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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

JASON WHITE, on behalf of himself and all others similarly situated, Plaintiff, v. FPR II LLC DBA LEADPOINT BUSINESS SERVICES, an Oregon Corporation; and DOES 1-50, inclusive. Defendants.	CASE NO.: 23CV007753 *Assigned to the Hon. Lauri A. Damrell* **DECLARATION OF MEHRDAD BOKHOUR IN SUPPORT OF CLASS ACTION SETTLEMENT** **HEARING INFO** Date: July 18, 2025 Time: 9:00 a.m. Dept.: 22

DECLARATION OF MEHRDAD BOKHOUR

I, Mehrdad Bokhour, say and declare as follows:

1. I am an attorney at law, duly licensed to practice before all the Courts of the State of California, and I am the principal of Bokhour Law Group, P.C., and I serve as attorney of record for Plaintiff Jason White ("Plaintiff") and the Putative Class. I am familiar with the file in this matter, and if called as a witness, I could and would competently testify to the following facts of my own personal knowledge. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

2. I submit this declaration pursuant to Local Rule 2.99.05(C) to confirm that I have carefully reviewed the Court's Checklist for Approval of Class Action Settlements and have ensured that the Motion for Final Approval and all supporting materials fully comply with the Court's requirements. To the best of my knowledge, the Motion for Final Approval and supporting materials fully comply with the Court's checklist and all Local Rule 2.99.05 requirements.

3. I have been a member in good standing of the State Bar of California since 2012. I am admitted to practice before all California state courts, as well as the United States District Courts for the Central, Northern, Eastern, and Southern Districts of California. I have litigated class actions and representative actions under the Private Attorneys General Act ("PAGA") in courts throughout California..

4. I graduated from the University of California, Berkeley, in 2007 and received my Juris Doctor degree from Loyola Law School, Los Angeles, in 2012. I began my legal career with a focus on plaintiff-side employment litigation, concentrating on disability discrimination and harassment matters under the Fair Employment and Housing Act. After several years handling a broad range of civil litigation on behalf of both Plaintiff and defendants, I founded my own law firm in 2014, devoting my practice exclusively to representing employees in actions against their employers. My firm's work primarily involves wage and hour matters, including claims for unpaid wages, as well as discrimination, harassment, and retaliation claims. A substantial portion of my practice involves class actions, representative PAGA actions, or hybrid matters involving both.

5. I am an active member of the California Employment Lawyers Association ("CELA") and have attended numerous Continuing Legal Education programs focused on employee advocacy. My firm has the experience, resources, and capacity necessary to provide adequate representation as Class Counsel to the aggrieved employees. Currently, my firm serves as lead counsel in at least twenty-five wage-and-hour class actions and as co-counsel in at least twenty additional cases.

6. I was selected as a "Super Lawyer Rising Star" in Employment Litigation each year from 2017 through 2022, and as a "Super Lawyer" in 2023, 2024, and 2025—a distinction awarded to no more than 2.5% of attorneys practicing in the field..

7. Through a contested but productive mediation, Plaintiff and Defendant FPR II LLC, doing business as Leadpoint Business Services ("Defendant") (collectively, the "Parties") entered into a Class Action and PAGA Settlement Agreement ("Settlement Agreement" or "Settlement"), resolving the wage and hour claims asserted on behalf of the Settlement Class. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit "A"**.

8. The Settlement Agreement provides for a full and final release of claims asserted in this Action in exchange for Defendant's agreement to pay a non-reversionary Gross Settlement Amount of $350,000. The Settlement is structured on a non-claims-made basis, meaning that each Settlement Class Member who does not opt out will automatically receive their share of the Net Settlement Amount without the need to submit a claim form or take any affirmative action.

9. Plaintiff seeks to represent a Class of all current and former non-exempt employees of Defendant FPR II LLC d/b/a LeadPoint Business Services who worked for Defendant in California from January 26, 2024, through the date of preliminary approval, except as set forth in the Escalator Provision defined below (the "Class" or "Class Members"). Likewise, the PAGA Members include all current and former non-exempt employees of Defendant FPR II LLC d/b/a LeadPoint Business Services who worked for Defendant in California from January 26, 2024, through the date of preliminary approval, except as set forth in the Escalator Provision defined below. ("PAGA Members")..

10. Under the terms of the Settlement Agreement, Defendant will not oppose Class Counsel's application for a reasonable award of attorney's fees not to exceed one-third of the

Settlement Amount, *i.e.* ($116,666.67) (rounded up to the nearest dollar), the sum of One Hundred Sixteen Thousand Six Hundred Sixty-Seven Dollars and Zero Cents; Class Counsel's litigation costs not to exceed $25,000, Settlement Administration Costs not to exceed $10,000, PAGA penalties of $35,000 (of which $26,250 or 75% will be paid to the LWDA and the remaining $8,750 or 25% will be paid to the PAGA Members), and a Service Award not to exceed $10,000 to the named Plaintiff :

	Total Amount
Gross Settlement Amount	$350,000.00
Class Counsel Litigation Expenses Payment (not to exceed 1/3 of GSA)	$116,667.00
Class Counsel Fees Payment (not to exceed)	$25,000.00
Administration Expenses Payment (not to exceed)	$10,000.00
PAGA Penalties to LWDA (75% of $35k award)	$26,250.00
PAGA Penalties to PAGA Members	$8,750.00
Plaintiff's Service Awards	$10,000.00
Net Settlement Amount	**$153,333.00**

11. Defendant represented that at the time of mediation, the Settlement Class consisted of approximately 647 Class Members. Plaintiff alleges that, regardless of job title or position, all Class Members were subject to the same wage and hour policies and practices. Accordingly, Individual Settlement Payments will be distributed on a pro-rata basis, calculated according to the number of Compensable Workweeks each Class Member worked during the Class Period. Based on Class size at the time of mediation (647), the average payment is approximately $236.99, with the highest estimated potential individual payment of approximately $464.20. Class Members who worked more Compensable Workweeks will receive proportionally larger payments.

12. The Settlement is non-reversionary, and Settlement Class Members are not required to submit Claim Forms to receive payment. Each Settlement Class Member will be mailed a Notice Packet containing information about their estimated Individual Settlement Amount, the opportunity to dispute the number of Workweeks credited to them during the Class Period, and instructions on how to submit a Request for Exclusion or an Objection to the Settlement. All Settlement Class Members who do not timely submit a valid Request for Exclusion will automatically receive their Individual Settlement Payment after the Court grants Final Approval. PAGA Members eligible for payments under the PAGA portion of the Settlement may not opt out and will receive their share

of the PAGA Amount regardless of participation in the class settlement(attached hereto as **Exhibit B**).

13. Because the Settlement is fair, reasonable, and the result of arm's-length negotiations between experienced counsel with the assistance of an experienced mediator, following an appropriate and thorough exchange of relevant information, data, and documents, it warrants preliminary approval. Plaintiff respectfully requests that the Court enter an order: (1) preliminarily approving the Settlement; (2) conditionally certifying the Settlement Class pursuant to California Code of Civil Procedure § 382 for settlement purposes only; (3) approving the form and content of the proposed Class Notice; (4) appointing Plaintiff's counsel as Class Counsel; (5) appointing ILYM Group, Inc. as the Settlement Administrator; and (6) scheduling a Final Approval Hearing.

14. Defendant FPR II LLC, doing business as Leadpoint Business Services, provides recycling services at third-party facilities in California.

15. Plaintiff was employed by Defendant as a non-exempt "Sorter." Plaintiff, along with other non-exempt employees—including but not limited to administrative assistants, drivers, maintenance helpers, sorters, and staff in various other non-exempt roles—were responsible for supporting all aspects of Defendant's business operations in California.

16. On or about August 24, 2023, Plaintiff submitted a letter to the Labor Workforce Development Agency (the "LWDA") for civil penalties under the Private Attorney General Act of 2004 (the "PAGA") alleging claims against Defendant for violations of Labor Code §§ 201-203, 204, 210, 221, 226(a), 226(e), 226.3, 226.7, 227.3, 246, 246(a-b), 246(l)(1), 246 (l)(2), 246(i), 510, 512, 516, 1174, 1174.4, 1194, 1194.2, 1197.1, 1199, 2698 *et. seq.* 2699.3, 2699(f)(2), 2699(g)(1); 29 C.F.R. §§ 778.110, 778.111, and 785.48, DLSE Manual, §§ 47.1, 47.2, and all applicable Industrial Welfare Commission Wage Orders ("Wage Order"), including Wage Order No. 4.

17. On or about August 30, 2023, Plaintiff filed a class action complaint in this Court against Defendant, asserting claims for: (1) failure to pay all minimum wages; (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) wage statement violations; (6) waiting time penalties; (7) failure to pay all sick time; and (8) unfair competition.

18. Throughout the investigation and litigation, Defendant denied, and still denies,

Plaintiff's allegations and indicated it would vigorously defend against them. However, before engaging in protracted litigation, the Parties agreed to explore early resolution through private mediation.

19. The Parties conducted a thorough investigation into the facts and legal issues in this Action. This included interviews with putative class members, an investigation of Defendant's operations and pay practices, and the informal exchange of discovery materials, including Defendant's written policies and practices, as well as a representative sampling of payroll and timekeeping records for Settlement Class Members and PAGA Members. Class Counsel has extensive experience in wage and hour litigation and has conducted substantial research regarding the legal claims and potential defenses at issue. Class Counsel has diligently investigated the claims asserted on behalf of the Settlement Class Members and PAGA Members.

20. Based on this investigation and their own independent evaluation, Class Counsel believes that the proposed Settlement is fair, reasonable, and adequate, and is in the best interests of the Settlement Class Members and PAGA Members, especially in light of the risks and uncertainties associated with continued litigation, Defendant's asserted defenses, and potential appellate issues.

21. On February 13, 2025, the Parties participated in a full-day mediation with Marc Feder, Esq., an experienced and respected mediator in wage and hour class actions. Following that session, and after continued litigation, and negotiations, the mediator made a proposal, which the Parties agreed to, and which resulted in this settlement.

22. On March 12, 2025, the Court dismissed from this action Defendants *FCC Environmental Services, LLC and Environmental Services California, LLC* (FCC Defendants), in accordance with California Rules of Court Rule 3.770 and good cause appearing, without prejudice.

23. On April 21, 2025, Plaintiff filed a First Amended Complaint to add a representative cause of action for civil penalties under the Private Attorneys General Act ("PAGA"), based on the same underlying Labor Code violations.

24. Plaintiff alleges various wage and hour violations on behalf of non-exempt employees who worked for Defendant in California during the Class Period (i.e., Settlement Class Members).

25. First, Plaintiff alleges that Defendant failed to pay all wages due as a result of an

unlawful and uneven rounding policy. Plaintiff further contends that Defendant failed to properly calculate and pay overtime and sick wages by, *inter alia*, failing to properly adopt an Alternative Work Schedule and by excluding non-discretionary bonuses and other forms of remuneration from the "regular rate of pay."

26. Additionally, Plaintiff alleges that Defendant maintained deficient meal period policies and practices that failed to provide Class Members with timely, duty-free, and compliant meal periods, or premium wages in lieu thereof. Plaintiff also asserts that Class Members were not provided with duty-free rest periods of at least ten (10) minutes for every four (4) hours worked, or major fraction thereof, due to unlawful policies that required employees to remain on duty and/or on the premises during rest periods.

27. Plaintiff further alleges that Defendant failed to pay all final wages upon separation of employment and did not furnish accurate itemized wage statements in compliance with Labor Code § 226. Finally, Plaintiff brings representative claims under the Private Attorneys General Act ("PAGA") for civil penalties based on the alleged Labor Code violations described above.

28. Defendant contested and denied all material allegations raised by Plaintiff, both on the merits and with respect to the propriety of class certification and PAGA representative treatment.

29. First, Defendant argued that its rounding policy was lawful and neutrally applied, and that it did not result in the underpayment of wages. Defendant denied that its timekeeping practices violated California law or caused employees to lose compensable time. Second, Defendant further contended that it correctly calculated and paid all overtime and sick pay wages using the appropriate "regular rate of pay," inclusive of all non-discretionary bonuses and other forms of compensation. Defendant denied excluding any required remuneration from its regular rate calculations.

30. Third, Defendant argued it maintained that its written meal and rest period policies complied with California law and that, in practice, Settlement Class Members were provided the opportunity to take timely, duty-free meal and rest periods. Defendant denied having any policy or practice requiring employees to remain on duty or on the premises during rest periods. .

31. Fourth, Defendant argued that Plaintiff's claims for wage statement violations, waiting time penalties, and PAGA penalties were derivative of other claims it contended were meritless.

Accordingly, Defendant denied any violations that would give rise to penalties under Labor Code sections 203 or 226.

32. Fifth, Defendant argued that Plaintiff's claims are entirely subsumed within the *Montoya* Action settlement and Plaintiff's lawsuit could only proceed individually. *In re Bridgestone/Firestone, Inc., Tires Prod. Liab. Litig.*, 333 F.3d 763, 769 (7th Cir. 2003), abrogated on other grounds by *Smith v. Bayer Corp.*, 564 U.S. 299 (2011) ("("[A] person who opts out receives the right to go it alone, not to launch a competing class action."). Opting out does not provide Plaintiff with the right to "bring another class action based on the identical factual predicate as the class action from which [the individual opted out." *Wai Hoe Liew v. Cohen & Slamowitz, LLP*, 265 F.Supp.3d 260, 277 (E.D.N.Y. 2015). Sixth, Defendant argued that Plaintiff's PAGA claim was barred by the relevant statue of limitations. Seventh, and, finally, Defendant asserted that individualized inquiries would be necessary to determine liability—such as whether and why specific employees took shortened or untimely meal periods, and how break compliance was managed by different supervisors. Defendant emphasized that putative Class Members held different positions, performed different duties, worked in various locations throughout California, and were subject to diverse managerial practices. Defendant argued that this variability rendered the case unsuitable for class or representative treatment.

33. Based upon Plaintiff's and his counsels independent investigation and detailed data obtained through informal discovery and information exchanges, and factoring in claim certification probabilities and liability probabilities, Class Counsel formulated detailed damages models to evaluate the claims in preparation for mediation and in order to reach a realistic and reasonable resolution as further detailed below.

34. First, Plaintiff alleged that Defendant's non-neutral rounding policy resulted in the systematic underpayment of wages in violation of the Labor Code. Based on Plaintiff's analysis of the payroll records and timekeeping data produced during discovery, Plaintiff concluded that the rounding practice led to several Class Members being underpaid, amounting to approximately 1,465 hours of unpaid compensable time across the Class. Based on the payroll data provided by Defendant, Plaintiff estimates that a total of 82.7% of all non-exempt employees were underpaid as a result of

rounding, yielding total potential rounding-related damages at approximately $44,500.

35. However, this projected figure does not account for Defendant's asserted defenses. In particular, Defendant argued that its wage and hour policies are compliant and that all time was properly recorded and compensated. If any rounding occurred (which it does not concede), Defendant contends the policy was neutral—rounding both up and down—and is lawful because it does not systematically favor the employer (*See's Candy Shop v. Superior Court (2012) 210 Cal.App.4th 889, 902).* While the California Supreme Court may eventually rule that rounding resulting in employee loss is unlawful, no such decision has been issued. Further, Plaintiff's rounding claim would require highly individualized inquiries, including a shift-by-shift and person-by-person analysis, to determine whether any alleged underpayment occurred and whether each employee was fully compensated. Defendant asserted that this level of individual scrutiny made the claim unsuitable for class treatment.

36. In light of these risks, Plaintiff applied a 100% discount to the estimated value of the claim to account for the potential that certification may be denied or the claim may not succeed on the merits, keeping in mind that the true value of this violation lies in the derivative wage statement and waiting time penalties.

