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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RICHARD SOTO, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

APPLIED BIOCODE, INC., a California
corporation; and DOES 1 through 100,

Defendants.

CASE NO. 23STCV20199

*[Assigned for all purposes to the Hon.
Laura A. Seigle, Dept. SSC-17]*

**DECLARATION OF MATTHEW K.
MOEN IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA ACTION SETTLEMENT**

Date: October 22, 2024
Time: 9:00 a.m.
Dept.: SSC-17

Action Filed: August 23, 2023
Trial Date: None Set

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I, MATTHEW K. MOEN, declare as follows:

1. I am a Senior Associate with Haines Law Group, APC, and counsel for the named Plaintiff Richard Soto (“Plaintiff”) in the above-captioned matter. I am a member in good standing of the bar of the State of California and am admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I received a Bachelor of Arts degree from UCLA in 2011, and a Juris Doctor from Loyola Law School, Los Angeles, in 2015. Both before and during law school, I worked for the law firm of Prindle, Amaro, Goetz, Hillyard, Barnes & Reinholtz LLP (now known as Prindle, Goetz, Barnes & Reinholtz LLP), located in Long Beach, California. Both before and during law school, I also worked for Jill McBride Baxter, Certified Sports Agent and Sports Law Attorney.

3. From January 2016 to December 2017, I worked as an associate at Baltodano & Baltodano LLP, a law firm dedicated exclusively to the practice of Plaintiff-side employment law located in San Luis Obispo, California. After the founding partner and senior litigation partner at Baltodano & Baltodano LLP, Justice Hernaldo J. Baltodano, Second District Court of Appeal, was appointed to the California judiciary in December 2017, the firm dissolved on December 31, 2017. Since January 1, 2018, I have worked as an associate at my current firm, Haines Law Group, APC.

4. During my time with both Baltodano & Baltodano LLP and Haines Law Group, APC, my practice has been solely devoted to litigating plaintiff-side employment related cases in both state and federal court, including wage and hour class actions arising under the California Labor Code and the Fair Labor Standards Act. I am currently staffed on over thirty (30) active wage and hour class and/or PAGA actions in which I am integrally involved in all aspects of the litigation. I also supervise the work of several junior attorneys staffed on the same wage and hour class actions.

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1 5. I have also been appointed as Class Counsel in over forty (40) class action
2 settlements that have been granted final approval. The following is a non-exhaustive list of the
3 recent wage and hour class actions in which I have been named as Class Counsel and awarded
4 attorney's fees following a lodestar cross-check: *Santiago Gutierrez v. M.M.C.L., Inc. dba*
5 *California Landcare*, Case No. 30-2021-01182371-CU-OE-CXC, Honorable Randall J.
6 Sherman, presiding (awarding attorney's fees following a lodestar cross-check based on a rate
7 of \$575 per hour for work performed in 2021-2023); *Robert Lewis v. IMERYS Filtration*
8 *Minerals, Inc., et al.*, Case No. 22CV02874, Santa Barbara County Superior Court, Honorable
9 Jed Beebe, presiding (awarding attorney's fees following a lodestar cross-check based on a rate
10 of \$575 per hour for work performed in 2021-2023); *Roberto Arcos, et al. v. Panoramic Doors,*
11 *LLC*, Case No. 37-2021-00048823-CU-OE-CTL, San Diego County Superior Court, Honorable
12 Loren G. Freestone, presiding (awarding attorney's fees following a lodestar cross-check based
13 on a rate of \$650 per hour for work performed in 2021-2023); and *Aaron Hallum, et al. v. FCA*
14 *US, LLC*, Case No. CIVDS1936782, San Bernardino County Superior Court, Honorable Joseph
15 T. Ortiz, presiding (awarding attorney's fees following a lodestar cross-check based on a rate of
16 \$650 per hour for work performed in 2021-2024).

17 6. I have also been appointed as Class Counsel following a contested motion to
18 certify one or more classes in three (3) class action lawsuits, including as the lead litigation
19 attorney in the following cases:

- 20 • *George Gomez v. The Bedrock Company*, Case No. CIVDS1824255, San Bernardino
21 County Superior Court, Honorable David Cohn, presiding (certifying claims for unpaid
22 overtime and minimum wage violations, meal period violations, rest period violations,
23 wage statement violations, and waiting time penalties); and
- 24 • *Aurora Gatica v. Valley Ag, Inc. et al.*, Case No. 19CECG03018, Fresno County
25 Superior Court, Honorable Tyler D. Tharpe, presiding (certifying claims for meal period
26 violations, unpaid rest period violations, wage statement violations, and waiting time
27 penalties).

