims for civil penalties under the PAGA and that she therefore will no longer be an "aggrieved employee" under PAGA, and that, except to seek approval of the Settlement pursuant to California Labor Code section 2699(l), she will have no standing to act as a named or representative plaintiff in any action against Defendant or any of the other Released Parties under PAGA based upon any event occurring prior to the date of execution of this Agreement. That is, Plaintiff specifically represents, warrants, acknowledges, affirms, and agrees that she would be barred under claim preclusion from bringing any subsequent administrative action, civil action, or arbitration under PAGA based upon any event occurring prior to the date of execution of this Agreement.

7. **Aggrieved Employees Release.** As set forth herein this Settlement, upon the Effective Date hereof, all Aggrieved Employees bound by and subject to this Action shall fully and finally release and forever discharge Defendant and the Released Parties from any and all of the PAGA Released Claims that arose during the PAGA Period.

8. **No Right to Opt-Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to opt-out or otherwise exclude himself or herself from the Settlement. Neither Plaintiff nor Defendant, nor their respective counsel, will directly or indirectly solicit or otherwise encourage any Aggrieved Employee to object to the Settlement or appeal from the judgment in this Action. The Parties further agree that there is no right for any Aggrieved Employee to appeal the approval of the Settlement by the Court. The Parties will jointly defend against any objection, opt-out, or any appeal filed with respect to the Final Approval Order approving this Settlement.

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

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

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

10. **Plaintiff's Motion and Court Approval of PAGA Settlement.** To permit judicial review and approval of the Settlement, as required by Labor Code Section 2698, et seq., Plaintiff's Counsel will file the Agreement with the Court as part of Plaintiff's Motion seeking Court approval of the Settlement, as well as concurrently therewith submit the Agreement to the LWDA for review and approval, as set forth Labor Code section 2699(1)(2).

Promptly upon execution of this Settlement, Plaintiff shall cause to be filed and served with the Court requisite noticed motion seeking approval of the Settlement. Plaintiff's Counsel shall be responsible for drafting all documents necessary to obtain approval.

11. **Termination of Settlement.** If the Court does not approve the Settlement, if the Court does not enter judgment, as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the material terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

12. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees. Plaintiff's Counsel will further submit any judgment rendered in the Action and approving the PAGA Settlement to the LWDA pursuant to Labor Code section 2699(1)(3).

13. **No Further Funding Requirements Beyond Gross PAGA Amount.** Defendant's monetary obligation under this Agreement is limited to the Gross Settlement Amount, including any increase that may occur if the Escalator Clause is triggered. Defendant shall not be called upon or required in any manner to contribute any additional monies above the Gross Settlement Amount under the terms of this Agreement.

IV. ADMINISTRATION OF SETTLEMENT

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

2. **Provision of Information for Aggrieved Employees.** Within ten (10) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of pay periods worked during the PAGA Period, and Social Security number. The list shall also include the sum total of all pay periods worked by Aggrieved Employees during the PAGA Period.

Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in the highest of confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement and none of the information contained in the list shall be disclosed to third Parties or to Plaintiff's Counsel without the express written consent of counsel for Defendant. The Administrator shall use the PAGA information solely for the purpose of giving Aggrieved Employees notice of their respective right to a share of the Settlement.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall also advise whether the Escalator Clause in Section III.3 has been triggered providing Defendant. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

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

Within two (2) business days of receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit B**, in English, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail.

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

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

identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

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

The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Individual Settlement Payment(s) to the Aggrieved Employees, the postmark date of any subsequent mailing to any the Aggrieved Employees, and a list of Aggrieved Employees who did not receive the Individual Settlement Payment due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et. seq.* for the benefit of and in the name(s) of the Aggrieved Employees to whom the checks were issued but who did not cash the checks. The unclaimed checks shall remain in the unclaimed property fund in the name of the Aggrieved Employee until such time that they claim their property (the Individual Settlement Payment), or the property is otherwise disposed of pursuant the Unclaimed Property Laws.