37. Next, Plaintiff alleged that Defendant failed to properly calculate the "regular rate of pay" by excluding non-discretionary bonuses, commissions, and other incentive payments when paying overtime and sick pay wages. Plaintiff contends that these exclusions resulted in a systemic underpayment of compensation, in violation of California law. Based on a review of the payroll and paystub data produced in discovery, Plaintiff estimates that Defendant's failure to include all required forms of remuneration in the regular rate of pay led to underpayment of both overtime and sick pay wages across the Class.

38. In response, and similar to the abovem, Defendant argued its wage and hour policies are compliant and that all time was properly recorded and compensated. In addition, any incentive payments at issue were discretionary and, therefore, properly excluded from regular rate calculations. Defendant further asserted that all overtime and sick pay was lawfully calculated and paid in good faith, and that any potential underpayment, if it occurred, was *de minimis* and non-systemic.

39. While Plaintiff maintains that the bonuses and incentive payments at issue were non-

discretionary and therefore required to be included in the regular rate of pay, Plaintiff also acknowledges the litigation risks associated with this claim. These risks include the possibility that the Court could deny class certification based on individual variations in pay structures and the nature of the bonuses. Additionally, there is risk on the merits, including the potential for summary judgment or an unfavorable outcome at trial. In light of these risks, Plaintiff applied a discount to the estimated value of the claim to account for the potential that certification may be denied or the claim may not succeed on the merits. Moreover, Plaintiff confirmed that the actual lost wages resulting from this violation was minimal.

40. Plaintiff also alleged that Defendant failed to timely pay all wages due at separation of employment, entitling former employees to waiting time penalties under Labor Code §§ 201–203. Based on Defendant's records, there were approximately 117 Settlement Class Members who separated from their employment during the applicable statutory period. Using the statutory maximum of 30 days, with an assumed 8-hour workday and an average hourly rate of $28, the total maximum potential exposure for waiting time penalties is approximately $786,240 (117 employees × 8 hours/day × $28/hour × 30 days).

41. Defendant disputed this claim and asserted that any failure to pay wages at separation was not willful and, therefore, did not give rise to waiting time penalties under the Labor Code—a good faith dispute and absence of willfulness negates a claim for waiting time penalties. *See e.g. Naranjo v. Spectrum Sec. Servs., Inc.* (2024) 15 Cal.5th 1056, 1065. Defendant also contended that it maintained facially neutral and compliant payroll practices and would defeat any underlying wage claims on the merits or at class certification.

42. To account for these risks, Plaintiff applied an equitable discount reflecting the risk of denial at class certification, as well as an additional discount for the risk of defeat at summary judgment or trial. To account for Defendant's defenses, Plaintiff discounted the maximum exposure by 40% for the risk of non-certification, and an additional 60% for risk of losing on the merits, and/or not receiving the maximum penalties sought, to arrive at an estimated exposure of $188,698 for the waiting time penalty claim.

43. With respect to Plaintiff's meal and rest period claims, the Class Members

collectively worked approximately 95,753 shifts during the Class Period. Based on Plaintiff's analysis of a representative sample of Defendant's timekeeping and payroll records produced prior to mediation, Plaintiff applied an estimated 27.2% violation rate for meal periods and a 33% violation rate for rest periods. Using the applicable premium rate of $28 per missed break, the maximum potential damages are estimated at approximately $729,257 for the meal period claim (95,753 shifts × 27.2% × $28) and $277,200 for the rest period claim (95,753 shifts × 33% × $28).

44. Defendant contested liability for both claims, asserting that meal and rest period issues presented individualized questions inappropriate for class certification. Defendant maintained that its written policies were facially compliant with California law and that employees were provided flexibility to take breaks at their discretion. It further argued that manager-specific practices, job duties, and employee choices varied significantly, requiring individualized inquiries into whether breaks were missed or voluntarily skipped. Based on these risks, Plaintiff acknowledged that there was a significant chance that the Court could deny class certification.

45. Defendant also asserted that, even if certification were granted, it would prevail on the merits by showing that it either provided compliant breaks or paid the required premium compensation. Defendant contended that Plaintiff would be unable to present reliable, representative evidence sufficient to establish liability or support a classwide damages award. In light of these risks, Plaintiff discounted Defendant's maximum exposure by 70% for the risk of non-certification, and an additional 50% to account for Defendant's defenses on the merits, to arrive at an estimated total of $109,389 for the meal period claims and $41,580 for the rest period claims.

46. Finally, Plaintiff alleged that Defendant issued noncompliant wage statements in violation of Labor Code § 226, based on the same facts underlying Plaintiff's claims for unpaid wages, meal and rest period premiums, and failure to include all forms of compensation in the regular rate of pay. Plaintiff estimates that approximately 18,245 allegedly violative wage statements were issued during the Class Period. In calculating Defendant's maximum potential exposure, Plaintiff conservatively assumed that only the "initial" penalty of $50 per violation would apply, in accordance with Labor Code § 226(e) and case law holding that higher penalties apply only after an employer has been notified of the violations. See *Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207

(2008). This results in a maximum potential penalty of $912,250 (18,245 × $50).

47. Defendant disputed this claim and asserted that its wage statements fully complied with the requirements of Labor Code § 226. Defendant further argued that, even if there were any errors, they were not "knowing and intentional," and that Plaintiff could not establish the required element of injury. Defendant also relied on its defenses to the underlying wage and hour claims and to class certification.

48. In light of these risks, Plaintiff discounted Defendant's maximum exposure by 70% for the risk of non-certification, and an additional 50% to account for Defendant's defenses on the merits, to arrive at an estimated total of a risk-adjusted value of $114,031 for the wage statement penalty claim.

49. Plaintiff also sought civil penalties under the Private Attorneys General Act of 2004 ("PAGA") for each Labor Code violation for which such penalties are available, and alleged that these penalties could be assessed on a cumulative or "stacked" basis. See *Gonzalez v. Corecivic of Tennessee, LLC*, No. 1:16-cv-01891-DAD-JLT, 2018 WL 4388425, at *12 (E.D. Cal. Sept. 12, 2018) ("'stacking' PAGA penalties is not inappropriate under California law"). Assuming application of the default penalty of $100 per pay period pursuant to Labor Code § 2699(f)(2), and that penalties are not subject to reduction or judicial discretion, the maximum potential exposure for PAGA penalties could reach approximately $1,824,500 (18,245 pay periods × $100).

50. However, this theoretical maximum does not account for significant legal uncertainties. First, courts are divided on whether stacking PAGA penalties across multiple violations within a single pay period is permissible, particularly where the violations are derivative in nature. Second, Labor Code § 2699(e)(2) grants courts broad discretion to reduce civil penalties where necessary to avoid an award that is "unjust, arbitrary and oppressive, or confiscatory." See *Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016) (approving reduction of PAGA penalties where the employer did not act willfully or negligently, and legal obligations were unclear).

51. In recognition of these risks—including the likelihood of judicial reduction and the challenges of prevailing on the merits of the underlying claims—Plaintiff applied significant discounts to the estimated penalty exposure. After accounting for these risks, Plaintiff estimated a

reasonable potential value of $114,031 in PAGA penalties. However, in light of the Parties' mutual desire to resolve the matter without protracted litigation, they agreed to allocate $35,000 of the Gross Settlement Amount toward resolution of the PAGA claim, which Plaintiff believes is fair and reasonable under the circumstances.

52. In sum, when factoring in defenses and risks of ongoing litigation, Plaintiff estimates the risk-adjusted class recovery as follows:

- Rounding Claim: $0 (discounted)
- Regular Rate of Pay Claim: $0 (discounted)
- Labor Code §§ 201 – 203 Claims: $188,698
- Meal Period Claims: $109,389
- Rest Break Claims: $41,580
- Wage Statement Claims: $136,838
- PAGA Penalties $35,000
- **<u>Total Risk-Adjusted Penalties and Damages</u>**: **$511,504**

53. Given the realistic value of Plaintiff's claims, the $511,504 Settlement Amount is an excellent result for the Class considering that it totals approximately 68.43% of Plaintiff's risk-adjusted case value. Preliminary approval is appropriate since the Settlement will provide significant monetary relief to the Class.

54. The Settlement was the product of extensive arm's length negotiations between counsel and was facilitated by an experienced wage-and-hour class action mediator. Though cordial and professional, the Settlement negotiations were adversarial and non-collusive in nature. The Settlement reached is the product of substantial effort by the Parties and their counsel. Although Plaintiff and his counsel believe that there was a possibility of certifying the claims, they recognized the potential risk, expense, and complexity posed by litigation, such as unfavorable decisions on class certification, summary judgment, at trial and/or on the damages awarded, and/or on an appeal that can take several more years to litigate. In addition, if Defendant prevailed on any of their defenses, the employees may not have received any substantial monetary recovery.

55. The Settlement will result in a fair payment to each Settlement Class Member based

on the number of Weeks Worked during the Class Period. As set forth hereinabove, Plaintiff and counsel have diligently investigated the claims and defenses on behalf of the Settlement Class Members and worked to achieve a resolution of the claims to maximize the recovery by avoiding further expenditure of Attorneys' Fees and Costs. After evaluating the significant risks attendant with further litigation described above and weighing them against the benefits of a known compromise and settlement as set forth in the Settlement Agreement, settlement on the terms agreed to is believed to be in the best interest of Plaintiff and the Settlement Class, and is a fair and reasonable resolution of the claims alleged.

56. Plaintiff's counsel brought to bear a great deal of collective experience in negotiating the settlement of this case. As detailed herein, Plaintiff's counsel engaged in necessary informal discovery, investigation, sampling, and expert evaluation, making it possible to exercise informed judgment throughout the settlement process, including significant document review (e.g., documents pertaining to Defendant's policies and procedures, personnel documents, wage statements, time records, among others) and conducted an extensive analysis and extrapolation of the sampling of class-wide data provided by Defendant.

57. Based on our experience in other cases, including wage and hour matters, I believe our office along with Joshua Falakassa are qualified to evaluate the class claims and viability of defenses in this class action. In this case, the recovery for each Settlement Class Member is reasonable, fair and adequate, and a settlement at this time is in the best interest of the Settlement Class. The Settlement provides each Settlement Class Member with compensation for the alleged violations when viewed in relation to the costs and risks inherent in obtaining class certification and proceeding to trial.

58. Plaintiff' counsel, as well as Defendant's counsel, fully endorse the terms and conditions of the Settlement as set forth in the abovementioned Settlement Agreement.

59. Of course, the Settlement Amount represents a compromise figure, taking into account the various risks surrounding class certification and the merits of Defendant's asserted defenses. Nevertheless, the Settlement provides fair and adequate payments to the Settlement Class Members, with no reversion to Defendant.

60. Plaintiff seeks a Service Award of $10,000, which we believe is fair and warranted. Plaintiff agreed to come forward in an effort to effectuate a policy and practice change that benefitted all other Settlement Class Members and to recover unpaid wages and penalties. Mr. White assumed significant risk in bringing this litigation, namely, had he lost, he could have been ordered to pay Defendant's costs.

61. Plaintiff provided invaluable assistance to the investigation and prosecution of this case, including: providing factual background for the Class Complaint; reviewing the litigation documents; providing information and documentation about Defendant's policies and practices; participating in phone calls to discuss litigation and settlement strategy; participating in the mediation process, and reviewing the settlement documents. Plaintiff agreed to participate in this case with no guarantee of personal benefit. Plaintiff's comprehensive declarations setting forth all of the reasons why they believe that the Service Award should be approved has been filed herewith.

62. When this case was taken on a contingency fee basis, with our firms agreeing to assume responsibility for all litigation costs, the ultimate result was far from certain. In the course of this litigation, we paid all costs including the filing fees, court costs, research/database fees, mediation costs, and expert costs. There was never a guarantee that our firms would recoup these expenditures.

63. It is our experience that attorneys' fee awards of one-third of a common fund settlement are the standard in California. In this case, Plaintiff's counsel agreed to seek one-third of the Settlement Amount for Attorneys' Fees. Defendant does not oppose this fee request. The fee is further warranted because it is within the range of reasonableness typically awarded in class actions. Our firm's Costs will not exceed $25,000 and will be based on the actual amount incurred at the time of final approval.

64. Subject to the Court's approval, the parties stipulated that ILYM Group, Inc., would serve as the Settlement Administrator. Phoenix is experienced in administering class action settlements and will not exceed $10,000 to administer this class action Settlement.

65. Plaintiff has concurrently submitted the Settlement to the LWDA in accordance with Labor Code Section 2699(1)(2). The proof of submission is attached hereto as **Exhibit "C."**

66. Plaintiff's PAGA Notice Letter is attached hereto as **Exhibit "D"**.

67. The Gross Settlement Amount is based on Defendant's estimate that there were approximately 18,158 workweeks worked by Class Members during the Class Period. Should the qualifying workweeks worked by the Class Members during the Class Period ultimately increase by more than 10% (i.e., if the workweeks exceed 19,974) through the date of preliminary approval, Defendant, at its option, may choose either: (1) to cut off the end date for the Class Period as of the date on which the number of workweeks reaches 19,974, or (2) to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of workweeks worked by the Class Members above the 10% threshold through the date selected by Defendant to end the Class Period (*i.e.*, if there was an 11% increase in the number workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%) ("Escalator Provision").

68. For the foregoing reasons, it is respectfully requested that the Court grant preliminary approval of the Settlement as being fair, reasonable, and in the best interests of the Settlement Class, as well as preliminarily approve the requested Attorneys' Fees and Costs, and Service Award to the Class Representative.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct on this 24th day of June 2025, in Los Angeles, California.

By: ______________________

Mehrdad Bokhour, Esq.

EXHIBIT “A”

This Joint Stipulation of Class and Representative Action Settlement ("Settlement Agreement," "Settlement," or "Agreement") is made and entered into by and between Plaintiff Jason White ("Plaintiff"), as an individual and on behalf of all others similarly situated and all aggrieved employees, and FPR II LLC dba Leadpoint Business Services (the "Defendant") (together with Plaintiff, the "Parties").

This Settlement Agreement shall be binding on Plaintiff, Class Members, and PAGA Settlement Employees (as defined herein) and on Defendant, subject to the terms and conditions hereof and the approval of the Court.

A. RECITALS

1. On August 24, 2023, Plaintiff filed a letter with the California Labor and Workforce Development Agency ("LWDA") alleging claims against Defendant for violations of Labor Code §§ 201-203, 204, 210, 221, 226(a), 226(e), 226.3, 226.7, 227.3, 246, 510, 512, 516, 1174, 1174.4, 1194, 1194.2, 1197.1, 1199, 29 C.F.R. § 785.48, DLSE Manual, §§ 47.1, 47.2, and all applicable Industrial Welfare Commission Wage Orders ("Wage Order"), including Wage Order No. 4.

2. On August 30, 2023, Plaintiff commenced a putative class action against Defendant entitled *Jason White v. FCC Environmental Services, LLC et al.*, in the Superior Court of the State of California, County of Sacramento, Case No. 23CV007753 (the "Class Action"). The Class Action alleges claims for: (1) Failure to Pay All Minimum Wages; (2) Failure to Pay All Overtime Wages; (3) Meal Period Violations; (4) Rest Period Violations; (5) Failure to Pay All Sick Time; (6) Wage Statement Violations; (7) Waiting Time Penalties; and (8) Unfair Competition.

3. On August 24, 2023, Plaintiff filed an amended letter with the LWDA alleging claims against Defendant for violations of Labor Code §§ 201-203, 204, 210, 221, 226(a), 226(e), 226.3, 226.7, 227.3, 246, 510, 512, 516, 1174, 1174.4, 1194, 1194.2, 1197.1, 1199, 29 C.F.R. § 785.48, DLSE Manual, §§ 47.1, 47.2, and all applicable Industrial Welfare Commission Wage Orders ("Wage Order"), including Wage Order No. 4.

4. On February 13, 2025, the Parties participated in a mediation with Marc Feder, Esq. (the "Mediator"), a respected mediator with extensive experience resolving complex wage and hour class and PAGA actions. With the assistance of the Mediator, the Parties engaged in thorough and continued settlement negotiations and ultimately accepted the Mediator's proposal to resolve Plaintiff's class and PAGA claims in their entirety. That same day, the Parties executed a detailed memorandum of understanding, which is further memorialized in this Agreement..