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1 7. In every year from 2020 to 2024, Thomson Reuters and Los Angeles Magazine
2 recognized me as a Top Young Attorney in Southern California in the annual Rising Star
3 Edition of Super Lawyers. This is an honor awarded to no more than two-and-a-half percent
4 (2.5%) of attorneys under the age of forty in Southern California each year.

5 8. As counsel for Plaintiff, I have been closely involved in all aspects of this
6 litigation since its inception, and believe that the proposed Stipulation of Settlement
7 (“Settlement Agreement” or “Settlement”) is a fair and reasonable result for the participating
8 Settlement Class members.

9 9. Defendant Applied BioCode, Inc. (“Defendant”) develops and manufactures
10 various scientific and medical testing and diagnostic products, including COVID test kits.
11 Plaintiff was employed by Defendant as a non-exempt “Receiving Clerk” from approximately
12 September 8, 2020 to June 2023. Like all Settlement Class members, Plaintiff was subject to
13 Defendant’s wage and hour policies and practices.

14 10. On August 23, 2023, Plaintiff filed the initial class action complaint in this action.
15 On October 30, 2023, after exhausting his administrative remedies with the LWDA, Plaintiff
16 filed the operative FAC to add a ninth cause of action for civil penalties under PAGA, premised
17 on the same underlying Labor Code violations. Attached hereto as **Exhibit 3** are true and
18 correct copies of Plaintiff’s August 23, 2023 PAGA Notice letter, Plaintiff’s LWDA submission
19 page, and the LWDA’s confirmation of receipt.

20 11. Plaintiff alleges that Defendant’s timekeeping policies and/or practices resulted
21 in Plaintiff and other non-exempt employees not being compensated for all hours actually
22 worked and/or subject to Defendant’s control. Specifically, Plaintiff and other non-exempt
23 employees are required to clock in and out through a computer-based software system, requiring
24 them to arrive at their work station to boot up a computer terminal, navigate to the correct
25 screen, and input multiple passwords before being able to clock-in for the start of their
26 respective shifts. Similarly, after clocking out at the end of their work shifts, Plaintiff and other
27 non-exempt employees are still required to shut down their computer system, close and lock
28 doors, and on occasions, receive after-hours shipments from FedEx while off-the-clock. As a

1 result, Defendant failed to compensate Plaintiff and other non-exempt employees for all
2 minimum and overtime wages owed.

3 12. However, Defendant asserts that its timekeeping policies/practices complied with
4 California law and that it has always properly compensated Settlement Class members for all
5 hours worked throughout the Class Period. Defendant further contends that Settlement Class
6 members did not work off-the-clock and that its policies specifically disavow such off-the-clock
7 work. Defendant further argues that Plaintiff's off-the-clock claim is not appropriate for class
8 treatment, as it would require individualized inquiries into whether each employee actually
9 performed any work while off-the-clock, and if so, how much, resulting in an unmanageable
10 series of mini-trials.

11 13. Plaintiff further asserts that Defendant failed to provide the Settlement Class
12 members with all timely duty-free, uninterrupted 30-minute meal periods to which they were
13 entitled. Specifically, due to work demands imposed by Defendant, Plaintiff and other non-
14 exempt employees were regularly provided with first and second meal periods that started after
15 the fifth and tenth hours of work, respectively, and were regularly called back to work during
16 their meal periods but before the end of their 30-minute meal period. Further, Plaintiff asserts
17 Defendant failed to pay all meal period premiums owed during the relevant time period, which
18 is itself a certifiable issue.

19 14. In response, Defendant contends it maintained lawful meal period
20 policies/practices throughout the Class Period. Specifically, Defendant produced a facially-
21 lawful meal period policy that it claims has been in place and effective at all times during the
22 Class Period, and all meal periods were provided in compliance with its written policy. Further,
23 Defendant asserts that Settlement Class members signed meal period waivers during the Class
24 Period, and therefore, if Settlement Class members did not take meal periods it was due to
25 waiver. Defendant further produced evidence in employee payroll records of meal period
26 premiums being paid, which Defendant contends confirmed that it provided lawful meal periods
27 or paid premiums in lieu thereof. Finally, Defendant contends that Plaintiff's meal period claim
28 is not suited for class certification as individual inquiries would be required to assess whether an

1 employee chose to not take an otherwise provided meal period, whether was an employee ever
2 validly waived a meal period, and whether a premium was paid on each shift in which a meal
3 period was truly not provided, resulting in an unmanageable series of mini-trials.