5. **Payment of Remainder**. Within two (2) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting**. Within fifteen (15) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement. The Settlement Administrator shall provide a further such accounting under oath, upon request, after the conclusion of the 180-day check cashing period.

7. **Tax Consequences**. Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and paid via IRS Form 1099 issued to each Aggrieved Employee. No later than January 31 of the year following payment of their individual portion of the PAGA Payment, the Settlement Administrator will prepare and issue IRS Form 1099s to Aggrieved Employees who received a payment.

Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations and/or responsibilities. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any U.S., 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 penalties under the Internal Revenue Code. Each individual who received a payment from this Settlement will be responsible for the payment of any taxes owing on said amount. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. MISCELLANEOUS PROVISIONS

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

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

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

4. **Governing Law.** This Settlement shall be construed under and governed by the laws of the State of California. This Settlement shall be deemed to have been entered into in the County of Kern, California, and all questions of validity, interpretation, or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of Kern. Furthermore, this Settlement shall be valid and enforceable notwithstanding any new legal developments regarding the PAGA Released Claims or any other matter related to the Action occurring after the date this Agreement is executed by all Parties.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

6. **Nullification of Settlement.** In the event that: (i) after good faith efforts to amend or modify the Agreement for Court approval the Court does not approve the Settlement as provided

herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions unless otherwise required under this Agreement.

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

8. **Authorization to Enter into Settlement.** The signatories hereto represent that they are fully authorized to enter into this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile, electronic signatures, and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange a fully executed Agreement. The Parties also agree that a facsimile, electronic, or scanned copy of the fully executed Agreement shall have the same force and effect as an original signed Agreement.

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

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

12. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or

constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

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

15. **Enforcement Action.** The Parties hereby agree this Agreement is enforceable under Code of Civil Procedure section 664.6, so as to allow the Parties to enforce the terms of their settlement until performance has been made in full. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

16. **Caption and Associated Interpretations.** Paragraph or Section titles and/or captions contained herein are inserted as a matter of convenience and for reference purposes only, and in no way define, limit, extend, establish, and/or describe the scope and/or extent of this Settlement or any term, provision, and/or condition hereof. Each term, provision, and/or condition of this Settlement is contractual and not merely a recital.

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

PARTIES TO THE AGREEMENT:

Dated: 19/01/2024


Alexa Ros Coleman (Jan 19, 2024 21:34 CST)

Alexa Ros Coleman, Plaintiff

Dated: _____

By: _____

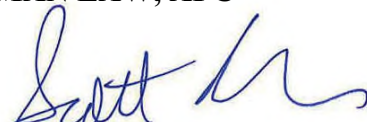
Its: _____

LL Flooring, Inc., Defendant

APPROVED AS TO FORM AND CONTENT:

Dated: January 18, 2024

LIDMAN LAW, APC

By: 

Scott M. Lidman

Attorneys for Plaintiff, Alexa Ros Coleman

constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

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

15. **Enforcement Action.** The Parties hereby agree this Agreement is enforceable under Code of Civil Procedure section 664.6, so as to allow the Parties to enforce the terms of their settlement until performance has been made in full. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

16. **Caption and Associated Interpretations.** Paragraph or Section titles and/or captions contained herein are inserted as a matter of convenience and for reference purposes only, and in no way define, limit, extend, establish, and/or describe the scope and/or extent of this Settlement or any term, provision, and/or condition hereof. Each term, provision, and/or condition of this Settlement is contractual and not merely a recital.