5. For the purposes of settlement only, the Parties stipulate and agree:

a. Plaintiff will file an amended complaint in the Class Action to add claims pursuant to PAGA, as set forth in the letters submitted by Plaintiff and his Counsel to the LWDA, which includes, but is not limited to, adding the following claims: Labor Code §§ 201-203, 204, 210, 221, 226(a), 226.3, 226.7, 227.3, 246, 246(a-b), 246(l)(1), 246 (l)(2), 246(i), 510, 512, 516, 1174, 1174.4, 1194, 1194.2, 1197.1, 1199, 2698 *et. seq.* 2699.3, 2699(f)(2), 2699(g)(1); 29 CFR §§ 778.110 and 778.111; and all applicable Industrial Welfare Commission Wage Orders, specifically Wage Order No. 4.

b. On March 12, 2025, the Court dismissed Defendants *FCC Environmental Services, LLC and Environmental Services California, LLC* (FCC Defendants) without prejudice.

6. The settlement discussions were conducted at arm's-length, and the settlement is the result of an informed and detailed analysis of Defendant's potential liability and total exposure in relation to the costs and risks associated with continued litigation.

7. Defendant expressly denies any liability or wrongdoing of any kind associated with the claims alleged in the Class Action and PAGA Action (collectively, the "Actions") and those released as part of this settlement of the Actions. Defendant further denies all material allegations set forth in the Actions and have asserted numerous affirmative defenses. Defendant maintains, among other things, that it is has complied with federal and California law in all respects. Nothing in this Settlement Agreement shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Notwithstanding, in the interest of avoiding further litigation, Defendant's desire to fully and finally settle the Action, the Released Class Claims, and the Released PAGA Claims, as defined below.

8. Counsel for Plaintiff has diligently investigated the claims alleged in the Actions, including any and all applicable defenses and the applicable law. The investigation included, *inter alia*, the exchange of information, data, and documents and review of relevant policies and practices. Based on the documents produced, as well as counsel for Plaintiff's own independent investigation and evaluation, counsel believes that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the alleged putative class in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

9. The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

B. DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. "Class Action" means *Jason White v. FCC Environmental Services, LLC et al.*, filed in Sacramento Superior Court, Case No. Case No. 23CV007753, which will be amended to add claims pursuant to PAGA in accordance with the terms of this Agreement.

2. "Class" or "Class Member(s)" means all current and former non-exempt employees of Defendant FPR II LLC dba Leadpoint Business Services who worked for Leadpoint in California January 26, 2024, through the date of Preliminary Approval, subject to Paragraph C.10.

3. "Class Counsel" or "Plaintiff's Counsel" means Mehrdad Bokhour of Bokhour Law Group, P.C. and Joshua S. Falakassa of Falakassa Law, P.C.

4. "Class Counsel Award" mean such award of fees and costs and expenses as the Court may authorize to be paid to Class Counsel for the services they have rendered and will render to Plaintiff and the Class in the Class Action. Defendant agrees not to oppose a Class Counsel Award of up to one-third (1/3) of the Gross Settlement Amount, *i.e.*, the sum of One Hundred Sixteen Thousand Six Hundred Sixty-Seven Dollars and Zero Cents ($116,666.67) (rounded up to the nearest dollar), and costs in the amount of up to Twenty-Five Thousand Dollars ($25,000.00), subject to the Court finally approving this Settlement.

5. "Class Data" means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator *only* within fifteen (15) business days after Preliminary Approval. The Class Data will be password protected and formatted in a readable Microsoft Office Excel spreadsheet and will include each Class Member's (1) full name; (2) last known home address; (3) last known telephone number; (4) Social Security number; (5) total number of workweeks worked during the Class Period and PAGA Period; and (6) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement. The Class Data will only be provided to the Settlement Administrator and will be treated as confidential by the Settlement Administrator. The Class Data will not be disclosed to anyone, except as may be required to applicable tax authorities, pursuant to Defendant's express written consent, by order of the Court, or to carry out the reasonable steps described in this Settlement to locate missing Class Members.

6. "Class Notice" means the Notice of Class Action Settlement.

7. "Class Period" means the time period commencing on January 26, 2024, through the date of Preliminary Approval, subject to Paragraph C.10.

8. "Class Representative" or "Plaintiff" means Jason White.

9. "Court" means the Superior Court of the State of California for the County of Sacramento.

10. "Defendant" means Defendant FPR II LLC dba Leadpoint Business Services.

11. "Defendant's Counsel" or "Defense Counsel" means Chad D. Greeson and Nicholas Gioiello of Littler Mendelson, P.C.

12. "Effective Date" shall mean the later of the following events: five (5) calendar days after the period for the filing any appeal, writ, or other appellate proceeding opposing Final Approval and Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, *i.e.*, 65 days from the date the Court grants final approval and enters judgment; or (b) if any appeal, write, or other appellate proceeding opposing Final Approval has been filed within that timeframe, five (5) business days after any appeal, write, or other appellate proceedings opposing the Settlement has finally and conclusively been dismissed with no right to pursue further remedies or relief.

13. "Final Approval" means the determination by the Court that the Settlement is fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

14. "Final Approval Hearing" means the hearing at which the Court will consider and determine whether the Settlement should be granted Final Approval.

15. "Gross Settlement Amount" means the amount of Three Hundred Fifty Thousand Dollars and Zero Cents ($350,000) to be paid by Defendant in full resolution of all Released Class Claims, Released PAGA Claims, and the Actions. The Gross Settlement Amount includes all Individual Settlement Payments to Participating Class Members, the Service Award to Plaintiff, Settlement Administration Costs to the Settlement Administrator, the PAGA Payment, and Class Counsel Award. In no event shall Defendant be required to pay any amounts above this Gross Settlement Amount, with the limited exception that, as to that portion of the payments to Participating Class Members that constitute wages, Defendant will be separately responsible for their respective share of any employer payroll taxes, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount. Defendant also agrees that they are bound by the escalation provision Paragraph C.10.

16. "Individual PAGA Payment" means the amount payable from the Net PAGA Penalties to each PAGA Settlement Employee.

17. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Participating Class Member.

18. "Net PAGA Penalties" means twenty-five percent (25%) of the PAGA Payment defined in paragraph 23, below. The Net PAGA Penalties, Thirty-Five Thousand Dollars ($35,000.00), which shall be distributed to PAGA Settlement Employees.

19. Net Settlement Amount" means the balance of the Gross Settlement Amount remaining after deduction of the approved Service Award to Plaintiff, Settlement Administration Costs, PAGA Payment, and Class Counsel Award. The entire Net Settlement Amount is the maximum amount that will be available for distribution to Participating Class Members.

20. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement, which must be in writing and include: (a) the case name and number of the Class Action; (b) the objector's full name, signature, address, and telephone number, (c) a written statement of all grounds for the objection accompanied by any legal support for such objection, and (d) copies of any papers, briefs, or other documents upon which the objection is based. Any Notice of Objection received shall apply solely to the release of the class claims. There is no right to object to the Released PAGA Claims.

21. "PAGA Action" means the amended complaint to be filed in *Jason White v. FCC Environmental Services, LLC et al.*, filed in Sacramento Superior Court, Case No. Case No. 23CV007753.

22. "PAGA Settlement Employee(s)" means all current and former non-exempt employees of Defendant FPR II LLC dba Leadpoint Business Services who worked for Leadpoint in California at any time during PAGA Period.

23. "PAGA Payment" means the portion of the Gross Settlement Amount that the Parties have agreed will be allocated to resolve all claims, penalties, and remedies under California Labor Code § 2698, *et seq*., the Private Attorneys General Act. The amount of the PAGA Payment is subject to Court approval pursuant to California Labor Code § 2699(l). The Parties have agreed that Thirty-Five Thousand Dollars ($35,000.00) of the Gross Settlement Amount shall be allocated to the resolution of the PAGA Settlement Employees' claims arising under PAGA. Pursuant to the PAGA, seventy-five percent (75%) of the PAGA Payment, *i.e*., the sum of Twenty-Six Thousand Two Hundred Fifty Dollars ($26,250.00), shall be paid to the California Labor and Workforce Development Agency ("LWDA"). The remaining twenty-five percent (25%) of the PAGA Payment, *i.e.*, the sum of Eight Thousand Seven Hundred Fifty Dollars ($8,750.00) ("Net PAGA Penalties"), shall be distributed to the PAGA Settlement Employees.

24. "PAGA Period" means the time period commencing on January 26, 2024, through the date of Preliminary Approval, subject to Paragraph C.10.

25. "Parties" means Plaintiff and Defendant, collectively, and "Party" means either Plaintiff or Defendant.

26. "Preliminary Approval" means entry of the Court order granting preliminary approval of the Settlement Agreement.

27. "Released Claims" means the Released Class Claims and Released PAGA Claims, collectively.

28. "Released Class Claims" means any and all class claims that were alleged or reasonably could have been alleged based on the facts alleged in: (1) any complaint filed in the Class Action (the current Class Action complaint will be amended to add claims pursuant to PAGA in accordance with the terms of this Agreement); and/or (2) the letter submitted by Plaintiff to the California Labor Workforce Development Agency ("LWDA") pursuant to the Private Attorneys General Act ("PAGA"), arising during the Class and PAGA Period. These claims include:

a. The Claims set forth in the Class Action or letters to the LWDA including, but not limited to: minimum wage violations, including but not limited to, improper rounding or regular rate of pay (Wage Order No. 4 and Labor Code §§ 204, 558, 1194 *et seq.* [including but not limited to §§ 1194(a), 1194.2(a)], 1197, 1197.1, 1198, 1199, 1182.12; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); failure to pay all overtime wages, including but not limited to, improper rounding or regular rate of pay (Labor Code §§ 204, 210, 510, 558, 1194, 1198, Wage Order No. 4; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); meal period violations (Wage Order No. 4; Labor Code §§ 226.7, 512, 516, and Code of Civil Procedure §§ 3287(b) and 3289); rest period violations (Wage Order No. 4, Labor Code §§ 226.7, 512, 516; and Code of Civil Procedure §§ 3287(b) and 3289); unpaid or failure to pay all improper sick pay (Labor Code §§ 246 [including but not limited to §§ 246(a), (b), 246(l)(1), 246(l)(2), 246(i)], 558, 1192, 1194 *et seq.*, [including but not limited to § 1194.2, 1197.1, 1198, and 1199]; Wage Order No. 4, and Code of Civil Procedure § 1021.5); failure to provide accurate itemized wage statements (Labor Code §§ 226, 226.3; waiting time penalties (Labor Code §§ 201, 202, 203 and DLSE Manual, 4.3.4); unfair competition (Business and Professions Code §§ 17200 *et seq.*, and Code of Civil Procedure § 1021.5); illegal deductions (Labor Code § 221); unpaid vacation

(Labor Code § 227.3); failure to maintain records (Labor Code § 1174, 1174.5); failure to provide day of rest (Labor Code § 516 and Wage Order No. 4) or premiums in connection with any of the preceding claims, as well as any claims under the California Labor Code, California Industrial Welfare Commission's Wage Orders, or the California Code of Regulations, which were alleged or which could have been alleged under the same or similar facts alleged in the Class and PAGA Action or letters submitted to the LWDA, which includes, but is not limited to: Labor Code §§ 201-203, 204, 210, 221, 226, 226.3, 226.7, 227.32, 246, 510, 512, 516, 558, 1174, 1174.4, 1182.12, 1194 *et seq.*, 1194.2(a), 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2699(f)(2), 2699(g)(1)*;* and 29 CFR §§ 778.110 and 778.111.

b. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages, alleged or which could have been alleged under the facts pleaded in the complaints; and

c. Any and all other claims under California common law, the California Labor Code including the California Private Attorneys General Act ("PAGA"), the Fair Labor Standards Act ("FLSA"), California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code alleged in or that could have been reasonably alleged under the same facts pleaded in the Operative Complaint. In addition, to the extent required by law, the cashing of the settlement check by the Settlement Class Member shall be deemed to be an opt-in for purposes of releasing the Released Parties from any claims predicated under the FLSA that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Class Lawsuit. The Settlement Administrator shall include a legend on the settlement check stating: "By cashing this check, I am opting in to the settlement in *Jason White v. FPR II LLC*, Superior Court of Sacramento, Civ. Case No. 23CV007753 under the Fair Labor Standards Act, 29 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement.

29. "Released PAGA Claims" means all claims and civil penalties pursuant to California's

Private Attorneys General Act of 2004 ("PAGA", Lab. § 2698 *et seq.*) alleged, or which reasonably could have been alleged, that accrued during the PAGA Period, based on the facts alleged in the letters submitted by Plaintiff and his counsel to the Labor Workforce Development Agency ("LWDA Letter") and in any complaint filed or amended complaint to be filed in the Class Action; claims for interest or penalties including but not limited to minimum wage violations, including but not limited to, improper rounding or regular rate of pay (Wage Order No. 4 and Labor Code §§ 204, 558, 1194 *et seq.* [including but not limited to §§ 1194(a), 1194.2(a)], 1197, 1197.1, 1198, 1199, 1182.12; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); failure to pay all overtime wages, including but not limited to, improper rounding or regular rate of pay (Labor Code §§ 204, 210, 510, 558, 1194, 1198, Wage Order No. 4; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); meal period violations (Wage Order No. 4; Labor Code §§ 226.7, 512, 516,and Code of Civil Procedure §§ 3287(b) and 3289); rest period violations (Wage Order No. 4, Labor Code §§ 226.7, 512, 516; and Code of Civil Procedure §§ 3287(b) and 3289); failure to pay all sick time (Labor Code §§ 246 [including but not limited to §§ 246(a), (b), 246(l)(1), 246(l)(2), 246(i)], 558, 1192, 1194 *et seq.*, [including but not limited to § 1194.2], 1197.1, 1198, and 1199; Wage Order No. 4, and Code of Civil Procedure § 1021.5); failure to provide accurate itemized wage statements (Labor Code §§ 226, 226.3; waiting time penalties (Labor Code §§ 201, 202, 203 and DLSE Manual, 4.3.4); unfair competition (Business and Professions Code §§ 17200 *et seq.*, and Code of Civil Procedure § 1021.5); improper rounding (29 C.F.R. § 785.48; DLSE Manual, §§ 47.1, 47.2.); regular rate of pay (29 CFR §§ 778.110 and 778.111); illegal deductions (Labor Code § 221); unpaid vacation (Labor Code § 227.3); failure to maintain records (Labor Code § 1174, 1174.5); failure to provide day of rest (Labor Code § 516 and Wage Order No. 4) or premiums in connection with any of the preceding claims, as well as any claims under the California Labor Code, California Industrial Welfare Commission's Wage Orders, or the California Code of Regulations, which were alleged or which could have been alleged under the same or similar facts alleged in the Class and PAGA Action or letters submitted to the LWDA, which includes, but is not limited to: Labor Code §§ 201-203, 204, 210, 221, 226, 226.3, 226.7, 227.32, 246, 510, 512, 516, 558, 1174, 1174.4, 1182.12, 1194 *et seq.*, 1194.2(a), 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2699(f)(2), 2699(g)(1); and 29 CFR §§ 778.110 and 778.111; and all applicable Industrial Welfare Commission Wage Orders.

30. "Released Parties" includes Defendant FPR II LLC dba Leadpoint Business Services, and any of its past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, owners, shareholders, agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Leadpoint ("Released Parties").

31. "Request for Exclusion" means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement. The Request for Exclusion must: (a) clearly state that the Class Member does not wish to be included in the Settlement; (b) set forth the name, address, telephone number, and last four digits of the Social Security Number of the Class Member requesting exclusion; (c) be signed by the Class Member; (d) be returned by mail to the Settlement Administrator at the specified address indicated in the Class Notice; and (e) be postmarked on or before the Response Deadline.

32. "Response Deadline" means forty-five (45) days after the Settlement Administrator initially mails the Class Notice to Class Members, and the last date on which Class Members may submit Requests for Exclusion or Notices of Objections to the Settlement.