4 15. Plaintiff further alleges that Defendant failed to authorize and permit the
5 Settlement Class members to take all lawful rest periods to which they were entitled. Plaintiff
6 asserts that he and the Settlement Class members were regularly forced to forego their rest
7 periods, as Defendant's supervisors pressured employees to continue working without any duty-
8 free rest periods. Plaintiff also alleges that Defendant failed to pay *any* rest period premiums for
9 rest period violations during the relevant time period.

10 16. Defendant maintains it authorizes and permits the Settlement Class members to
11 take all lawful rest periods to which they are entitled. Further, Defendant asserts that this claim
12 is unmanageable and not suited for class certification, as it requires individualized inquiries into
13 whether each employee was authorized and permitted to take a lawful rest period and on which
14 days, which Defendant argues Plaintiff will be unable to substantiate with any common,
15 documentary evidence, as rest periods are not required to be recorded, resulting in an
16 unmanageable series of mini-trials.

17 17. Plaintiff further alleges that Defendant failed to reimburse the Settlement Class
18 members for all necessary business expenses incurred, in violation of Labor Code § 2802.
19 Specifically, Plaintiff asserts that Defendant required Plaintiff and other non-exempt employees
20 to use their personal cellular phones to perform essential job duties, including to communicate
21 daily with supervisors for updates on shipping/receiving and to ask work-related questions, but
22 did not reimburse Plaintiff and other non-exempt employees for a reasonable portion of their
23 monthly cell phone expenses.

24 18. In response, Defendant argues it maintained a policy to reimburse all reasonable
25 and necessary business expenditures and that, to the extent that any expenses were not
26 reimbursed, it was the result of Defendant's employees failing to submit expense reimbursement
27 requests. Defendant also maintains that this claim is not suited for class certification, as it would
28 require a series of mini-trials to determine which employees incurred expenses, if any, whether

1 those expenses were reasonable and necessary, and why the employee had not previously
2 submitted an expense reimbursement request.

3 19. As a result of Defendant's alleged failure to pay all overtime wages, minimum
4 wages, meal period and rest period premiums, Plaintiff asserts that Defendant also failed to
5 issue accurate and itemized wage statements and failed to timely pay all final wages at the time
6 of separation. As a result of these alleged Labor Code violations, Plaintiff also seeks PAGA
7 civil penalties on behalf of all aggrieved employees.

8 20. In response, Defendant argues that Plaintiff's underlying claims will fail and, as
9 a result, the derivative wage statement, waiting time, and PAGA claims will also fail. Defendant
10 also maintains that Plaintiff cannot show that the wage statement violations were "knowing and
11 intentional," or that the putative class members "suffer[ed] injury" as a result of the alleged
12 violations, as required by Labor Code § 226(e) for the imposition of wage statement penalties.
13 Moreover, Defendant maintains that its good faith defenses to Plaintiff's underlying claims
14 would preclude the recovery of waiting time penalties, which are only available for the "willful"
15 failure to pay wages, and that this Court would exercise its discretion to substantially reduce any
16 PAGA penalties awarded.

17 21. In connection with mediation, Defendant provided Plaintiff with timekeeping
18 and payroll records for an approximately 25% sample of putative class members spanning the
19 putative class period, as well as policy documents and key data points. Plaintiff then analyzed
20 the produced data and created a class-wide exposure model for the claims at issue. On March 27,
21 2024, the Parties participated in a mediation session with Steve Pearl, Esq., during which the
22 Parties exchanged divergent views on Defendant's liability and exposure valuations, their legal
23 positions, and the likelihood of certification of Plaintiff's claims. At the conclusion of mediation,
24 Mr. Pearl made a mediator's proposal that the Parties ultimately accepted. Over the following
25 months, the Parties finalized the terms of the proposed Settlement now before the Court for
26 preliminary approval.

27 22. Attached hereto as **Exhibit 1** is a true and correct copy of the Parties'
28 Stipulation of Settlement. Attached hereto as **Exhibit 2** are true and correct copies of the

1 Notice of Class and PAGA Action Settlement and Notice of Individual Settlement Payment
2 (collectively, the “Notice Packet”).

3 23. If the Court preliminarily approves this settlement, Defendant will pay a Gross
4 Fund Value (“GFV”) of \$210,000.00. This Settlement is non-reversionary, and Settlement Class
5 members will automatically receive their Individual Settlement Payments unless they
6 affirmatively opt-out.