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

PARTIES TO THE AGREEMENT:

Dated: _____

Alexa Ros Coleman, Plaintiff

Dated: 1/22/2024

By: Alice G. Givens
Its: Chief Legal, Ethics & Compliance Officer
LL Flooring, Inc., Defendant

APPROVED AS TO FORM AND CONTENT:

Dated: _____

LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiff, Alexa Ros Coleman

Dated: January 18, 2024

HAINES LAW GROUP, APC

By: 

Paul K. Haines

Attorneys for Plaintiff, Alexa Ros Coleman

Dated: 19/01/2024

LAW OFFICES OF RAPHAEL A. KATRI, APC

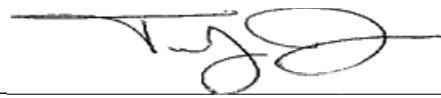
By: 
Raphael A. Katri (Jan 19, 2024 10:48 PST)

Raphael A. Katri

Attorneys for Plaintiff, Alexa Ros Coleman

Dated: January 22, 2024

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**

By: 

Tim L. Johnson

Cameron O. Flynn

Attorneys for Defendant, LL Flooring, Inc.

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, after receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

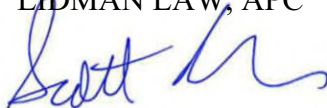
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

October 18, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699(c) due to Defendant’s numerous violations of the Labor Code as set forth below and in her prior correspondence to the Labor and Workforce Development Agency (“LWDA”) dated August 30, 2023 (the “LWDA Letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. By this letter, Ms. Coleman hereby supplements her prior LWDA Letter. The purpose of the LWDA Letter and the instant supplement letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the LWDA of the specific provisions of the Labor Code allegedly violated.

In *Huff v. Securitas Security Services USA, Inc.*, 23 Cal. App. 5th 745, 757 (2018), the court held that the Private Attorneys General Act (“PAGA”) “allows an ‘aggrieved employee’ – a person affected by at least one Labor Code violation committed by an employer – to pursue penalties for all the Labor Code violations committed by that employer” that the aggrieved employee alleges, which Ms. Coleman does here and in her prior LWDA Letter.

In addition to the Labor Code violations identified in the LWDA Letter, Ms. Coleman alleges Defendant is also liable for the following:

Rest Period Violations

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally required and compliant rest periods due to Defendant’s rest period policies

and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*.

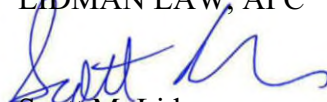
On those occasions when Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other aggrieved employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Failure to Provide Sick Pay Leave and Written Notice/Wage Statement Itemizing Available Paid Sick Leave Hours

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Defendant failed to provide an additional 24 hours of paid sick leave to aggrieved employees as promised, in violation of Labor Code 246, 246(a), 246(b), and 246(c). Defendants also violated Labor Code 246(i) by failing to provide a written notice or itemized wage statement accurately itemizing the aggrieved employees' available paid sick leave hours.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, after receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

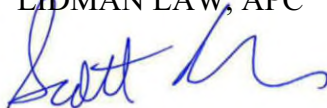
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

December 19, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699(c) due to Defendant’s numerous violations of the Labor Code as set forth below and in her prior correspondence to the Labor and Workforce Development Agency (“LWDA”) dated August 30, 2023 (the “LWDA Letter”). Attached collectively hereto as **Exhibit 1** are true and correct copies of the prior LWDA letters sent by Ms. Coleman and are incorporated herein by reference. By this letter, Ms. Coleman hereby supplements her prior LWDA Letters. The purpose of the LWDA Letters and the instant additional supplement letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the LWDA of the specific provisions of the Labor Code allegedly violated.

In *Huff v. Securitas Security Services USA, Inc.*, 23 Cal. App. 5th 745, 757 (2018), the court held that the Private Attorneys General Act (“PAGA”) “allows an ‘aggrieved employee’ – a person affected by at least one Labor Code violation committed by an employer – to pursue penalties for all the Labor Code violations committed by that employer” that the aggrieved employee alleges, which Ms. Coleman does here and in her prior LWDA Letter.