33. "Service Award" means the amount that the Court authorizes to be paid to Plaintiff, in addition to his Individual Settlement Payment and Individual PAGA Payment, in recognition of his efforts and risks in assisting with the prosecution of the Action. Subject to the Court granting final approval, the Parties agree that Plaintiff shall be paid up to Ten Thousand Dollars ($10,000.00) from the Gross Settlement Amount.

34. "Settlement Administration Costs" means the fees and expenses reasonably incurred by the Settlement Administrator as a result of the procedures and processes expressly required by this Agreement, which are estimated not to exceed Ten Thousand Dollars ($10,000.00). Any portion of the Settlement Administration Costs not used or approved by the Court shall be added to the Net Settlement Amount.

35. "Settlement Administrator" means ILYM Group, Inc., or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for purposes of administering this Settlement.

36. "Participating Class Members" means all Class Members who do not submit a valid and timely Request for Exclusion.

37. "Settlement Payment Check" means the payment of the Individual Settlement Payment to Participating Class Members and Individual PAGA Payment to PAGA Settlement Employees.

C. ADMINISTRATION OF SETTLEMENT

1. Fair and Reasonable Settlement. The Parties believe this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations, mediation, and in the context of adversarial litigation, taking into account all relevant factors, present and potential. 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 Agreement.

2. Non-Reversionary Settlement. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Gross Settlement Amount revert to Defendant. Class Members will not have to make a claim in order to receive an Individual Settlement Payment or Individual PAGA Payment. Distributions, in the form of Individual Settlement Payments and Individual PAGA Payments, will be made directly to each Participating Class Member and PAGA Settlement Employee.

3. Funding of the Gross Settlement Amount. Within fourteen (14) calendar days of the Effective Date, Defendant shall make a one-time deposit of Three Hundred and Fifty Thousand Dollars ($350,000.00) into a Qualified Settlement Fund to be established by the Settlement Administrator. Defendant shall also separately pay its respective share of employer payroll taxes as calculated and directed by the Settlement Administrator.

4. Class Counsel Award. Defendant agrees not to oppose or impede any application or motion by Class Counsel for attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount, *i.e.*, the sum of One Hundred Sixteen Thousand Six Hundred Sixty-Seven Dollars and Zero Cents ($116,666.67) (rounded up to the nearest dollar), and costs in the amount of up to Twenty-Five Thousand Dollars ($25,000.00), which shall be paid from the Gross Settlement Amount. It is understood by Class Counsel that the Court has final discretion in any fee award. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the awarded attorneys' fees, costs, and expenses. Any portion of the Class Counsel Award not awarded to Class Counsel shall be added to the Net Settlement Amount and shall be distributed to Participating Class Members as provided in this Agreement. Notwithstanding any other provision of this Agreement, if the Court should fail to award attorneys' fees to Class Counsel in the full amount provided for in this Agreement, no order of the Court or modification of any order of the Court concerning the amount of any attorneys' fees to be paid by Defendant to Class Counsel pursuant to this settlement shall constitute grounds for cancellation or termination of the Agreement or grounds for limiting any other provision of the Judgment. It is agreed that no order of the Court, including any order concerning attorneys' fees, may alter or otherwise increase the Gross Settlement Amount.

5. Class Representative Service Award. Defendant agrees not to oppose or impede any application or motion by Plaintiff for a Service Award of up to Ten Thousand Dollars ($10,000.00) to Plaintiff. The Service Award shall be paid from the Gross Settlement Amount and shall be paid in addition to Plaintiff's Individual Settlement Payment as a Participating Class Member and Individual PAGA Payment as a PAGA Settlement Employee. It is understood by Class Counsel and Plaintiff that the Court has final discretion in any Service Award. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff reflecting the Service Award. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on his Service Award and shall hold harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a result of the Service Award. Any portion of the Service Award not awarded to Plaintiff shall be added to the Net Settlement Amount and shall be distributed to Participating Class Members as provided in this Agreement.

6. Settlement Administration Costs. The Settlement Administrator shall be paid for the reasonable costs of administration of the Settlement from the Gross Settlement Amount, currently estimated at Ten Thousand Dollars ($10,000.00). These costs, which shall be paid from the Gross Settlement Amount, shall include, *inter alia*, the required tax reporting on the Individual Settlement Payments and Individual PAGA Payments, the issuance of W-2 and 1099 IRS Forms, establishing a Qualified Settlement Fund, administering and distributing the Gross Settlement Amount, PAGA

Payment, Service Award, and Class Counsel Award, and providing necessary reports and declarations. Any portion of the Settlement Administration Costs not allowed shall be added to the Net Settlement Amount and shall be distributed to Participating Class Members as provided in this Agreement.

7. PAGA Payment. Subject to Court approval, the Parties agree that the amount of Thirty Five Thousand Dollars ($35,000.00) of the Gross Settlement Amount shall be designated for satisfaction of claims for civil penalties under the PAGA. The Settlement Administration shall pay seventy-five percent (75%) of the PAGA Payment, *i.e.*, the sum of Twenty-Six Thousand Two Hundred Fifty Dollars ($26,250.00), to the LWDA. The remaining twenty-five percent (25%), *i.e.*, the sum of Eight Thousand Seven Hundred Fifty Dollars ($8,750.00) ("Net PAGA Penalties"), shall be distributed to PAGA Settlement Employees as per this Agreement.

8. Net PAGA Penalties. The Net PAGA Penalties shall be used to satisfy Individual PAGA Payments to PAGA Settlement Employees in accordance with the terms of this Agreement. The Settlement Administrator will allocate the Individual PAGA Payments by first dividing the Net PAGA Penalties by the total number of workweeks worked by PAGA Settlement Employees during the PAGA Period. That value will then be multiplied by the number of workweeks worked by each respective PAGA Settlement Members in a non-exempt position during the PAGA Period. PAGA Settlement Employees are entitled to 100% of the Net PAGA Penalties. Defendant maintains no reversionary right to any portion of the Net PAGA Penalties.

9. Net Settlement Amount. The Net Settlement Amount shall be used to satisfy Individual Settlement Payments to Participating Class Members in accordance with the terms of this Agreement. The Settlement Administrator will allocate the Individual Settlement Payments by dividing the Net Settlement Amount by the total number of workweeks worked by Class Members in a non-exempt position during the Class Period. The result will then be multiplied by the number of workweeks each Participating Class Member worked in a non-exempt position during the Class Period to calculate the amount owed to that individual. The payments to Participating Class Members will be reduced by any required legal deductions for each Participating Class Member. Participating Class Members are entitled to 100% of the Net Settlement Amount. Defendant maintains no reversionary right to any portion of the Net Settlement Amount. If there are any timely submitted Requests for Exclusion, the

Settlement Administrator shall proportionately increase the Individual Settlement Payments for each Participating Class Member so that the amount actually distributed to Participating Class Members equals 100% of the Net Settlement Amount.

10. Calculation of Gross Settlement Amount & Escalation Clause. The Gross Settlement Amount was calculated with, and is premised on, Defendant's representation at mediation that there are approximately 18,158 workweeks worked by the Class Members during the Class Period. Should the total number of workweeks worked by the Class Members during the Class Period ultimately increase by more than 10% (i.e., if the workweeks exceed 19,974), Defendant, at its option, can either choose to: (1) cut off the end date for the Class Period as of the date on which the number of workweeks reaches 19,974, or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of workweeks worked by the Class Members above the 10% (i.e., if there was 11% increase in the number workdays during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%).

11. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members, the Individual PAGA Payments made to PAGA Settlement Employees, and the Service Award made to Plaintiff, as well as any other payments made pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to which any Participating Class Members or PAGA Settlement Employees may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plans. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any Participating Class Member or PAGA Settlement Employee may be entitled under any benefit plans.

12. Settlement Administration Process. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement. The Settlement Administrator shall provide the following services:

a. Establish and maintain a Qualified Settlement Fund account;

b. Calculate the amount of the Settlement each Class Member and PAGA Settlement

Employee is eligible to receive;

c. Verify the last known address for each Class Member and PAGA Settlement Employee through a generally utilized, national address update database prior to mailing the Class Notice;

d. Print and mail the Class Notice;

e. Establish and maintain a toll-free informational telephone support line to assist Class Members who have questions regarding the Class Notice;

f. Conduct additional address searches for mailed Class Notices that are returned as undeliverable and, to the extent new and more current addresses are found, also reprint and re-mail Class Notices accordingly;

g. Field inquiries from Class Members and administer any Requests for Exclusion. This service will include settlement proceed calculations, printing and issuance of checks, and preparation of W-2 and 1099 Forms;

h. Distribute and pay the Service Award, Individual Settlement Payments, Individual PAGA Payments, the LWDA's portion of the PAGA Payment, and fees and costs awarded to Class Counsel;

i. Shall include a legend on the settlement check stating: "By cashing this check, I am opting into the settlement in *Jason White v. FCC Environmental Services, LLC et al.*, in the Superior Court of the State of California, County of Sacramento, Case No. 23CV007753, under the Fair Labor Standards Act, 29 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement; and

j. Provide declarations and/or other information to the Court as requested.

13. Delivery of the Class Data. Within fifteen (15) business days of Preliminary Approval, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement Administrator will treat the Class Data as confidential as noted in paragraph 5 above. The Settlement Administrator will not provide Class Data to Class Counsel.

14. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class Data from Defendant, the Settlement Administrator shall mail the Class Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class Data.

15. Confirmation of Contact Information in the Class Data. Prior to mailing, the Settlement Administrator shall perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes.

16. Class Notices. All Class Members will be mailed a Class Notice, which is approved by the Parties. Each Class Notice will provide: (1) information regarding the nature of the Action; (2) a summary of the Settlement's principal terms; (3) the Class definition; (4) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments, if they do not request to be excluded; (5) each PAGA Settlement Employee's estimated Individual PAGA Payment and the formula for calculating Individual PAGA Payments; (6) the dates that comprise the Class Period and PAGA Period; (7) instructions on how to submit a valid Request for Exclusion or Notice of Objection; (8) the deadline by which the Class Member must submit a Request for Exclusion or Notice of Objection; (9) the date for the final approval hearing; and (10) the claims to be released. The Class Notice will also inform Class Members that, in order to receive the Individual Settlement Payment and Individual PAGA Payment, they do not need to do anything except keep the Settlement Administrator apprised of their current mailing addresses.

17. Re-Mailing of Returned Notices. Any Class Notice returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator shall indicate the date of such re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security Number of the Class Member involved and shall then perform a re-mailing.

18. Request for Exclusion Procedures. Any Class Member, other than Plaintiff, may opt-out from the Settlement by submitting a written Request for Exclusion to the Settlement Administrator postmarked by the Response Deadline. A Request for Exclusion must: (1) clearly state that the Class Member does not wish to be included in the Settlement; (2) set forth the name, address, telephone number, and last four digits of the Social Security Number of the Class Member requesting exclusion; (3) be signed by the Class Member; (4) be returned by mail to the Settlement Administrator at the specified address indicated in the Class Notice; and (5) be postmarked on or before the Response Deadline. The date of the postmark shall be the exclusive means to determine whether a Request for Exclusion is timely. By submitting such a Request for Exclusion, a Class Member shall be deemed to have exercised his or her option to opt out of the Settlement and not be bound by this Agreement, except that in light of the binding nature of a PAGA judgment on non-party employees, Class Members employed during the PAGA Period who exclude themselves from this Settlement shall still be bound by the Released PAGA Claims. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit a Request for Exclusion. Class Counsel shall not represent any Class Members with respect to any such request.

19. <u>Settlement Terms Bind All Class Members Who Do Not Opt-Out</u>. Any Class Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely Request for Exclusion shall be bound by all terms of the Settlement to the fullest possible extent, including those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court. Additionally, Class Members employed during the PAGA Period shall be bound by the Released PAGA Claims, as well as any Judgment that may be entered by the Court thereon, regardless of whether they opt-out of the Settlement.

20. <u>Objection Procedures</u>. Any Class Member who does not opt-out of this Settlement shall be entitled to object to the Settlement. To object to the Settlement, a Class Member should return by mail a written statement of objection to the Settlement Administrator at the specified address by the Response Deadline. The Notice of Objection must include: (1) the objector's full name, signature, address, and telephone number; (2) a written statement of the basis for the objection; and (3) any copies of papers, briefs, or documents upon which the objection is based. However, any Class Member who does not submit a timely Notice of Objection may nevertheless appear at the Final Approval Hearing and present an oral objection to the Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement or appeal from the Order and Judgment. Class Counsel shall not represent any Class

Members with respect to any such objections to this Settlement. Any Class Member who submits a valid Request for Exclusion shall not be allowed to object to this Settlement. No later than five (5) days after the Response Deadline, the Settlement Administrator shall provide Defense Counsel with a complete list of all Class Members who have timely and properly requested exclusion from the Class.

21. Defendant's Right to Rescind. If 5% or more Class Members timely opt out of the class settlement, Defendant shall have the sole and absolute discretion to rescind/void the Settlement Agreement within fifteen (15) calendar days after receiving from the Settlement Administrator the final list of opt-outs. Defendant agrees to meet and confer in good faith with Settlement Class Counsel before rescinding or voiding the Settlement Agreement. In the event that Defendant elects to rescind/void the Settlement Agreement, Defendant shall provide written notice of such rescission to Settlement Class Counsel. Such rescission shall have the same effect as a termination of the Settlement Agreement for failure to satisfy a condition of settlement, and the Settlement Agreement shall become null and void and have no further force or effect. In the event a Defendant rescinds the settlement, that Defendant shall be solely responsible for any fees and costs incurred by the Settlement Administrator.

22. Settlement Administrator's Reports of Information. The Settlement Administrator shall provide Defense Counsel and Class Counsel a weekly report which certifies the number of Class Members who have submitted valid Requests for Exclusion. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement as needed or requested. The Settlement Administrator shall also forward to Parties' counsel any Notices of Objection received immediately upon receipt. Further, the Settlement Administrator shall immediately forward any Request for Exclusion to the Parties' counsel so that they can determine whether the Request for Exclusion is valid and timely.

23. Distribution of Payments. Within fourteen (14) calendar days of Defendant funding the Gross Settlement Amount, the Settlement Administrator shall pay: (1) the Individual Settlement Payments to Participating Class Members and Individual PAGA Payments to PAGA Settlement Employees; (2) the Labor and Workforce Development Agency seventy-five percent (75%) of the PAGA Payment; (4) the Service Award to Plaintiff; and (5) Class Counsel Award to Class Counsel. The Settlement Administrator shall also issue a payment to itself for services performed in connection with the Settlement.

24. Non-Negotiated Settlement Checks. Settlement Payment Checks shall be negotiable until one hundred and eighty (180) calendar days after mailing to the Participating Class Members and PAGA Settlement Employees. Those funds represented by settlement checks returned as undeliverable and the funds which correspond with the settlement checks that are not negotiated within one hundred and eighty (180) calendar days after mailing shall be transferred to the CASA of Sacramento, the designated *cy pres* recipient, pursuant to Code of Civil Procedure § 384.

25. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator shall provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

26. Tax Allocation of Individual Settlement Payments. All Individual Settlement Payments shall be allocated as follows: seventy percent (70%) as penalties, interest, and reimbursement under Labor Code § 2802, and reported on an IRS Form 1099; and thirty percent (30%) shall be attributed to wages and reported via an IRS Form W-2. Participating Class Members are responsible for their share of the payroll taxes, which shall be deducted from their Individual Settlement Payments. Defendant is responsible for their respective employer share of payroll taxes, in addition to the Gross Settlement Amount, and these taxes will not be deducted from the Gross Settlement Amount.

27. Tax Allocation of Individual PAGA Payments. All Individual PAGA Payments shall be allocated 100% as penalties. The amount of payment shall be reported on an IRS Form 1099 by the Settlement Administrator.