7 24. Settlement Class members can be easily identified using Defendant’s
8 employment and payroll records. Defendant represents that the Settlement Class consists of
9 approximately 32 individuals, rendering it impracticable to bring all Settlement Class members
10 before the Court. Based on the estimated Net Settlement Amount (“NSA”), average Individual
11 Settlement Payments are approximately \$3,257.81, with the lowest possible estimated
12 Individual Settlement Payment of approximately \$36.41 (in the event a Settlement Class
13 member worked only one workweek during the Class Period) and the highest possible estimated
14 Individual Settlement Payment of approximately \$8,739.08 (in the event a Settlement Class
15 member performed work in every workweek throughout the Class Period).

16 25. At the time of seeking final settlement approval, Plaintiff will apply for a Class
17 Representative Enhancement Payment in the amount of \$5,000 for his service to the Settlement
18 Class and his general release of all claims. Plaintiff’s requested class representative
19 Enhancement Payment is intended to recognize the significant time and effort that he expended
20 on behalf of the Settlement Class, including searching for relevant documents for use in the
21 lawsuit, providing factual information and relevant documents to his attorneys, holding various
22 phone calls with his attorneys to discuss the claims in the lawsuit and Defendant’s practices,
23 discussing the status of the case and general case strategy with his attorneys on multiple
24 occasions, providing valuable input to assist his attorneys in preparing for mediation, making
25 himself available during the mediation, reviewing and providing input regarding the Settlement
26 in his case, and otherwise assisting his attorneys in moving the case towards resolution, the
27 significant risks Plaintiff undertook by serving as the named plaintiff, and the fact that he agreed
28 to a general release of all claims subject to a waiver of Civil Code § 1542.

1 26. Class Counsel will also apply for an attorneys' fee award of up to one third of the
2 GFV (currently estimated at \$70,000), and up to \$15,000 in reimbursement for actual litigation
3 costs. Plaintiff submits that the requested fee is fair compensation for undertaking complex,
4 risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class Counsel
5 has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's
6 claims, conducting legal research and analysis, reviewing class documents and data produced by
7 Defendant, extensively reviewing and evaluating the produced timekeeping and payroll records
8 to build a comprehensive damages model, preparing for and attending mediation, negotiating
9 and drafting the Memorandum of Understanding, long-form Settlement Agreement, and Notice
10 Packet documents, preparing this motion for preliminary approval, and otherwise litigating the
11 case. Class Counsel will also expend future attorney time attending the hearing on this Motion,
12 overseeing the Notice process, drafting the Final Approval Motion and supporting documents,
13 attending the Final Approval hearing, and completing other tasks, such as fielding questions
14 from Settlement Class members.

15 27. Class Counsel carefully vetted the claims at issue, reviewed Settlement Class
16 member data spanning the entire Class Period and all relevant policy documents, and created a
17 comprehensive damages model for Defendant's liability.

18 28. Although the Parties engaged in substantial informal discovery and information
19 exchange prior to mediation, the Parties had agreed to refrain from engaging in formal written
20 and deposition discovery until after exhausting their settlement efforts at mediation. Absent
21 settlement, the Parties will be required to expend substantial time and resources conducting
22 extensive formal written and deposition discovery. Moreover, Plaintiff has not yet filed for class
23 certification, and thus, absent settlement, the Parties would face the prospect of appeals in the
24 wake of a disputed class certification ruling and/or an adverse summary judgment ruling. Even
25 if Plaintiff succeeded in certifying one or more classes, the Parties would incur considerably
26 more attorneys' fees and costs through a possible decertification motion, trial, and possible
27 appeal.

28 29. At the time of the proposed Settlement, Plaintiff had not filed her motion for

1 class certification. Had the Court certified any claims, Plaintiff anticipated that Defendant
2 would seek decertification. There was also a risk that Defendant would engage in a campaign
3 pursuant to *Chindarah v. Pick Up Stix, Inc.*, (2009) 171 Cal.App.4th 796, that could either affect
4 Plaintiff's ability to maintain the numerosity required to proceed as a class action, or
5 significantly reduce the size of the putative class for a fraction of what Settlement Class
6 members are receiving through this Settlement. Therefore, absent the Settlement, there was a
7 serious risk that Plaintiff would be unable to move forward on a class-wide basis.