In addition to the Labor Code violations identified in the LWDA Letter, Ms. Coleman alleges Defendant is also liable for the following:

Overtime Violations

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working

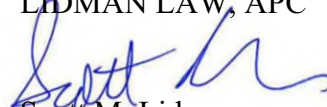
overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. Further, Defendant paid Ms. Coleman and other non-exempt, hourly employees various bonuses and other forms of remuneration but failed to include such bonuses in the regular rate of pay for purposes of overtime. These received assignable benefits, 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Failure to Reimburse Business Expenses

During Ms. Coleman's employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal cellular phones to discharge their duties. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal cellular phones. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.")

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

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c/o CSC-Lawyers Incorporating Service, Agent for
Service of Process
2710 Gateway Oaks Drive
Sacramento, CA 95833

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, after receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

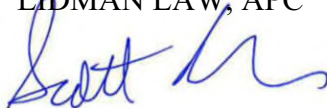
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

October 18, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
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2710 Gateway Oaks Drive
Sacramento, CA 95833

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RECEIPT REQUESTED

LL Flooring, Inc., a Delaware corporation
4901 Bakers Mill Road
Richmond, VA 23230

Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699(c) due to Defendant’s numerous violations of the Labor Code as set forth below and in her prior correspondence to the Labor and Workforce Development Agency (“LWDA”) dated August 30, 2023 (the “LWDA Letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. By this letter, Ms. Coleman hereby supplements her prior LWDA Letter. The purpose of the LWDA Letter and the instant supplement letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the LWDA of the specific provisions of the Labor Code allegedly violated.

In *Huff v. Securitas Security Services USA, Inc.*, 23 Cal. App. 5th 745, 757 (2018), the court held that the Private Attorneys General Act (“PAGA”) “allows an ‘aggrieved employee’ – a person affected by at least one Labor Code violation committed by an employer – to pursue penalties for all the Labor Code violations committed by that employer” that the aggrieved employee alleges, which Ms. Coleman does here and in her prior LWDA Letter.

In addition to the Labor Code violations identified in the LWDA Letter, Ms. Coleman alleges Defendant is also liable for the following:

Rest Period Violations

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally required and compliant rest periods due to Defendant’s rest period policies

and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours worked, or *major fraction thereof*.

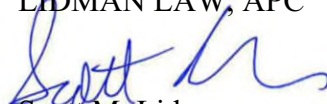
On those occasions when Ms. Coleman and other aggrieved employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other aggrieved employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

Failure to Provide Sick Pay Leave and Written Notice/Wage Statement Itemizing Available Paid Sick
Leave Hours

Ms. Coleman is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion thereof, Defendant failed to provide an additional 24 hours of paid sick leave to aggrieved employees as promised, in violation of Labor Code 246, 246(a), 246(b), and 246(c). Defendants also violated Labor Code 246(i) by failing to provide a written notice or itemized wage statement accurately itemizing the aggrieved employees' available paid sick leave hours.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

August 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

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Re: *Alexa Ros Coleman v. LL Flooring, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Alexa Ros Coleman in claims arising from her employment with LL Flooring, Inc., a Delaware corporation (“Defendant”). Ms. Coleman is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Coleman intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former hourly, non-exempt employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Coleman started working for Defendant on or about January 3, 2023, as an hourly, non-exempt employee until on or about April 29, 2023 at which time her employment was separated. During her employment with Defendant, Ms. Coleman’s job title was Store Manager.

During her employment with Defendant, Ms. Coleman was generally scheduled to work 40 hours per week. However, Ms. Coleman would often work more than eight (8) hours per day and/or forty (40) hours per week.