28. Administration of Taxes by the Settlement Administrator. The Settlement Administrator shall be responsible for issuing to Plaintiff, Participating Class Members, PAGA Settlement Employees, and Class Counsel, 1099 forms or other tax forms as may be required by law for all amounts paid pursuant to this Agreement.

29. Tax Liability. Defendant, Defense Counsel, the Settlement Administrator, and Class Counsel make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement, representation, or calculation by Defendant, Defense Counsel, Class Counsel, or by the Settlement

Administrator in this regard. Plaintiff and Participating Class Members understand and agree that they will be solely responsible for the payment of any and all taxes and penalties assessed on their respective payments described herein and will defend, indemnify, and hold Defendant, Defense Counsel, Class Counsel, and the Settlement Administrator free and harmless from and against any claims resulting from treatment of such payments as non-taxable penalties/damages.

30. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

D. RELEASE OF CLAIMS BY PLAINTIFF AND THE CLASS

1. Release of Claims by Plaintiff and Participating Class Members. Upon the payment of the Gross Settlement Amount, Plaintiff and all Participating Class Members, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged, to the fullest extent possible, any and all of the Released Parties of and from any and all Released Claims.

2. Release of Claims by PAGA Settlement Employees. Upon the payment of the Gross Settlement Amount, Plaintiff and all PAGA Settlement Employees, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged, to the fullest extent possible, any and all of the Released Parties of and from any and all Released PAGA Claims.

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

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

Plaintiff understands that Section 1542 gives the right not to release existing claims of which he is not now aware, unless Plaintiff voluntarily chooses to waive this right. Having been so apprised, Plaintiff nevertheless voluntarily waives the rights described in Section 1542 and elects to assume all risks for claims that now exist in his favor, known or unknown.

E. FINAL AND PRELIMINARY APPROVAL

1. Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court to request the Preliminary Approval of the Settlement, conditional certification of the Class, and the entry of a Preliminary Approval Order: (i) approving of the proposed Settlement, and (ii) setting a date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall provide for the Class Notice to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff shall submit this Agreement, which sets forth the terms of this Settlement, and will include the proposed Class Notice, attached to this Agreement as **Exhibit A**.

2. Final Settlement Approval Hearing. Upon expiration of the deadlines to submit Requests for Exclusion or Notices of Objection to the Settlement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the Final Approval of the Settlement along with the amounts properly payable for (i) Individual Settlement Payments; (ii) the PAGA Payment; (iii) the Class Counsel Award; (iv) the Service Award; and (v) Settlement Administration Costs. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the Final Approval Hearing.

3. Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the Motion for Final Approval, the Parties shall also jointly seek the entry of Judgment consistent with the terms of this Agreement. After entry of the Judgment, the Court shall 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 Agreement.

4. Dismissal of the Class Action. The Court's entry of final judgment upon granting final approval of the Settlement shall fully and finally resolve the Class Action, and no further dismissal shall be necessary. The Court shall retain jurisdiction as set forth herein to enforce the terms of the Settlement and resolve any post-judgment matters..

5. Nullification of Settlement. In the event that the Settlement does not become final for any reason, then this Agreement, and any documents generated to bring it into effect, shall be null and void. Any order or judgment entered by the Court in furtherance of this Agreement shall likewise be treated as void from the beginning.

F. CLASS CERTIFICATION & NON-ADMISSION OF LIABILITY

6. Class Action Certification. The Parties are agreeing to class certification for settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an admission of any kind by Defendant, including without limitation, that certification of a class for trial or any other purpose is appropriate or proper or that Plaintiff or any Class Member can establish any of the requisite elements for class treatment of any of the claims in this Action. If, for any reason, the Settlement is

not finally approved, this Agreement will be void and the Parties will be restored to their respective positions in the lawsuit as if they had not entered into this Agreement. The Parties further agree that this Agreement or any documents or orders issued related to this Settlement will not be admissible, other than according to the Settlement's terms, in this or any other proceeding as evidence that either: (i) a class action should be certified, or (ii) Defendant are liable to Plaintiff or any Class Member.

7. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Agreement, Defendant does not admit, and specifically deny, that they have violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law, regulation, or legal requirement. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission of any nature on the part of Defendant, or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local, or other applicable law.

G. DISPUTES

1. Disputes Regarding Language of Settlement Agreement. If the Parties have a dispute with regard to the language of the Agreement, the Parties agree to attempt to informally resolve the dispute by engaging Marc Feder, Esq. to mediate such dispute.

2. Disputes Regarding Individual Settlement Payments. In the event that Class Members have a dispute as to the data provided by Defendant, Class Members will have the opportunity to provide documentation and/or an explanation. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement

Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments and Individual PAGA Payments under the terms of this Agreement, and that determination shall be binding.

3. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

Enforcement Actions. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, or to declare rights and/or obligations under this Settlement, the prevailing Party or Parties shall be entitled to recover from the non-prevailing Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

H. TERMINATION

1. Subject to the obligation(s) of mutual full cooperation set forth herein, either Plaintiff or Defendant may terminate this Settlement if after submitting this Agreement to the Court for approval**,** any Court declines to enter the preliminary approval order, the final approval order, or judgment in substantially the form submitted by the Parties, or if an appeal opposing the judgment is not ultimately dismissed. The terminating Party shall give to the other Party (through its/their counsel) written notice of its decision to terminate no later than fourteen (14) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

a. The Settlement Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms.

b. In the event the Settlement Agreement is terminated, Defendant shall have no obligation to make any payments to any party, Settlement Class Member, or attorney, and the Gross Settlement Amount in its entirety in the escrow account shall revert to Defendant. If there are any fees incurred by the Settlement Administrator and the settlement is terminated by Defendant, Defendant shall solely be responsible for any costs and fees incurred by the Settlement Administrator.

c. The preliminary approval order, final approval order, and judgment shall be vacated.

d. The Stipulation of Settlement and all negotiations, statements and proceedings relating to same shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the Settlement.

e. Except as otherwise discoverable or specially noted herein, neither this Agreement, the Memorandum of Understanding, nor any ancillary documents, actions, statements, or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Actions or any other action for any purpose whatsoever.

I. MISCELLANEOUS TERMS

1. Confidentiality Preceding Preliminary Approval. The Parties and their counsel agree to keep the terms of the Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Any confidentiality associated with the terms of this Settlement shall expire upon the filing by Class Counsel of the Motion for Preliminary Approval with the Court, except that the negotiations and discussions preceding submission of the Settlement to the Court for preliminary approval shall remain strictly confidential, unless otherwise agreed to by the Parties or unless otherwise ordered by the Court. Further, the Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, post information on any social media or website, or have any communication with the press about the fact, amount, or terms of the Settlement. Plaintiff and Class Counsel agree that if contacted by the press regarding this case, they will only state that the Actions exist and has been resolved. This provision shall not prohibit Class Counsel from communicating with Class Members after preliminary approval is granted or if contacted by such Class Members. Nothing in this provision prohibits Defendant from disclosing the terms of this Settlement prior to Plaintiff's Motion for Preliminary Approval in connection with public reporting requirements, nor does anything in this provision prohibit the Parties or their counsel from disclosing the terms of the Settlement prior to Plaintiff's Motion for Preliminary Approval as may be required by law.

2. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant

that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right herein released and discharged.

3. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

4. Entire Agreement. This Agreement and any attached Exhibits constitute the entirety of the Parties' Settlement terms. No other prior or contemporaneous written or oral negotiations or agreements may be deemed binding on the Parties.

5. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by the Parties, their successors-in-interest, or their counsel.

6. Authorization to Enter into Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by the Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best and good-faith efforts to effectuate 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.

7. Execution and Counterparts. This Agreement is subject only to the execution of all Parties. However, the Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile, Docusign, and scanned copies of the signature page, shall be deemed to be one and the same instrument provided that counsel for the Parties shall exchange among themselves original signed counterparts.

8. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors, heirs, or assigns of the Parties hereto, as previously defined.

9. California Law Governs. All terms of this Agreement and Exhibits hereto shall be

governed by and interpreted according to the laws of the State of California.

10. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall 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 Agreement valid and enforceable. Any invalid, illegal, or unenforceable provision determined by the Court shall in no way affect any other provision if Defendant and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

11. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that Plaintiff or Class Counsel may appeal any reduction in the Class Counsel Award below the amount Class Counsel requests, and either Party may appeal any order that materially alters the Agreement's terms.

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

13. Waiver. No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right, or remedy.

14. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement shall not be construed more strictly against one Party than another 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 Agreement.

15. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Agreement.

16. Cooperation and Execution of Necessary Documents. All Parties shall cooperate in

good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement.

17. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement shall be fully enforceable and binding on all Parties and agree that it shall be admissible and subject to disclosure in any proceeding to enforce its terms.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class and Representative Action Settlement between Plaintiff and Defendant.

PLAINTIFF JASON WHITE

Dated: 4/1/2025, 2025

DocuSigned by:
8E5E7825414A44E...

Jason White

DEFENDANT FPR II LLC dba Leadpoint Business Services

Dated: ________________, 2025

____

________________________ (Name)

________________________ (Title)

On behalf of FPR II LLC dba Leadpoint Business Services

APPROVED AS TO FORM:

Bokhour Law Group, P.C.

Dated: 4/1/2025, 2025

Signed by:
MEHRDAD BOKHOUR
D8D3643F271940F...

Mehrdad Bokhour, Esq.
Attorney for Plaintiff Jason White and Proposed Class Counsel

Falakassa Law, P.C.

Dated: 4/1/2025, 2025

DocuSigned by:
Joshua Falakassa
15A628B2C5A149C...

Joshua S. Falakassa, Esq.
Attorney for Plaintiff Jason White and Proposed Class Counsel

LITTLER MENDELSON, P.C.

Dated: _______________, 2025

____
Chad D. Greeson
Nicholas Gioiello
Attorneys for FPR II LLC dba Leadpoint Business Services

EXHIBIT “B”

NOTICE OF SETTLEMENT OF CLASS ACTION

White v. FPR II LLC d/b/a LeadPoint Business Services, et al.
Superior Court of the State of California, County of Sacramento
Case No. 23CV007753
LWDA Case No. LWDA-CM-977401-23

To: All current and former non-exempt employees of Defendant FPR II LLC d/b/a LeadPoint Business Services ("Defendant" or "LeadPoint") who worked for LeadPoint in California from January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]* **(the "Class") and all current and former non-exempt employees of Defendant FPR II LLC d/b/a LeadPoint Business Services who worked for LeadPoint in California from January 26, 2024, through** *[INSERT THE DATE OF PRELIMINARY APPROVAL]* **(the "Aggrieved Employees"):**

[IDENTIFYING INFORMATION]

YOU ARE RECEIVING THIS NOTICE because you have been identified as a Class Member in the above lawsuit and may be entitled to receive payment under the terms of this class action settlement contained in the Settlement Agreement. This Notice documents the terms of the settlement that the Court has preliminarily approved (the "Settlement"). Under the terms of the proposed settlement, you are estimated to receive approximately **$INSERT AMOUNT** as your share of the Net Settlement Amount, should the Court approve the Settlement. Please note that this is only an estimate. Your actual share of the Net Settlement Amount may be more or less than this estimate. Your estimate is based on the number of weeks you performed any work for LeadPoint (referenced herein as "Workweeks" or Weeks Worked") in California between January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]* (the "Class Period").

Additionally, the lawsuit seeks civil penalties for alleged claims made under the California Private Attorney General Act ("PAGA") for all current and former hourly, non-exempt employees of the Company in the State of California from January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]* (the "PAGA Period"), who are referred to as "Aggrieved Employees."

This Notice also serves as an announcement that the Court in the above lawsuit will conduct a hearing on _____________, 2025 to address whether the proposed settlement should be approved ("Final Approval Hearing"). You may attend this hearing.

Your options and eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT (SEE SECTION VIII FOR MORE DETAILS)	
DO NOTHING	Receive a settlement payment and give up your right to sue on the Released Claims described in Section IV below. This settlement does <u>not</u> require a claims process to receive a payment. Therefore, there is <u>no</u> claim form for you to complete should you wish to receive payment. You are automatically included and eligible to receive a payment once the Court approves the Settlement.
EXCLUDE YOURSELF	You may "opt-out" of any connection with this case including any right to a settlement payment. If you choose to opt-out, you must submit a Request for Exclusion Form by _____________, 2025 (see Section VI). All persons who validly and timely opt-out of the Settlement will <u>not</u> receive any settlement payment and will preserve Released Claims described in Section IV subject to applicable statutes of limitations, except that Settlement Class Members who

	worked during the PAGA Period are nevertheless bound by the release of the PAGA claims.
OBJECT	Write to the Court and Settlement Administrator about why you do not like the Settlement by completing and submitting an Objection Form by _____________, 2025 (see Section VI) or make an objection at the Final Approval Hearing.
GO TO A HEARING	Ask to speak in Court about the terms of the Settlement. The next scheduled hearing is the Final Approval Hearing on _____________.

I. Why should I read this Notice?

The Court has granted preliminary approval of a proposed settlement (the "Settlement") in *Jason White v. FPR II LLC dba LeadPoint Business Services, et al.,* Sacramento County Superior Court Case No. 23CV007753 (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

The Company's records show that you were employed in California as a non-exempt employee (meaning you were paid hourly or otherwise eligible for overtime pay) at some point between January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]* ("Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT

If you were employed by the Company as a non-exempt employee in California during the Class Period, you are automatically included in the Settlement and do not need to take any further action to receive a payment.

The purpose of this Notice is to provide you with a brief description of the Lawsuit and the allegations made, to inform you of the terms of the proposed Settlement, agreed upon by both parties to avoid further costs of litigation and to discuss your rights and options in connection with the Lawsuit and the Settlement.

II. What is this lawsuit about?

On or about August 30, 2023, Plaintiff Jason White ("Plaintiff") filed a wage-and-hour representative action in Sacramento Superior Court alleging: (1) failure to pay all minimum wages; (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to pay all sick time; (6) wage statement violations; (7) waiting time penalties; and (8) unfair competition. ("Original Complaint").

On April 21, 2025, Plaintiff filed a First Amended Complaint ("FAC" or "Operative Complaint") to add a representative cause of action for civil penalties under the Private Attorneys General Act ("PAGA") based on the same underlying Labor Code violations described in the Original Complaint.

Sacramento County Superior Court granted preliminary approval the proposed Settlement and this Notice. However, the Court has not made any determination of the validity of the claims in the Lawsuit. The Court has not ruled on the merits of Plaintiff's claims. And, by approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial**.**

LeadPoint denies these allegations and contends that it has done nothing wrong—LeadPoint expressly denies any liability or wrongdoing of any kind associated with this Lawsuit and further denies all material allegations set forth in the Lawsuit. LeadPoint denies that it owes any wages, expenses, restitution, penalties, or other damages. LeadPoint contends that it has complied with Federal and California law in all respects,

and nothing about this Notice should be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of LeadPoint. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

However, to avoid additional expense, inconvenience, and risks of continued litigation, LeadPoint and Plaintiff have concluded that it is in their respective best interests and the interests of the Settlement Class to settle the Lawsuit on the terms summarized in this Notice. Accordingly, this Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of LeadPoint, which expressly denies any and all liability. After extensive discovery and providing information to Class Counsel, the Settlement was reached following an arm's length mediation.

The Class Representative and Class Counsel support this Settlement. Among the reasons for their support are the defenses to liability potentially available to the Company, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by the Company, this Settlement will not affect your employment. California law strictly prohibits unlawful retaliation. Further, the Company will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member's participation or decision not to participate in this Settlement. If a Class Member does not participate, his/her share will be paid to those who do participate.