8 30. Plaintiff estimates that Plaintiff and other Settlement Class members spent
9 approximately five (5) minutes on average before and after their shifts each workday
10 performing off-the-clock work. Plaintiff's data analysis determined that Settlement Class
11 members worked an aggregate total of 15,233 shifts during the Class Period. Accordingly,
12 Plaintiff calculated Defendant's maximum potential exposure for off-the-clock wage violations
13 at approximately \$36,076 (5 minutes per shift * 15,233 aggregate work shifts * \$14.21 weighted
14 minimum wage * 2 (liquidated damages)).

15 31. As noted above, Defendant argues that it has always properly compensated
16 Settlement Class members for all hours worked and that Plaintiff's off-the-clock claim is not
17 appropriate for class treatment. Based on these defenses, Plaintiff discounted the maximum
18 potential exposure by 35% for risk of non-certification, and by an additional 15% for the risk of
19 losing on the merits, to arrive at an estimated exposure of \$19,932.

20 32. Plaintiff's data analysis determined that Settlement Class members worked an
21 aggregate total of 4,341 shifts during the Class Period that contained a facially unlawful meal
22 period, for which no meal period premiums were paid. Accordingly, Plaintiff calculated
23 Defendant's liability on this claim at \$104,140 (4,341 meal period violations * \$23.99 average
24 premium).

25 33. Defendant asserts, however, that it maintained a lawful meal period
26 policy/practice at all times during the Class Period and that any failure by an employee to take a
27 lawful meal period was the result of employee choice rather than company policy, requiring
28 individual inquiries into the reasons why each non-compliant meal period was untimely or

missed on any given day. Given these defenses, Plaintiff discounted the maximum exposure by 20% for the risk of non-certification, and by an additional 20% for risk of losing on the merits, to arrive at an estimated exposure of \$66,650.

34. Plaintiff's data analysis revealed that non-exempt employees worked an aggregate total of 15,080 shifts in excess of 3.5 hours during the Class Period. Plaintiff estimates a rest period violation occurred on approximately one-third of work shifts in excess of 3.5 hours. Accordingly, Plaintiff calculated Defendant's maximum potential exposure on this claim at \$119,383 (15,080 rest period violations * 33% violation rate * \$23.99 average premium).

35. But as noted above, Defendant argues it has always authorized and permitted duty-free rest periods in accordance with California law and that this claim is not amenable to class certification given the individual inquiries required to determine whether and why each employee missed a rest period on any given shift. Given these defenses, Plaintiff discounted the maximum exposure by 45% for the risk of non-certification, and by an additional 35% for risk of losing on the merits, to arrive at an estimated exposure of \$42,679.

36. Based on Plaintiff's data analysis, Settlement Class members worked a total of approximately 715 aggregate months during the Class Period. Using a conservative estimate of \$25 per month for reimbursement of work-related use of personal cellular phones, Plaintiff calculates Defendant's maximum exposure for this claim at approximately \$17,875 (\$25.00/month * 715 months).

37. As noted above, Defendant maintains that Settlement Class members were not required to use their personal cellular phones as part of their job and that this claim would require individual inquiries into whether Settlement Class members actually used their personal cellular phones for work purposes. Based on these defenses, Plaintiff discounted the estimated maximum amount by 20% for risk of non-certification, and by an additional 10% to account for risk of losing on the merits or failure to recover the maximal amount sought, to arrive at an estimated exposure of approximately \$12,870.

38. According to the key data points provided by Defendant, approximately 17

1 Settlement Class members are eligible for wage statement penalties, and a total of 533 wage
2 statements were issued during the relevant period. Plaintiff calculated Defendant's maximum
3 possible wage statement exposure as approximately \$52,450 ((17 initial violations * \$50 per pay
4 period) + (516 subsequent pay periods * \$100 per pay period)). However, Defendant raised
5 numerous defenses, including that the alleged violations, if any, were not "knowing and
6 intentional," and that Plaintiff could not show that the Settlement Class members "suffer[ed]
7 injury" as a result of any alleged violations. Defendant further argued that Plaintiff's underlying
8 claims would fail, and, therefore, his wholly derivative wage statement claim would also fail.
9 Therefore, Plaintiff discounted the maximum exposure by 20% for the risk of non-certification
10 of the underlying claims and 35% for a risk of being unsuccessful on the merits, including
11 failing to prove the violations were "knowing and intentional," that the Settlement Class
12 members "suffer[ed] injury," for an estimated recovery of \$27,274.