During Ms. Coleman’s employment with Defendant, Defendant required Ms. Coleman and other hourly, non-exempt employees to perform work before they clocked in for their shift. Specifically, Defendant required Ms. Coleman and other hourly, non-exempt employees to complete pre-opening tasks, including without limitation, unlocking the doors, disarming the alarm, and booting up the computer in order to clock in. Moreover, after closing, Defendant required Ms. Coleman and other

hourly, non-exempt employees to complete post-closing tasks, including without limitation, turning off the computer, arming the alarm, locking the doors, and throwing away the garbage. Despite being under Defendant's custody and control and completing these tasks for the benefits of Defendant, Defendant did not compensate Ms. Coleman and the other hourly, non-exempt employees for the time spent on these pre-opening and post-closing tasks. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

Additionally, during her employment with Defendant, Defendant maintained and implemented a company-wide policy of requiring all hourly, non-exempt employees, after receiving an offer an employment, to travel to a medical clinic on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, Defendant did not compensate Ms. Coleman and other hourly, non-exempt employees for the time they spent traveling to and from the medical clinics and undergoing the mandatory drug testing and/or physical examinations. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required minimum and/or overtime wages.

While working for Defendant, Ms. Coleman and other hourly, non-exempt employees routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, Defendant contributed to the medical, dental, vision, dental and life insurance benefits for Ms. Coleman and other hourly, non-exempt employees. Defendant allowed Ms. Coleman and the other hourly, non-exempt employees to assign these employer-sponsored benefits such that the contributions Defendant makes should be included in the regular rate of pay for purposes of calculating overtime for the employees. These received assignable benefits 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"). Despite Defendant's payment of Incentive Pay to Ms. Coleman and other hourly, non-exempt employees, Defendant's policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other hourly, non-exempt employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other hourly, non-exempt employees all required overtime wages.

Throughout Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. Specifically, due to Defendant's practices of understaffing and work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether.

Although Ms. Coleman and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Coleman and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Furthermore, Defendant failed to pay the meal period premiums at the regular rate of pay and instead

paid them at the base rate of pay, in violation of California law. *See Ferra v. Loews Hollywood Hotel, LLC*, California Supreme Court (2021).

During Ms. Coleman's employment with Defendant, Ms. Coleman and other hourly, non-exempt employees were required to use their personal vehicles to discharge their duties. Specifically, Defendant had a company-wide policy of requiring Ms. Coleman and other hourly, non-exempt employees *after* receiving an offer of employment, to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, Defendant was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or clinic where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. Indeed, Ms. Coleman was required to travel over 50 miles to take Defendant's mandated drug test. Although Defendant required Ms. Coleman and other hourly, non-exempt employees to use their own vehicles or obtain alternate transportation to carry out their work-related responsibilities, Defendant never reimbursed them for all their travel expenses.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Coleman and Defendant's current and former non-exempt employees and failed to timely pay them all final wages due upon separation.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. As described above, during Ms. Coleman's employment with Defendant, Defendant required Ms. Coleman and other Aggrieved Employees to perform work before they clocked in for their shift and after they clocked out at the end of the shift. Despite being under Defendant's direction and control for the pre-opening and post-closing tasks for the benefit of Defendant, Defendant failed to compensate Ms. Coleman and the other Aggrieved Employees for this compensable time due to Defendant's policies and/or procedures. Additionally, Defendant required Ms. Coleman and other Aggrieved Employees, after receiving an offer of employment, to submit to mandatory drug testing and failed to compensate the time spent traveling to the required medical facility and the time undergoing the testing. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Coleman and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

As explained above, during Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not compensated for the time completing pre-opening and post-closing shift tasks. Additionally, Defendant failed to compensate Ms. Coleman and other Aggrieved Employees for the time spent, after receiving an offer of employment, completing the mandatory drug testing. Further, Ms. Coleman and other Aggrieved Employees received assignable benefits 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”). Despite Defendant’s payment of Incentive Pay to Ms. Coleman and other Aggrieved Employees, Defendant’s policies and/or procedures failed to include all forms of Incentive Pay when calculating the regular rate of pay, thereby causing Ms. Coleman and other Aggrieved Employees to be underpaid all of their required overtime wages. As a result, Defendant failed to pay Ms. Coleman and other Aggrieved Employees all required overtime wages.