III. Who are the attorneys representing Plaintiff and the Class Members?	
Mehrdad Bokhour **Bokhour Law Group, P.C.** *mehrdad@bokhourlaw.com* 1901 Avenue of the Stars, Suite 920 Los Angeles, California 90067 Tel: (310) 975-1493; Fax: (310) 675-0861	Joshua Falakassa **Falakassa Law, P.C.** *josh@falakassalaw.com* 1901 Avenue of the Stars, Suite 920 Los Angeles, California 90067 Tel: (818) 456-6168; Fax: (888) 505-0868

IV. What are the terms of the Settlement?

On [PA DATE], the Court certified a class, for settlement purposes only, of all current and former non-exempt employees of LeadPoint who worked for LeadPoint in California from January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]* (the "Settlement Class"). Individuals who do not opt out of the Settlement Class, pursuant to the procedures set forth in this Notice ("Class Members") will be mailed Settlement checks and in exchange be bound by the Settlement and release of the Released Claims.

Without admitting any wrongdoing, the Company has agreed to pay $350,000.00 (the "Settlement Amount") in U.S. dollars to fully resolve all claims in the Lawsuit, which includes payments for Individual Settlement Payments to eligible Class Members, attorneys' fees and costs, payments to the California Labor Workforce and Development Agency ("LWDA") and PAGA Aggrieved Employees, Settlement Administration Costs, and Class Representative Service Payments.

The Parties agreed to the following payments from the Settlement Amount:

Settlement Administration Costs. The Court has approved ILYM Group, Inc. ("ILYM") to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, a maximum of $10,000 will be paid from the Settlement Amount to pay the Settlement Administration Costs.

<u>Penalties to the LWDA</u>. $35,000 of the Settlement Amount will be allocated to Plaintiff's claims under the PAGA. Of this amount, $26,250 will be paid to the LWDA in satisfaction of the claims for penalties under PAGA, and the remaining $8,750 will be distributed to all PAGA-Aggrieved Employees.

The PAGA Period means January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]*.

Aggrieved Employees are eligible to receive payment under the PAGA Settlement of their pro rata share of the PAGA Amount, based on the number of Pay Periods during which each Aggrieved Employee worked during the PAGA Period relative to the total number of Pay Periods Worked by all Aggrieved Employees during the PAGA Period. PAGA Pay Periods means any pay period during which an Aggrieved Employee worked for the Company for at least one day during the PAGA Period.

<u>Service Payment to Settlement Class Representative</u>. Class Counsel will ask the Court to award Plaintiff a Service Payment in the amount of $10,000 to compensate him for the service and extra work he provided on behalf of the Class Members. Plaintiff also may receive a share of the Settlement as a Class Member.

<u>Attorneys' Fees and Expenses</u>. Class Counsel, which includes two law firms (Bokhour Law Group, P.C. and Falakassa Law, P.C.), have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of one-third ($116,667) of the common fund Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through finalization of the Settlement. Class Counsel also will ask for reimbursement of up to $25,000 for the costs Class Counsel incurred in connection with the Lawsuit.

<u>Calculation of Individual Settlement Payments to Class Members</u>. After deducting the amounts above, the balance will form the Net Settlement Amount for distribution to the participating Class Members (who are Class Members who do not opt-out). The Net Settlement Amount for class claims will total approximately $________. Compensable workweeks will be all Workweeks Worked by the Settlement Class Members during the Class Period at the Company in California. The dollars per compensable Workweek will be calculated by dividing the total Workweeks Worked (excluding any excluded workweeks) by all Settlement Class Members into the Net Settlement Amount to determine a per workweek value ("Workweek Value"). The Workweek Value will be multiplied by the number of Workweeks Worked by each Settlement Class Member during the Class Period to determine the class payment distribution, prior to legal deductions, for each Settlement Class Member. If any individual in the Settlement Class opts-out of the Settlement, his/her Individual Settlement Amount will be distributed to all Participating Class Members (*i.e.*, those who do not opt-out). Similarly, the PAGA payment will be determined by dividing the $8,750 PAGA payment by the total Pay Periods of all PAGA Aggrieved Employees to determine a PAGA Pay Period Value. This PAGA Pay Period Value will be multiplied by the number of Pay Periods worked by each PAGA aggrieved employee to determine the PAGA payment for each PAGA aggrieved employee. Currently, your projected class payment is $_________ <u>and your projected PAGA payment is $__________.</u>

For each Settlement Class Member, the Weeks Worked at the Company during the Class Period will be calculated from Company's records. The Company's records indicate that you worked for **[TOTAL WORKWEEKS] Workweeks** in California during the Class Period of January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]*. If you disagree with this number, you may submit by mail evidence to the Settlement Administrator on or before _____________, 2025, with documentation to establish the number of weeks you claim to have actually worked for Company in California between January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]* (excluding any excluded workweeks). **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE**

RETURNED OR PRESERVED; DO NOT SEND ORIGINALS. The Parties and Administrator will evaluate the evidence submitted by the Settlement Class Member and discuss in good faith how many Workweeks should be credited to each Settlement Class member. If the Parties are unable to agree, the Settlement Administrator will render a final decision.

Payments to Class Members. After the Court grants Final Approval of the Settlement, judgment is entered, and the time to file an appeal has expired, settlement checks will be mailed to all participating Class Members who did not timely request to be excluded. Participating Class Members will have 180 days from the issuance of the last check to cash all of the checks they have received. If any Class Member fails to timely cash a settlement check, a stop payment will be placed on the check and the unclaimed funds will be paid to CASA of Sacramento as the designated *cy pres* recipient, pursuant to California Code of Civil Procedure § 384(b).

Allocation and Taxes. Thirty percent (30%) of the Settlement Amount distributed to each participating Class Member will be considered and reported as "wages" (W-2 reporting), and seventy percent (70%) of the Settlement Amount will be distributed to each participating Class Member as "interest." To the extent a Class Member receives a PAGA payment, one hundred percent (100%) will be considered as "civil penalties" (Form 1099 reporting). The Settlement Administrator shall take all usual and customary deductions from the settlement payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest or non-wage penalty distribution; however, it will be reported on IRS Form 1099 as income. The Company will be responsible for paying its portion of the any state and federal taxes, in addition to the Settlement Amount. Class Members are responsible for the proper income tax treatment of the Settlement Amounts. The Settlement Administrator, the Company and its counsel, and Class Counsel cannot provide tax advice and make no representations as to the tax treatment or legal effect of the Individual Settlement Payments. Participating Class Members will be solely responsible for the payment of any taxes and penalties assessed on their Individual Settlement Payments. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. Once the Court approves the proposed Settlement, enters judgment, and the Company funds the Settlement Amount, then the Settlement Agreement will bind all participating Class Members who have not opted out of the Settlement, and will bar them from bringing certain claims against the Company as described below. Specifically, after Final Approval by the Court, the Settlement Class Members, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, agents, and representatives, will forever completely release and discharge the Company, and each of its past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, owners, shareholders, agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with LeadPoint, as well as any alleged joint employer of Plaintiff, the Settlement Class Members, and the Aggrieved Employees of any and all class claims that were alleged or reasonably could have been alleged based on the facts alleged in: (1) any complaint filed in the Class Action; and/or (2) the letter submitted by Plaintiff to the California Labor Workforce Development Agency pursuant to the Private Attorneys General Act, arising during the Class Period and PAGA Period, including claims for (a) the claims set forth in the Class Action or letters to the LWDA including, but not limited to: minimum wage violations, including but not limited to, improper rounding or regular rate of pay (Wage Order No. 4 and Labor Code §§ 204, 558, 1194 *et seq.* [including but not limited to §§ 1194(a), 1194.2(a)], 1197, 1197.1, 1198, 1199, 1182.12; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); failure to pay all overtime wages, including but not limited to, improper rounding or regular rate of pay (Labor Code §§ 204, 210, 510, 558, 1194, 1198, Wage Order No. 4; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); meal period violations (Wage Order No. 4; Labor Code §§ 226.7, 512, 516, and Code of Civil Procedure §§ 3287(b) and 3289); rest period violations (Wage Order No. 4, Labor Code §§ 226.7, 512, 516; and Code of Civil Procedure §§ 3287(b) and 3289); unpaid or failure to pay all improper sick pay (Labor Code §§ 246 [including but not limited to §§ 246(a), (b), 246(l)(1), 246(l)(2), 246(i)], 558, 1192, 1194 *et seq.*, [including but not limited to § 1194.2, 1197.1, 1198, and 1199]; Wage Order No. 4, and Code of Civil Procedure § 1021.5); failure to provide accurate itemized wage statements (Labor Code §§ 226, 226.3; waiting time penalties (Labor Code §§ 201, 202, 203 and DLSE Manual, 4.3.4); unfair competition (Business and Professions Code §§ 17200 *et seq*., and Code of Civil Procedure § 1021.5); illegal deductions (Labor Code § 221); unpaid vacation (Labor Code § 227.3); failure to maintain records (Labor Code § 1174, 1174.5); failure to provide day of rest (Labor Code § 516 and Wage Order No. 4) or premiums in connection with any of the preceding claims, as well as any claims under the California Labor Code, California Industrial Welfare Commission's Wage Orders, or the California Code of Regulations, which were alleged or which could have been alleged under the same or similar facts alleged in the Class and PAGA Action or letters submitted to the LWDA, which includes, but is not limited to: Labor Code §§ 201-203, 204, 210, 221, 226, 226.3, 226.7, 227.32, 246, 510, 512, 516, 558, 1174, 1174.4, 1182.12, 1194 *et seq.*, 1194.2(a), 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.,* 2699(f)(2), 2699(g)(1)*;* and 29 CFR §§ 778.110 and 778.111; (b) Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices or punitive damages, alleged or which could have been alleged under the facts pleaded in the complaints; and (c) any and all other claims under California common law, the California Labor Code including the California Private Attorneys General Act ("PAGA"), the Fair Labor Standards Act ("FLSA"), California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code alleged in or that could have been reasonably alleged under the same facts pleaded in the Operative Complaint. These released claims and damages are hereinafter referred to as "Released Claims." The time period governing these Released Class Claims shall be at any time from January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]* ("Release Period"). Any Settlement Class Member who timely requests exclusion in compliance with these requirements will not be bound by this Release, except that Settlement Class Members who worked during the PAGA Period are nevertheless bound by the release of the PAGA Claims.

Likewise, the "PAGA Claims" or "Released PAGA Claims" shall include all claims and civil penalties pursuant to California's Private Attorneys General Act of 2004 ("PAGA", Lab. § 2698 *et seq*.) alleged, or which reasonably could have been alleged, that accrued during the PAGA Period, based on the facts alleged in the letters submitted by Plaintiff and his counsel to the Labor Workforce Development Agency ("LWDA Letter") and in any complaint filed or amended complaint to be filed in the Class Action; claims for interest or penalties including but not limited to minimum wage violations, including but not limited to, improper rounding or regular rate of pay (Wage Order No. 4 and Labor Code §§ 204, 558, 1194 *et seq.* [including but not limited to §§ 1194(a), 1194.2(a)], 1197, 1197.1, 1198, 1199, 1182.12; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); failure to pay all overtime wages, including but not limited to, improper rounding or regular rate of pay (Labor Code §§ 204, 210, 510, 558, 1194, 1198, Wage Order No. 4; Code of Civil Procedure § 1021.5; 29 C.F.R. § § 785.48, 778.110, and 778.111; and DLSE Manual, §§ 47.1, 47.2); meal period violations (Wage Order No. 4; Labor Code §§ 226.7, 512, 516,and Code of Civil Procedure §§ 3287(b) and 3289); rest period violations (Wage Order No. 4, Labor Code §§ 226.7, 512, 516; and Code of Civil Procedure §§ 3287(b) and 3289); failure to pay all sick time (Labor Code §§ 246 [including but not limited to §§ 246(a), (b), 246(l)(1), 246(l)(2), 246(i)], 558, 1192, 1194 *et seq.*, [including but not limited to § 1194.2], 1197.1, 1198, and 1199; Wage Order No. 4, and Code of Civil Procedure § 1021.5); failure to provide accurate itemized wage statements (Labor Code §§ 226, 226.3; waiting time penalties (Labor Code §§ 201, 202, 203 and DLSE Manual, 4.3.4); unfair competition (Business and Professions Code §§ 17200 *et seq*., and Code of Civil Procedure § 1021.5); improper rounding (29 C.F.R. § 785.48; DLSE Manual, §§ 47.1, 47.2.); regular rate of pay (29 CFR §§ 778.110 and 778.111); illegal deductions (Labor Code § 221); unpaid vacation (Labor Code § 227.3); failure to maintain records (Labor Code § 1174, 1174.5); failure to provide day of rest (Labor Code § 516 and Wage Order No. 4) or premiums in connection with any of the preceding claims, as well as any claims under the California Labor Code, California Industrial Welfare Commission's Wage Orders, or the California Code of Regulations, which were alleged or which could have been alleged under the same or similar facts alleged in the Class and PAGA Action or letters submitted to the LWDA, which includes, but is not limited to: Labor Code §§ 201-203, 204, 210, 221, 226, 226.3, 226.7, 227.32, 246, 510, 512, 516, 558, 1174, 1174.4, 1182.12, 1194 *et seq.*, 1194.2(a), 1194.2, 1197, 1197.1, 1198, 1199, 2698 *et seq.,* 2699(f)(2), 2699(g)(1)*;* and 29 CFR §§ 778.110 and 778.111; and all applicable Industrial Welfare Commission Wage Orders. The time period governing these Released PAGA Claims shall be at any time from January 26, 2024, through *[INSERT THE DATE OF PRELIMINARY APPROVAL]*.

Waiver of Labor Code Section 206.5(e). Class Members who do not opt out will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Individual Settlement Payments constitute payment of all sums allegedly due to them. Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Individual Settlement Payments. That section provides in pertinent part as follows:

"No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made."

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of judgment.

V. How can I claim money from the settlement?

You are automatically included as a Settlement Class Member. To receive an Individual Settlement Payment, ***you do not have to take any further action***. However, it is the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file. Otherwise, you may not receive important information or an Individual Settlement Amount.

VI. What other options do I have?

A. **Do Nothing and Participate in the Settlement**. Under the Settlement, you will automatically receive an Individual Settlement Payment. If you disagree with the number of Weeks Worked, as described in this Notice, you may dispute the allocation of the Settlement without excluding yourself or objecting, as described below.

If you are a current employee, your decision as to whether or not to participate in this Settlement will not be considered by LeadPoint and LeadPoint will not take any adverse employment action against you based on your participation in the Settlement.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a "Request for Exclusion Form" postmarked no later than ____________________, 2025 with your full name, address, telephone number, last four digits of your social security number or your date of birth, and signature. The Request for Exclusion Form should state:

"I have received and reviewed the Notice of Class Action and Proposed Settlement, and I wish to be ***excluded*** from the Settlement Class and ***not*** to participate in the proposed Settlement."

You must send the Request for Exclusion Form directly to the Settlement Administrator, [ADDRESS], **postmarked no later than ___________________, 2025**. Any person who files a timely Request for Exclusion from the Class Action Settlement, upon receipt: (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive any payments under this Settlement; and (3) will not be bound by this Settlement, or the judgment, except that Settlement Class Members who worked during the PAGA Period are nevertheless bound by the release of the PAGA claims.

B. **Object to Settlement.** You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the proposed Settlement, or any portion of it, you may submit a written objection stating your full name, address, telephone number, the case name and number, the name and address of your attorney(s) if you are represented, each specific reason in support of your objection, and any legal support for each objection. You must also include any documentation or evidence in support of the objection, if any. Objections can be in writing and must be mailed to the Settlement Administrator, [ADDRESS], **by no later than _________________, 2025** for your objection to be considered. **You need not object to the Settlement if you only dispute the number of Weeks Worked. You may dispute your Weeks Worked by submitting evidence to the Settlement Administrator regarding your employment at the Company. The Settlement Administrator and ultimately the Court will determine the validity of your dispute.**

Any class member may appear at the Final Approval Hearing to make an oral objection whether or not any written objection or notice of appearance has been provided.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for _______________, 2025, at 8:30 a.m. in Department 22 of the Sacramento County Superior Court, located at 720 Ninth Street, Sacramento, California 95814. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before _________________, 2025. All objections or other correspondence must state the name and number of the case. If you wish to appear at the Final Approval Hearing, please contact Class Counsel or the Settlement Administrator in advance of the scheduled hearing to ensure that the hearing has not been continued by the Court.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as participating Class Members who do not object.