13 39. Based on data provided by Defendant, approximately 21 Settlement Class
14 members separated their employment during the relevant period applicable to this claim. As a
15 result of Defendant's unlawful off-the-clock, meal period, and rest period practices, Plaintiff
16 asserts that each of these employees are entitled to waiting time penalties. Plaintiff therefore
17 calculated Defendant's maximum exposure of \$120,897 (21 former employees * average
18 waiting time penalty of \$5,757 (\$23.99 approximate average hourly rate * 8 hours * 30 days)).
19 Defendant maintains that waiting time penalties are not appropriate because Plaintiff's claims
20 fail on the merits, and given its good-faith defenses, Plaintiff cannot show that any failure by
21 Defendant to pay all final wages was willful. Plaintiff discounted this claim by 20% for the risk
22 of non-certification and by an additional 35% for risk of being unsuccessful on the merits or
23 failing to establish willfulness, for an estimated recovery of \$62,866.

24 40. Plaintiff alleges that PAGA civil penalties would be recoverable for each pay
25 period in which he could prove an underlying Labor Code violation. According to Plaintiff's
26 data analysis, the Settlement Class members worked a combined total of 533 pay periods during
27 the PAGA liability period in which at least one of Plaintiff's alleged Labor Code violations
28 occurred. Plaintiff therefore calculates Defendant's maximum PAGA exposure at \$53,300 (533

1 pay periods * \$100 per violation). However, these penalties are exclusively derivative of the
2 underlying violations that Defendant vigorously disputes, both as to certification and the merits.
3 Plaintiff also recognizes that the Court has discretion to substantially reduce any award of
4 PAGA penalties. Therefore, Plaintiff discounted the maximum figure by 10% for the risk that
5 he would not prevail on any of the underlying claims, and by an additional 80% for risk of the
6 Court reducing penalties, to arrive at an estimated exposure of \$9,594.

7 41. Using these estimated figures, Plaintiff estimated that the potential reasonable
8 recovery for the Settlement Class would be approximately \$241,865. Thus, the proposed
9 recovery to the Settlement Class of \$210,000 represents approximately 86.83% of Plaintiff's
10 reasonably forecasted class-wide recovery, which is well within the range approved by courts as
11 being fair, reasonable and adequate, while also avoiding further expense and risk of proceeding
12 towards class certification and trial.

13 42. Concurrently with the filing of this motion, Plaintiff provided notice of the
14 proposed Settlement, as well as copies of the Motion for Preliminary Approval and all papers
15 filed in support hereof, to the LWDA. Attached hereto as **Exhibit 4** are true and correct copies
16 of Plaintiff's Settlement submission and the LWDA's confirmation of receipt.

17 43. I confirm that I do not have any interest or involvement in, and am not affiliated
18 with, the proposed settlement administrator, Phoenix Settlement Administrators, or the
19 proposed *cy pres* recipient, Legal Aid Foundation of Los Angeles.

20 I declare under penalty of perjury under the laws of the United States and the state of
21 California that the foregoing is true and correct. Executed on August 1, 2024, at El Segundo,
22 California.

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24 Matthew K. Moen
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EXHIBIT 1

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Richard Soto (“Plaintiff”), as an individual and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Applied BioCode, Inc. (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Tyler J. Woods of Fisher & Phillips LLP. This Settlement Agreement shall be binding on Plaintiff, the Settlement Class, the State of California as to the employment of PAGA Members (as defined herein), and Defendant, subject to the terms and conditions hereof and the approval of the Court.

On August 23, 2023, Plaintiff provided written notice to the Labor and Workforce Development Agency (“LWDA”) by online submission and to Defendant via certified mail of the specific provisions of the Labor Code alleged to have been violated by Defendant, LWDA-CM-977120-23.

On August 23, 2023, Plaintiff filed a class action complaint against Defendant in the matter entitled *Richard Soto v. Applied BioCode, Inc.*, Los Angeles County Superior Court Case No. 23STCV20199, asserting various wage and hour claims on a class-wide basis.

On October 30, 2023, Plaintiff filed the operative First Amended Class and Representative Action Complaint (“FAC”). The FAC alleges the following causes of action: (1) failure to pay all overtime wages; (2) minimum wage violations; (3) meal period violations; (4) rest period violations; (5) failure to reimburse necessary business expenses; (6) wage statement violations; (7) waiting time penalties; (8) unfair competition; and (9) civil penalties under the Private Attorneys General Act, Labor Code § 2698, *et seq.* (“PAGA”). The FAC and all claims alleged therein shall be referred to as the “Action.” Defendant denies all material allegations set forth in the Action and has asserted numerous affirmative defenses.