Meal Period Violations

Defendant failed to provide Ms. Coleman and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, throughout Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work in violation of California law. As a result, Ms. Coleman and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). Although Ms. Coleman and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to pay Ms. Coleman and other Aggrieved Employees meal period premiums and, even if they were paid, they were not paid at the correct regular rate of pay.

Failure to Reimburse Business Expenses

During Ms. Coleman’s employment with Defendant, Ms. Coleman and other Aggrieved Employees were required to use their personal vehicles to discharge their duties. Specifically, Ms. Coleman and other Aggrieved Employees were required, after receiving an offer of employment, to use their personal vehicles to travel to Defendant’s mandated medical facility to undergo mandatory drug testing. Defendant failed to reimburse Ms. Coleman and the Aggrieved Employees for necessary work expenses, including, but not limited to, expenses related to use of their personal vehicles. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 1 § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”)

Labor Code § 226 - Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Coleman and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total and meal period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Coleman and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Failure to Pay Sick Pay at the Legal Pay Rate

Defendant's pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code §§ 246, 248.5 and/or Labor Code §§ 2699, *et seq.*, to recovery by Ms. Coleman and other Aggrieved Employees, in a civil action, to the extent allowed by law.

Labor Code §246(a) states: "(a) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Labor Code § 246(b)(1) states: "An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section." Labor Code §246(l) states: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be 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. (3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time."

Defendant, as a matter of established company policy and procedure, at each and every one of the individual facilities owned and/ or operated by Defendant, during the relevant time period: (a) administered a uniform company policy and practice as to the pay policies regarding Ms. Coleman and other Aggrieved Employees; and (b) failed to pay Ms. Coleman and other Aggrieved Employees for paid sick days in a manner that fully complies with Labor Code § 246(l), failed to pay sick days at the regular rate of pay, and/or unlawfully paid sick days at the straight time or base rate of pay.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Coleman and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Coleman and other Aggrieved Employees was willful and, consequently, entitles Ms. Coleman and other Aggrieved Employees to wages from the

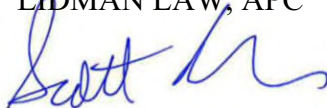
due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an “aggrieved employee,” Ms. Coleman will initiate a civil action on behalf of herself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Coleman’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Coleman and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Coleman and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Coleman and other Aggrieved Employees;
- d) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Coleman and the Aggrieved Employees for all necessary expenditures incurred;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Coleman and other Aggrieved Employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Ms. Coleman and other Aggrieved Employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Coleman and other Aggrieved Employees;
- h) Defendant violated Labor Code § 246 by failing to pay Ms. Coleman and other Aggrieved Employees sick pay at the legal pay rate; and
- i) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Coleman and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT B

EXHIBIT B

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Alexa Ros Coleman v. LL Flooring, Inc.
Kern County Superior Court Case No. BCV-23-103493

<<Name>>
<<Address>>
<<City>>, <<State>> <<Zip Code>>
XX - XX -

I. NOTICE OF PAGA SETTLEMENT

Plaintiff Alexa Ros Coleman (“Plaintiff”), a former employee of LL Flooring, Inc. (“LL Flooring”), commenced the above-referenced lawsuit in the California Superior Court for the County of Kern on October 18, 2023 (“Action”). This Action was alleged on behalf of herself, the State of California, and other former and current hourly, non-exempt employees of LL Flooring (“Aggrieved Employees”).