VII. What is the effect of the settlement?

Released Rights and Claims. The Settlement is intended to settle all claims against the Released Parties that were asserted or could have been asserted in the Lawsuit regarding the alleged violations of wage and hour laws. If you were employed by the Company as a direct hire in California at any time during the Class Period and do not elect to exclude yourself from the Settlement Class, you will be deemed to have entered into this Release and to have released the above-described Released Claims. If the Settlement is not approved by the Court or does not become final for some other reason, the Lawsuit may continue, and the releases will not take effect.

VIII. What is the next step?

The Court will hold a Final Approval Hearing on _______________, 2025, at 8:30 a.m. in Department 22 of the Sacramento County Superior Court, located at 720 Ninth Street, Sacramento, California 95814.

You may also consult the Superior Court website to access documents by going to (https://services.saccourt.ca.gov/PublicCaseAccess/Civil) and entering the Case Number for the Action, Case No. 23CV007753.

To confirm the date and location of the hearing, please visit the Court website below and enter the case number: 23CV007753:https://services.saccourt.ca.gov/PublicCaseAccess/Civil

You may join the Final Approval Hearing via remote appearance using either of the following methods:

To join by Zoom link: https://saccourt-ca-gov.zoomgov.com/my/sscdept22
To join by phone: (833) 568-8864 / ID: 16184738886

You are __not__ required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

IX. How can I get additional information?

This Notice only summarizes the Lawsuit, allegations made, and the Settlement. For more information, you may inspect the Court's files and the Stipulation for Class Action Settlement and Release of Claims (the Settlement Agreement) at the Office of the Clerk, located at 720 Ninth Street, Sacramento, California 95814, during regular court hours. You may also contact Class Counsel (contact information above) or the Settlement Administrator, whose information appears below:

ILYM Group, Inc.
2832 Walnut Ave STE C
Tustin, CA 92780
Phone: (888) 250-6810

The Settlement Administrator will also post a copy of the final judgment on its website, which can be accessed at the following URL: ______________________.

PLEASE DO NOT CALL OR WRITE THE COURT
FOR INFORMATION ABOUT THIS SETTLEMENT

EXHIBIT “C”

EXHIBIT “D”

BOKHOUR
LAW GROUP

MEHRDAD BOKHOUR
Attorney at Law

1901 Avenue of the Stars | Suite 450
Los Angeles | California 90067

tel 310 975 1493
fax 310 675 0861

August 24, 2023

SUBMITTED VIA LWDA'S PAGA CLAIM NOTICE ONLINE PORTAL

COPY SENT VIA CERTIFIED MAIL TO:

FCC ENVIRONMENTAL SERVICES, LLC
10077 GROGANS MILL RD STE 466
THE WOODLANDS, TX 77380

LEADPOINT BUSINESS SERVICES
5310 E. HIGH STREET SUITE 300
PHOENIX, AZ 85054

FCC ENVIRONMENTAL SERVICES
CALIFORNIA, LLC
460 WILDWOOD FOREST DRIVE
SUITE 100 SPRING, TX 77380

C/O: 1505 Corporation
C T CORPORATION SYSTEM
330 N BRAND BLVD, SUITE 700
GLENDALE, CA 91203

Re: *Jason White v. FCC Environmental Services, LLC et al.*
Notice of Intent to File Suit for California Labor Code § 2698 et seq. Penalties

To Whom It May Concern:

This office, along with Falakassa Law, P.C., represent Jason White (hereinafter "Mr. White") and a proposed group of current and former non-exempt employees working for FCC Environmental Services, LLC, FCC Environmental Services California, LLC, and Leadpoint Business Services (collectively hereinafter "FCC Environmental") and any of its affiliated, predecessor and/or merged entities in the State of California for violations of the California Labor Code §§ 201-203, 204, 210, 221, 226(a), 226(e), 226.3, 226.7, 227.3, 246, 510, 512, 516, 1174, 1174.4, 1194, 1194.2, 1197.1, 1199, and all applicable Industrial Welfare Commission Wage Orders ("Wage Order").

This letter shall serve as notification under Labor Code § 2699.3 (hereinafter "PAGA Notice"). The $75 filing fee made payable to the California Labor and Workforce Development Agency for the Private Attorneys General Act Notice ("PAGA Notice") was paid online and a copy of this PAGA Notice was submitted electronically to the Department of Industrial Relations.

Mr. White wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of the following group of "aggrieved employees":

> All current and former non-exempt employees who work or worked for FCC Environmental Services, LLC, FCC Environmental Services California, LLC, and Leadpoint Business Services, in California, during the one year immediately preceding the filing of this PAGA Notice and continuing into the present and ongoing ("aggrieved employees")

mehrdad@bokhourlaw.com
www.bokhourlaw.com

FCC Environmental is one of the world's largest waste management and recycling companies with a presence in over 35 countries. FCC Environmental provides waste and recycling services to more than 450,000 households in the US and across California.

Mr. White was employed by FCC Environmental as a non-exempt employee with the title of "Sorter." Mr. White began working with FCC Environmental since July 21, 2022, continuing into the present. Mr. White and other aggrieved employees (including, but not limited to, administrative assistant, maintenance helper, sorter, staff, and all other non-exempt positions) were responsible for all aspects of FCC Environmental's business in the State of California.

At all relevant times, Mr. White and other aggrieved employees regularly worked various shifts, many of which were in excess of 8.0 hours in a workday and 40.0 hours in a workweek. Mr. White alleges that other aggrieved employees were also subjected to the same policies, procedures, and practices, working conditions, and corresponding wage and hour violations to which she was subjected during his employment.

First, at all relevant times, FCC Environmental has had a consistent practice of unlawfully rounding Mr. White's and other aggrieved employees' time entries, resulting in a failure to pay all hours worked. As a result of this practice, Mr. White and other aggrieved employees are not compensated for all the hours that they work and all of the overtime hours they work, in violation of Cal. Labor Code §§ 204, 210. 510, 1194, 1197.1, 1199, and applicable Wage Orders.

The Court in *See's Candy Shops v. Superior Court* (2012) 210 Cal.App.4th 889, 907, held that rounding time policies can be lawful, "if the rounding policy is fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked,' (29 C.F.R. § 785.48; see DLSE Manual, supra, §§ 47.1, 47.2.)."

Here, FCC Environmental's time recording practice is not neutral on its face or in application as Mr. White and other aggrieved employees are subject to discipline, including termination for being tardy in reporting to work, or returning from a meal or rest period. Moreover, because FCC Environmental is capable of tracking the time worked by aggrieved employees to the minute, the practice itself exists not for the convenience or benefit of the employees who are trying to report their time worked accurately, but for FCC Environmental's benefit. As a result of the unlawful time recording practice, Mr. White and other aggrieved employees were not paid for all hours worked, including all minimum wages and overtime wages for hours worked in excess of eight hours per shift.

In addition, at all relevant times, FCC Environmental automatically deducted 30-minutes from Mr. White and other aggrieved employees' time entries for meal periods. FCC Environmental's policy/practice automatically deducted 30 minutes for meal periods, regardless of whether a 30-minute meal period was actually taken. Indeed, aggrieved employees' meal periods were often cut short, and lasted fewer than 30 minutes.

As a result of this auto deduct practice, over a period of time, Mr. White and other aggrieved employees were also not properly paid for all hours worked, including overtime hours, in violation of Labor Code §§ 204, 510, 1194, 1197.1, 1199, and applicable Wage Orders.

Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

Labor Code § 510 requires an employer to compensate an employee who works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day, no less than one and one-half times (11/2) the regular rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a workday or more than eight (8) hours on the seventh consecutive day of work. Pursuant to Section 3 of the applicable Wage Orders, non-exempt employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (11/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek.

As set forth above, FCC Environmental failed to compensate Mr. White and other aggrieved employees for all hours worked, including all minimum and overtime wages, by failing to properly record and pay aggrieved employees for all hours worked, including all minimum and overtime wages. Accordingly, through PAGA and to the extent permitted by law Mr. White and other aggrieved employees are entitled to recover penalties for violations of Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, pursuant to Labor Code §1197.1 or Labor Code § 2698 *et seq*.

Moreover, at all relevant times, Mr. White and other aggrieved employees worked regular shifts that lasted longer than 8.0 hours in a workday and resulted in Mr. White and other aggrieved employees regularly working more than 40 hours in a workweek. However, upon information and belief, aggrieved employees were not properly paid at the correct overtime rate for all overtime hours worked due to FCC Environmental's uniform failure to include all forms of compensation/renumeration, including, but not limited to, non-discretionary bonus payments, shift differential payments, commissions, incentives, and all other forms of renumeration in calculating the "regular rate of pay" for purposes of overtime compensation.

Under the California Labor Code (as well as the FLSA), courts have held that regularly paid non-discretionary Shift Premium Pay/Bonuses must be included in determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v. The Americana Corp*. 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc*. 435 F. Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgement to Plaintiff under California and federal law on the grounds, that Defendant improperly calculated overtime by excluding annual bonuses paid to employees from the "regular rate of compensation"]; see *Walling v. Youngerman-Reynolds Hardwood Co*. (1945) 65 S.Ct. 1242, 1245. ("The regular rate by its very nature must reflect all payments which the parties have agreed shall be received regularly during the workweek, exclusive of overtime payments. It is not an arbitrary label chosen by the parties; it is an actual fact. Once the parties have decided upon the amount of wages and the mode of payment the determination of the regular rate becomes a matter of mathematical computation, the result of which is unaffected by any designation of a contrary 'regular rate' in the contracts."); see also 29 CFR §§ 778.110 ("production bonus") and 778.111 ("piece-rate").)

At all relevant times, FCC Environmental consistently paid aggrieved employees' non-discretionary compensation, including, but not limited to, bonuses, commissions, incentive pay, shift differentials, as well as overtime pay, however these forms of compensation were uniformly omitted when calculating non-exempt employees' "regular rate of pay" for overtime purposes.

Labor Code § 510 requires an employer to compensate an employee who works more than eight (8.0) hours in one workday, forty (40.0) hours in a workweek, and for the first eight (8.0) hours worked on the seventh consecutive day, no less than one and one-half times (11/2) the regular rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12.0) hours in a workday or more than eight (8.0) hours on the seventh consecutive day of work. Pursuant to Section 3 of the applicable Wage Orders, non-exempt employees shall not be employed more than eight (8.0) hours in any workday or more than 40.0 hours in any workweek unless the employee receives one and one-half (11/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek.

By their policy of requiring aggrieved employees to work in excess of eight (8) hours in a workday and/or forty (40.0) hours in a workweek without compensating them at the rate of one-half (11/2) their regular rate of pay, FCC Environmental willfully violated the provisions of Labor Code § 510 and the applicable Wage Orders. Based on the foregoing Labor Code violations, Mr. White seeks all civil and statutory penalties available and applicable under Labor Code § 2699(f)(2), and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Similarly, at all relevant times, FCC Environmental also failed in its obligation to provide Mr. White and other aggrieved employees the legally required paid sick days at the legal rate pursuant to Labor Code §§ 246(a),(b), which requires that "[a]n 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. . . at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment." Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must 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."

Additionally, Labor Code § 246(l)(2) states that the paid sick time must 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." Finally, Labor Code §246(i) requires employers to "provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."

Here, at all relevant times, FCC Environmental failed in its obligation to provide Mr. White and other aggrieved employees the legally required paid sick days at the legal rate, including all forms of compensation, pursuant to Labor Code §§ 246(a),(b). As such, FCC Environmental paid sick time below his base rate of pay, rather than the "regular rate of pay" as required by Labor Code §§ 246(l)(1-2). Based on the foregoing Labor Code violations, Mr. White seeks all civil and statutory penalties available and applicable under Labor Code § 2699(f)(2), and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Next, at all relevant times, Mr. White and other aggrieved employees were denied compliant and timely 30-minute off-duty meal periods as mandated by California law. Due to FCC Environmental's uniform meal period policies/practices and operational requirements, Mr. White and other aggrieved employees were often unable to take timely and uninterrupted 30-minute first meal periods before the end of the fifth hour of work. Further, when Mr. White and other aggrieved employees worked more than 10.0 hours in a shift, they were not allowed and permitted to take a mandated second meal period before the end of the tenth hour of work in violation of the Labor Code and applicable Wage Orders.

Making matters worse, at all relevant times, FCC Environmental automatically deducted 30-minutes from Ms. Vaugh and other aggrieved employees' time entries for meal periods whether or not the meal periods were taken were actually 30 minutes in length. FCC Environmental's policy/practice automatically deducted 30 minutes for meal periods, regardless of whether a 30-minute meal period was actually taken. Indeed, aggrieved employees' meal periods were often cut short, and lasted fewer than 30 minutes due FCC Environmental's meal period policies/procedures and operational requirements and work demands.

Further, for each missed or non-compliant meal period, FCC Environmental failed and continues to fail to maintain a mechanism by which aggrieved employees were paid meal period premiums at the "regular rate of pay" pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 5th 858 and Labor Code § 226.7.

Accordingly, due to FCC Environmental's uniform meal period practices, Mr. White and other aggrieved employees were also regularly denied legally compliant meal periods in violation of Labor Code 226.7, 510, 516, and applicable IWC Wage Orders, and are entitled to penalties under Labor Code § 2698 *et seq*.

Moreover, at all relevant times, Mr. White and other aggrieved employees were not provided with all 10-minute rest periods for every four hours worked, or major fraction thereof due to FCC Environmental's uniform rest period policies/practices, staffing issues and operational requirements. As a result, Mr. White and other aggrieved employees were and are often unable to take a net 10-minute duty free rest periods for every major fraction of four hours worked. This includes a second rest period for shifts in excess of six hours, and a third rest period for shifts in excess of 10 hours in a workday. Making matters worse, FCC Environmental had a uniform policy/practice that required Ms. White and other aggrieved employees to remain on premises during rest periods.

By not relieving all non-exempt employees of all duties during rest periods, FCC Environmental failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services, Inc*. (2016) 2 Cal. 5th 257, 269 [concluding that "during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time."]. In *Augustus*, the California Supreme Court expressly rejected the employers' assertion that it could provide an on-duty rest period to employees who worked as security guards and further explained "that employers [must] relinquish any control over how employees spend their break time and relieve their employees of all duties." *Id*. at 273. Each time Mr. White and other aggrieved employees were unable to take a compliant rest period, FCC Environmental failed and continues to fail to adequately pay rest period premium payments at the "regular rate of pay" as required by Labor Code § 226.7.

Accordingly, due to FCC Environmental's uniform rest period policies/practices and work demands, Mr. White and other aggrieved employees were also regularly denied legally compliant rest breaks in violation of Labor Code §§ 226.7, 512, and applicable Wage Orders, and would be entitled to penalties under Labor Code § 2698 *et seq*.

As a result of FCC Environmental's failure to pay Mr. White and other aggrieved employees for all hours they were subject to the control of FCC Environmental, including all minimum, overtime, sick pay wages, and FCC Environmental's failure to pay for meal and rest period premiums at the "regular rate of pay," FCC Environmental issued wage statements which failed to accurately identify the gross wages earned, the total hours worked, the net wages earned, and the correct corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a)(1, 2, 5, and 9).

Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial violation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226."

Thus, for the violations of Labor Code section 226 described above, Mr. White and other aggrieved employees may also recover Labor Code § 226.3 penalties for FCC Environmental's violations of Labor Code § 226(a). Consequently, because FCC Environmental failed to comply with Labor Code § 226(a), Mr. White and other aggrieved employees would be entitled to recover penalties under Labor Code §§ 226(e) and/or 2698 *et seq*.

Moreover, because of, FCC Environmental's failure to pay all minimum, overtime, sick pay wages, and meal and rest period premiums at the "regular rate of pay," FCC Environmental also failed and continues to fail to pay the aggrieved employees all wages owed at their time of separation from employment in violation of Labor Code §§ 201-203. Thus, aggrieved employees would be entitled to recover penalties under Labor Code §§ 201-203 and/or 2698 *et seq*.