Class Counsel diligently investigated the class and PAGA claims against Defendant, 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 corporate policies and practices. The Parties have engaged in sufficient informal discovery and investigation to assess the relative merits of the claims and contentions of the Parties.

On March 27, 2024, the parties attended a private mediation with Steve Pearl and reached a class-wide settlement which resolves the Action, subject to Court approval. The Parties’ settlement discussions were conducted at arms’ length, and the Settlement is the result of an informed and detailed analysis of Defendant’s potential liability and exposure in relation to the costs and risks associated with continued litigation as well as defenses available to Defendant. Based on Class Counsel’s investigation and evaluation, Class 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 Class Members, State of California, and PAGA Members 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.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

DEFINITIONS

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

1. **“Class or Class Member(s)”**. For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the conditional certification of the following Settlement Class:

All current and former non-exempt and/or hourly employees who worked for Defendant Applied BioCode, Inc., including its family of companies, in California at any time from August 23, 2019 until the date of preliminary approval of the settlement (the “Class Period”).

2. **“Class Action Settlement”** means the settlement and resolution of all Released Class Claims.

3. **“Class List”** 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. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet containing the following information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security number; (4) dates worked for Defendant during the Class Period; and (8) such other information as is necessary for the Settlement Administrator to calculate Workweeks of the Class and PAGA Members.

4. **“Class Notice”** means the Notice of Class Action Settlement.

5. **“Class Period”** means the period of August 23, 2019 until the date of preliminary approval.

6. **“Effective Date”** means the date when all of the following events have occurred: (1) the Settlement Agreement has been executed by all Parties, Class Counsel, and Defendant’s Counsel; (2) the Court has given preliminary approval to the Settlement; (3) the Class Notice has been mailed to the Class Members, providing them with an opportunity to object to the terms of the Class Settlement or opt out of the Class Settlement; (4) the Court has had a Final Approval Hearing and entered a Final Approval Order and Judgment; (5) sixty-five calendar days have passed since the Court entered a Final Approval Order and Judgment; and (6) in the event there are written objections to the Class Settlement filed prior to the Final Approval Hearing which are not later withdrawn or denied, the later of the following events: five business days after the period for filing any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, or, if any appeal, writ, or other appellate proceeding opposing the Court’s Final Approval Order and Judgment has been filed, five business days after any appeal, writ, or other appellate

proceedings opposing the Court's Final Approval Order and Judgment has finally and conclusively been dismissed with no right to pursue further remedies or relief.

7. **"Enhancement Payments"** means the amount to be paid to Plaintiff, in recognition of his respective efforts and work in prosecuting the Action on behalf of Class Members and PAGA Members in exchange for a general release of claims.

8. **"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.

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

10. **"Final Approval Order and Judgment"** means the order granting final approval of the Settlement and entering judgment thereon, in a form and content mutually agreed to by the Parties, and subject to approval by the Court.

11. **"Gross Fund Value"** means the amount of Two-Hundred Ten Thousand Dollars and Zero Cents (\$210,000.00) to be paid by Defendant in full satisfaction of the Action, which includes all Attorneys' Fees and Costs, the Enhancement Payment, PAGA Amount, PAGA penalties payable to the LWDA, Settlement Administration Costs, and Net Settlement Amount (the "NSA") to be paid to the Settlement Class Members. Defendant shall pay the Employer Taxes separately and in addition to the Gross Fund Value. The Gross Fund Value is non-reversionary; no portion of the Gross Fund Value will return to Defendant.

11. **"Individual PAGA Payment"** means the *pro rata* share that a PAGA Member may be eligible to receive under the PAGA portion of the Settlement.

12. **"Individual Settlement Payment"** means the net payment of each Settlement Class Member's Individual Settlement Share, after reduction for the employee's share of taxes and withholdings with respect to the wage portion of the Individual Settlement Share.

13. **"Individual Settlement Share"** means the *pro rata* share of the Net Settlement Amount that a Settlement Class Member may be eligible to receive under the Class Settlement.

14. **"Net Settlement Amount"** means the portion of the Gross Fund Value that is available for distribution to Settlement Class Members, which is the Gross Fund Value less the Court-approved Attorneys' Fees and Costs, Enhancement Payments, PAGA Amount, PAGA penalties payable to the LWDA, and Settlement Administration Costs.

15. **"PAGA Members"** means all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the PAGA Period.

16. **"PAGA Period"** means the period of August 23, 2022 to the date of preliminary approval.