Specifically, in this Action, Plaintiff sought to recover civil penalties for alleged violations of the California Labor Code on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other Aggrieved Employees under the California Private Attorneys General Act (the “PAGA”). These civil penalties are based on Plaintiff’s allegations that LL Flooring: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime wages owed; (3) failed to provide legally compliant meal periods, and/or remit proper payment of meal period premiums for non-compliant meal periods; (4) failed to permit and authorize compliant rest periods, and/or remit proper payment of rest period premiums for non-compliant rest periods; (5) failed to reimburse necessary business expenditures; (6) failed to pay sick pay at the proper rate, provide proper sick leave and itemize accrued sick leave; (7) failed to provide accurate, itemized wage statements; and (8) failed to pay and/or timely pay all wages owed at the time of separation and/or termination of employment; and as a result is liable for civil penalties under the PAGA. LL Flooring denies all liability and allegations raised under Plaintiff’s operative complaint, and has raised various defenses to the claims asserted by Plaintiff. LL Flooring contends that it has at all time complied with applicable federal, state, and local laws and regulations.

On [INSERT DATE OF APPROVAL ORDER], the Kern County Superior Court (the “Court”) issued an Order approving settlement of the claims advanced by Plaintiff pursuant to the PAGA, Labor Code section 2698 et seq. The Settlement reached by and between the Parties is neither an admission of any liability or wrongdoing by LL Flooring nor an indication that any laws, codes, and/or regulations were violated. The Court has ***not*** made any determination(s), finding(s), and/or ruling(s) with respect to the merits, claims, causes of action, and/or allegations advanced by Plaintiff.

Accordingly, this Notice is not to be understood or interpreted as an expression of any opinion, finding, and/or ruling by the Court as to the merits of Plaintiff’s claims set forth in this Action. This Settlement has been entered into by LL Flooring purposes of compromising and settling the Action to avoid the cost and operational burden of continued litigation.

As such, you are receiving this Notice because you are in the group of employees referred to as “Aggrieved Employees,” which is defined as: “all current and former hourly, non-exempt employees of Defendant LL FLOORING Modular, Inc. who worked in California at any time from August 30, 2022 through [insert date of

approval or February 6, 2024, whichever is earlier].” The foregoing period of time is the PAGA Period applicable to this Action.

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period. Your individual PAGA payment has been calculated at \$**[AMOUNT PAID TO THIS EMPLOYEE]**. Your payment is enclosed with this Notice.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties reported on an IRS Form 1099, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your individual PAGA payment. Neither Plaintiff nor LL Flooring has made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

III. RELEASE

The Court has approved the Parties’ Settlement Agreement (“Settlement”). By operation of the Settlement’s terms, Plaintiff, the State of California and all Aggrieved Employees, including you, have fully and finally released LL Flooring and its former, present and future owners, parents, subsidiaries, franchisees, and/or affiliates; all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, heirs, administrators, executors, joint venturers, accountants, insurers, reinsurers, and/or legal representatives; and any and all persons and/or entities acting under, by, through, or in concert with any of them (“Released Parties”) from any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code and Private Attorneys General Act (“PAGA”), Labor Code § 2698 et seq., against the Released Parties as pled, or could have been pled based on the facts alleged, in the operative complaint in the Action, any future amendments to the operative complaint, including: (a) failure to pay all minimum wages owed (Labor Code sections 204, 218, 558, 1194, 1194.2, 1197, and 1198, as well as applicable Wage Order(s)); (b) failure to pay all overtime wages (Labor Code sections 204, 510, 558, 1194 and 1198, as well as applicable Wage Order(s)); (c) failure to provide meal periods, or pay premium pay at the correct rate for non-compliant meal periods (Labor Code sections 226.7, 512 and 558, as well as applicable Wage Order(s)); (d) failure to authorize and permit rest periods, or pay premium pay at the correct rate for non-compliant rest periods (Labor Code sections 226.7, 516 and 558, as well as applicable Wage Order(s) including); (e) failure to reimburse necessary business expenditures (Labor Code sections 2802 and 2804, as well as applicable Wage Order(s)); (f) failure to provide accurate, itemized wage statements (Labor Code section 226 et seq.), (g) failure to provide and pay all earned wages at least twice during each calendar month (Labor Code section 204), (h) failure to pay sick pay at the legal pay rate, failure to provide sufficient amount of sick leave and failure to provide written notices itemizing available sick leave (Labor Code sections 246 and 248.5), and (i) failure to pay and/or timely pay all wages owed at the time of their separation and/or termination of employment (Labor Code sections 201-203), as well as including any related claims for attorneys’ fees, costs, expenses, penalties, declaratory relief, restitution, and/or interest resulting therefrom (“PAGA Released Claims”).