Pursuant to Labor Code § 2699.3(a)(2)(A), please advise within sixty-five (65) calendar days of the date of this notice whether your office intends to investigate the violations alleged herein above. We understand that if we do not receive a response from your office within sixty-five (65) calendar days of this PAGA Notice, Mr. White may thereafter pursue his interests and the interests of similarly aggrieved employees with a civil complaint against FCC Environmental for its violations of the California Labor Code and applicable Wage Orders.

While it is our intent to pursue a PAGA representative and/or Class Action lawsuit against Southwest for unpaid wages and civil penalties under Labor Code § 2699, it is our firms' policy to attempt to negotiate an early resolution of all matters where possible and beneficial to all aggrieved employees. If FCC Environmental is interested in attempting to resolve this matter, please contact me or have your lawyer contact our office so that we can discuss an informal discovery plan and the possibility of early mediation on or before **September 28, 2023**.

Respectfully submitted,

FALAKASSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

Joshua S. Falakassa, Esq.
Mehrdad Bokhour, Esq.

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LAW GROUP

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January 16, 2025

SUBMITTED VIA LWDA'S PAGA CLAIM NOTICE ONLINE PORTAL

COPY SENT VIA CERTIFIED MAIL TO:

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10077 GROGANS MILL RD STE 466
THE WOODLANDS, TX 77380

FCC ENVIRONMENTAL SERVICES
CALIFORNIA, LLC
460 WILDWOOD FOREST DRIVE
SUITE 100 SPRING, TX 77380

LEADPOINT BUSINESS SERVICES
5310 E. HIGH STREET SUITE 300
PHOENIX, AZ 85054

C/O: 1505 Corporation
C T CORPORATION SYSTEM
330 N BRAND BLVD, SUITE 700
GLENDALE, CA 91203

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Counsel for Defendants FCC Environmental Services, LLC and FCC Environmental Services California, LLC

Re: *Jason White et al. v. FCC Environmental Services, LLC et al.*
Amended Notice of Intent to File Suit for California Labor Code § 2698 et seq. Penalties

To Whom It May Concern:

As you may be aware, this office, along with Falakassa Law, P.C., represent Jason White, ("Mr. White") and a proposed group of current and former non-exempt employees working for FCC Environmental Services, LLC, FCC Environmental Services California, LLC, and Leadpoint Business Services (collectively hereinafter "FCC Environmental") and any of its affiliated, predecessor and/or merged entities in the State of California for violations of the California Labor

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Code §§ 201-203, 204, 210, 221, 226(a), 226(e), 226.3, 226.7, 227.3, 246, 510, 512, 516, 1174, 1174.4, 1194, 1194.2, 1197.1, 1199, and all applicable Industrial Welfare Commission Wage Orders ("Wage Order").

The purpose of this letter is to supplement our initial PAGA Notice dated August 30, 2023, which initiated LWDA Case No. LWDA-CM-977401-23 (the "Initial PAGA Notice). The Initial PAGA Notice is incorporated by reference herein in its entirety. By way of this Amended PAGA Notice, Mr. White thus seeks to add Jason Ball ("Mr. Ball"), as additional PAGA representative and aggrieved employee.

Jason Ball Added as a PAGA Representative

Mr. Ball worked as a direct hire for FCC Environmental Services, LLC as a non-exempt employee with the title of "Customer Service." Mr. Ball started his employment on or about July 18, 2022, until his separation from employment on January 22, 2024. At all relevant times, Mr. Ball alleges that he suffered from the same unlawful policies and practices of FCC Environmental Services, LLC from the allegations indicated in Mr. White's Initial Notice.

Accordingly, Mr. White and Mr. Ball (collectively referred to as "Plaintiffs") submit this PAGA Notice on behalf of themselves, and the State of California, as well as on behalf of the following group of "aggrieved employees":

> All current and former non-exempt employees who work or worked for FCC Environmental Services, LLC, FCC Environmental Services California, LLC, and Leadpoint Business Services, in California, during the one year immediately preceding the filing of this PAGA Notice and continuing into the present and ongoing ("aggrieved employees")

FCC Environmental is one of the world's largest waste management and recycling companies with a presence in over 35 countries. FCC Environmental provides waste and recycling services to more than 450,000 households in the United States and across California.

Plaintiffs and other aggrieved employees (including, but not limited to, administrative assistant, maintenance helper, sorter, staff, customer service, and all other non-exempt positions) were responsible for all aspects of FCC Environmental's business in the State of California.

At all relevant times, Plaintiffs and other aggrieved employees regularly worked various shifts, many of which were in excess of 8.0 hours in a workday and 40.0 hours in a workweek. Plaintiffs alleges that other aggrieved employees were also subjected to the same policies, procedures, and practices, working conditions, and corresponding wage and hour violations to which they were subjected during their employment.

First, at all relevant times, FCC Environmental has had a consistent practice of unlawfully rounding Plaintiffs' and other aggrieved employees' time entries, resulting in a failure to pay all hours worked. As a result of this practice, Plaintiffs and other aggrieved employees are not compensated for all the hours that they work and all of the overtime hours they work, in violation of Cal. Labor Code §§ 204, 210. 510, 1194, 1197.1, 1199, and applicable Wage Orders.

The Court in *See's Candy Shops v. Superior Court* (2012) 210 Cal.App.4th 889, 907, held that rounding time policies can be lawful, "if the rounding policy is fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked,' (29 C.F.R. § 785.48; see DLSE Manual, supra, §§ 47.1, 47.2.)."

Here, FCC Environmental's time recording practice is not neutral on its face or in application as Plaintiffs and other aggrieved employees are subject to discipline, including termination for being tardy in reporting to work, or returning from a meal or rest period. Moreover, because FCC Environmental is capable of tracking the time worked by aggrieved employees to the minute, the practice itself exists not for the convenience or benefit of the employees who are trying to report their time worked accurately, but for FCC Environmental's benefit. As a result of the unlawful time recording practice, Plaintiffs and other aggrieved employees were not paid for all hours worked, including all minimum wages and overtime wages for hours worked in excess of eight hours per shift.

In addition, at all relevant times, FCC Environmental automatically deducted 30-minutes from Plaintiffs and other aggrieved employees' time entries for meal periods. FCC Environmental's policy/practice automatically deducted 30 minutes for meal periods, regardless of whether a 30-minute meal period was actually taken. Indeed, aggrieved employees' meal periods were often cut short, and lasted fewer than 30 minutes.

As a result of this auto deduct practice, over a period of time, Plaintiffs and other aggrieved employees were also not properly paid for all hours worked, including overtime hours, in violation of Labor Code §§ 204, 510, 1194, 1197.1, 1199, and applicable Wage Orders.

Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

Labor Code § 510 requires an employer to compensate an employee who works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day, no less than one and one-half times (11/2) the regular rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a workday or more than eight (8) hours on the seventh consecutive day of work. Pursuant to Section 3 of the applicable Wage Orders, non-exempt employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (11/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek.

As set forth above, FCC Environmental failed to compensate Plaintiffs and other aggrieved employees for all hours worked, including all minimum and overtime wages, by failing to properly record and pay aggrieved employees for all hours worked, including all minimum and overtime wages. Accordingly, through PAGA and to the extent permitted by law Plaintiffs and other aggrieved employees are entitled to recover penalties for violations of Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, pursuant to Labor Code §1197.1 or Labor Code § 2698 *et seq*.

Moreover, at all relevant times, Plaintiffs and other aggrieved employees worked regular shifts that lasted longer than 8.0 hours in a workday and resulted in Plaintiffs and other aggrieved employees regularly working more than 40 hours in a workweek. However, upon information and belief, aggrieved employees were not properly paid at the correct overtime rate for all overtime hours worked due to FCC Environmental's uniform failure to include all forms of compensation/renumeration, including, but not limited to, non-discretionary bonus payments, shift differential payments, commissions, incentives, and all other forms of renumeration in calculating the "regular rate of pay" for purposes of overtime compensation.

Under the California Labor Code (as well as the FLSA), courts have held that regularly paid non-discretionary Shift Premium Pay/Bonuses must be included in determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v. The Americana Corp*. 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc*. 435 F. Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgement to Plaintiff under California and federal law on the grounds, that Defendant improperly calculated overtime by excluding annual bonuses paid to employees from the "regular rate of compensation"]; see *Walling v. Youngerman-Reynolds Hardwood Co*. (1945) 65 S.Ct. 1242, 1245. ("The regular rate by its very nature must reflect all payments which the parties have agreed shall be received regularly during the workweek, exclusive of overtime payments. It is not an arbitrary label chosen by the parties; it is an actual fact. Once the parties have decided upon the amount of wages and the mode of payment the determination of the regular rate becomes a matter of mathematical computation, the result of which is unaffected by any designation of a contrary 'regular rate' in the contracts."); see also 29 CFR §§ 778.110 ("production bonus") and 778.111 ("piece-rate").)

At all relevant times, FCC Environmental consistently paid aggrieved employees' non-discretionary compensation, including, but not limited to, bonuses, commissions, incentive pay, shift differentials, as well as overtime pay, however these forms of compensation were uniformly omitted when calculating non-exempt employees' "regular rate of pay" for overtime purposes.

Labor Code § 510 requires an employer to compensate an employee who works more than eight (8.0) hours in one workday, forty (40.0) hours in a workweek, and for the first eight (8.0) hours worked on the seventh consecutive day, no less than one and one-half times (11/2) the regular rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12.0) hours in a workday or more than eight (8.0) hours on the seventh consecutive day of work. Pursuant to Section 3 of the applicable Wage Orders, non-exempt employees shall not be employed more than eight (8.0) hours in any workday or more than 40.0 hours in any workweek unless the employee receives one and one-half (11/2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek.

By their policy of requiring aggrieved employees to work in excess of eight (8) hours in a workday and/or forty (40.0) hours in a workweek without compensating them at the rate of one-half (11/2) their regular rate of pay, FCC Environmental willfully violated the provisions of Labor Code § 510 and the applicable Wage Orders. Based on the foregoing Labor Code violations, Plaintiffs seeks all civil and statutory penalties available and applicable under Labor Code § 2699(f)(2), and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Similarly, at all relevant times, FCC Environmental also failed in its obligation to provide Plaintiffs and other aggrieved employees the legally required paid sick days at the legal rate pursuant to Labor Code §§ 246(a),(b), which requires that "[a]n 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. . . at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment." Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must 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."

Additionally, Labor Code § 246(l)(2) states that the paid sick time must 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." Finally, Labor Code §246(i) requires employers to "provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."

Here, at all relevant times, FCC Environmental failed in its obligation to provide Plaintiffs and other aggrieved employees the legally required paid sick days at the legal rate, including all forms of compensation, pursuant to Labor Code §§ 246(a),(b). As such, FCC Environmental paid sick time below his base rate of pay, rather than the "regular rate of pay" as required by Labor Code §§ 246(l)(1-2). Based on the foregoing Labor Code violations, Plaintiffs seeks all civil and statutory penalties available and applicable under Labor Code § 2699(f)(2), and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Next, at all relevant times, Plaintiffs and other aggrieved employees were denied compliant and timely 30-minute off-duty meal periods as mandated by California law. Due to FCC Environmental's uniform meal period policies/practices and operational requirements, Plaintiffs and other aggrieved employees were often unable to take timely and uninterrupted 30-minute first meal periods before the end of the fifth hour of work. Further, when Plaintiffs and other aggrieved employees worked more than 10.0 hours in a shift, they were not allowed and permitted to take a mandated second meal period before the end of the tenth hour of work in violation of the Labor Code and applicable Wage Orders.

Making matters worse, at all relevant times, FCC Environmental automatically deducted 30-minutes from Plaintiffs and other aggrieved employees' time entries for meal periods whether or not the meal periods were taken were actually 30 minutes in length. FCC Environmental's policy/practice automatically deducted 30 minutes for meal periods, regardless of whether a 30-minute meal period was actually taken. Indeed, aggrieved employees' meal periods were often cut short, and lasted fewer than 30 minutes due FCC Environmental's meal period policies/procedures and operational requirements and work demands.

Further, for each missed or non-compliant meal period, FCC Environmental failed and continues to fail to maintain a mechanism by which aggrieved employees were paid meal period premiums at the "regular rate of pay" pursuant to *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 5th 858 and Labor Code § 226.7.

Accordingly, due to FCC Environmental's uniform meal period practices, Plaintiffs and other aggrieved employees were also regularly denied legally compliant meal periods in violation of Labor Code 226.7, 510, 516, and applicable IWC Wage Orders, and are entitled to penalties under Labor Code § 2698 *et seq*.

Moreover, at all relevant times, Plaintiffs and other aggrieved employees were not provided with all 10-minute rest periods for every four hours worked, or major fraction thereof due to FCC Environmental's uniform rest period policies/practices, staffing issues and operational requirements. As a result, Plaintiffs and other aggrieved employees were and are often unable to take a net 10-minute duty free rest periods for every major fraction of four hours worked. This includes a second rest period for shifts in excess of six hours, and a third rest period for shifts in excess of 10 hours in a workday. Making matters worse, FCC Environmental had a uniform policy/practice that required Plaintiffs and other aggrieved employees to remain on premises during rest periods.

By not relieving all non-exempt employees of all duties during rest periods, FCC Environmental failed to provide legally compliant rest periods. See *Augustus v. ABM Security Services, Inc*. (2016) 2 Cal. 5th 257, 269 [concluding that "during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time."]. In *Augustus*, the California Supreme Court expressly rejected the employers' assertion that it could provide an on-duty rest period to employees who worked as security guards and further explained "that employers [must] relinquish any control over how employees spend their break time and relieve their employees of all duties." *Id*. at 273. Each time Plaintiffs and other aggrieved employees were unable to take a compliant rest period, FCC Environmental failed and continues to fail to adequately pay rest period premium payments at the "regular rate of pay" as required by Labor Code § 226.7.

Accordingly, due to FCC Environmental's uniform rest period policies/practices and work demands, Plaintiffs and other aggrieved employees were also regularly denied legally compliant rest breaks in violation of Labor Code §§ 226.7, 512, and applicable Wage Orders, and would be entitled to penalties under Labor Code § 2698 *et seq*.

As a result of FCC Environmental's failure to pay Plaintiffs and other aggrieved employees for all hours they were subject to the control of FCC Environmental, including all minimum, overtime, sick pay wages, and FCC Environmental's failure to pay for meal and rest period premiums at the "regular rate of pay," FCC Environmental issued wage statements which failed to accurately identify the gross wages earned, the total hours worked, the net wages earned, and the correct corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a)(1, 2, 5, and 9).

Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial violation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226."

Thus, for the violations of Labor Code section 226 described above, Plaintiffs and other aggrieved employees may also recover Labor Code § 226.3 penalties for FCC Environmental's violations of Labor Code § 226(a). Consequently, because FCC Environmental failed to comply with Labor Code § 226(a), Plaintiffs and other aggrieved employees would be entitled to recover penalties under Labor Code §§ 226(e) and/or 2698 *et seq*.

Moreover, because of, FCC Environmental's failure to pay all minimum, overtime, sick pay wages, and meal and rest period premiums at the "regular rate of pay," FCC Environmental also failed and continues to fail to pay the aggrieved employees all wages owed at their time of separation from employment in violation of Labor Code §§ 201-203. Thus, aggrieved employees would be entitled to recover penalties under Labor Code §§ 201-203 and/or 2698 *et seq*.

Pursuant to Labor Code § 2699.3(a)(2)(A), please advise within sixty-five (65) calendar days of the date of this notice whether your office intends to investigate the violations alleged herein above. We understand that if we do not receive a response from your office within sixty-five (65) calendar days of this Supplemental PAGA Notice, Plaintiffs, and each of them, may pursue their interests and the interests of similarly aggrieved employees with a civil complaint against FCC Environmental for its violations of the California Labor Code and applicable Wage Orders.

Respectfully submitted,

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