Upon entry of the Order approving the Settlement, and the Superior Court’s Final Judgment issued becoming final, any Aggrieved Employee covered by this Agreement (including you) will be barred from proceeding with any of the PAGA Released Claims arising during the PAGA Period released by the Settlement.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, Phoenix Settlement Administrators at **[INSERT DMINISTRATOR INFO INCLUDING ADDRESS, PHONE NUMBER, FAX NUMBER AND EMAIL]** with any questions.

Settlement checks will be valid for 180 days from the date of issuance. It is strongly encouraged that you cash or deposit this check as soon as possible following receipt. If not deposited or cashed within 180 days from the date of issuance, settlement checks will be determined to be void. In such event, the Settlement Administrator shall direct all unclaimed funds to the California State Controller's Office under the unclaimed property laws in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 5

EXHIBIT 5

LAFFEY MATRIX

[History](#)
[Case Law](#)
[See the Matrix](#)
[Contact us](#)
[Home](#)

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., DL v. District of Columbia, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $\frac{1}{2}$ Years Out of Law School $\frac{1}{2}$ is calculated from June 1 of each year, when most law students graduate. $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier $\frac{1}{2}$ 4-7" on June 1, 1999, and tier $\frac{1}{2}$ 8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 6

EXHIBIT 6

Expense Summary
Alexa Ros Coleman v. LL Flooring, Inc.

EXPENSE	AMOUNT
Mediation Costs	\$5,000.00
Filing, Service, and Messenger Fees	\$561.19
Copying Costs	\$42.00
Postage Costs	\$47.46
PAGA Approval Motion Fees (Filing, copying, postage, appearance at hearing, filing distribution declaration, etc.)	\$450.00
TOTAL:	\$6,100.65

EXHIBIT 7

EXHIBIT 7

From: [DIR PAGA Unit](#)
To: [Marlyn Ajanel](#)
Subject: Thank you for your Proposed Settlement Submission
Date: Monday, February 12, 2024 1:01:50 PM

02/12/2024 01:01:31 PM

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

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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



Private Attorneys General Act (PAGA) – Filing

Proposed Settlement of PAGA case

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".
[Search for PAGA Case number](#)

The timing of the deposit of settlement checks is governed by the provisions of the State Administrative Manual. This ministerial, administrative act of depositing a settlement check mandated by state procedures should not be construed as nor does it constitute an unconditional, voluntary and/or absolute acceptance of settlement proceeds or approval of the terms of any settlement agreement or judgment related to that check.

Your Information (Person Who is Filing)

Your First Name *	Your Last Name *	Your Email Address *
Scott	Lidman	majanel@lidmanlaw.com

Your Street Name, Number and Suite/Apt *	Your Mobile Phone Number
2155 Campus Drive, Ste 1	

Your City *	Your Work Phone Number
El Segundo	

Your State *

California

▼

Your Zip/Postal Code *

90245

Court and Hearing Information

Court *

Kern County Superior Cou

Court Case Number *

BCV-23-103493

Hearing Date (if any)

3/18/24

Hearing Time

8:30 a.m.

Hearing Location

Division J, 1215 Truxton A

Number of aggrieved employees *

324

Gross settlement amount *

390000

Gross penalty amount *

242,399.35

Penalties to LWDA *

181,799.51

Date of proposed settlement *

01/22/2024

Proposed Settlement and Other Documents

Proposed Settlement *

Choose File

2024-01-23 ... executed).pdf

Other Attachment (if any)

Choose File

No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

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☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

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