17. **"PAGA Settlement"** means the settlement and resolution of all Released PAGA Claims.

18. **“Preliminary Approval”** means the date on which the Court enters the Preliminary Approval Order.

19. **“Preliminary Approval Order”** means the order granting preliminary approval of the Settlement, in a form and content mutually agreed to by the Parties, and subject to approval by the Court.

20. **“Released Class Claims”** means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Action, including but not limited to: claims for failure to pay overtime wages; failure to pay minimum wages; any claims for additional wages owed due to “off the clock” work; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due; failure to pay all wages earned at least twice during each calendar month; failure to reimburse necessary business expenses; waiting time penalties; wage statement violations failure to keep and maintain accurate payroll records; unfair competition under Bus. & Prof. Code section 17200 *et seq.* (in connection with the allegations brought in the Action); violation of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 226, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2698, 2699, 2802, 2804, and the applicable Wage Order and/or claims for attorneys’ fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 218.6, 3287(b), and 3289 (the “Released Class Claims”). The period of the Released Class Claims shall extend to the limits of the Class Period.

21. **“Released PAGA Claims”** means any and all PAGA claims and/or PAGA causes of action which were alleged or could have been alleged based on the factual allegations in the PAGA Notice and the Action, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, including but not limited to: PAGA claims for failure to pay overtime wages; failure to pay minimum wages; any claims for additional wages owed due to “off the clock” work; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due; failure to reimburse necessary business expenses; waiting time penalties; wage statement violations failure to keep and maintain accurate payroll records; unfair competition under Bus. & Prof. Code section 17200 *et seq.* (in connection with the allegations brought in the Action); violation of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 226, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2698, 2699, 2802, 2804, and the applicable Wage Order and/or claims for attorneys’ fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 218.6, 3287(b) and 3289, which occurred during the PAGA Period (“the Released PAGA Claims”).

22. **“Released Parties”** means Defendant and its past, present, and future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, staffing agencies, PEOs, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, and attorneys.

23. **“Settlement Administrator”** means Phoenix Settlement Administrators, or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for purposes of administering the Settlement. The Parties and their counsel each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.
24. **“Settlement Administration Costs”** means the costs payable from the Gross Fund Value to the Settlement Administrator for administering the Settlement.
25. **“Settlement Class” or “Settlement Class Member(s)”** means all Class Members who do not submit a timely and valid Request for Exclusion.
26. **“Workweeks”** means the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period, which will be calculated by the Settlement Administrator. Workweeks will be calculated by the Settlement Administrator based on each Class Member’s start date or the beginning of the Class Period, whichever is later, and separation date or the last day of the Class Period, whichever is earlier, based on the Class List provided by Defendant.

CLASS CERTIFICATION

27. The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

TERMS OF THE AGREEMENT

28. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who validly opt out and except as to the PAGA claims specified below) will fully release and discharge Defendant and Released Parties as follows:
- A. **Release of Class Claims.** Upon the Effective Date of this Agreement and Defendant’s deposit of the GFV, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.
 - B. **Release of PAGA Claims.** Upon the Effective Date of this Agreement and Defendant’s deposit of the GFV, Plaintiff, the State of California with respect to all PAGA Members, and all PAGA Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

C. **Plaintiff's Released Claims.** Plaintiff, in his individual capacity, also expressly waives for himself and his spouse, heirs and assigns, will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties from any and all charges, complaints, claims, debts, liabilities, promises, agreements, controversies, actions, suites, rights, demands, obligations, guarantees, costs, losses, penalties, expenses, attorneys' fees, damages, or causes of action of any kind or nature whatsoever, known or unknown, suspected or unsuspected, asserted or unasserted, or that might have been asserted, whether in tort, contract, equity, or otherwise which Plaintiff, at any time prior to the execution of this Settlement Agreement, had or claimed to have or may have, including but not limited to any and all claims arising out of, relating to, or resulting from their employment, payment of wages during that employment and/or separation of employment with the Released Parties, including any claims arising under any federal, state, or local law, statute, ordinance, rule, or regulation or Executive Order relating to employment, including, but in no way limited to, any claim under Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 1981; the Americans with Disabilities Act ("ADA"); the Family and Medical Leave Act ("FMLA"); the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act ("ERISA"); the California Family Rights Act ("CFRA"); the California Fair Employment and Housing Act ("FEHA"); all claims for wages or penalties under the Fair Labor Standards Act ("FLSA"); all claims for wages or penalties under the California Labor Code; Business and Professions Code sections 17200 *et seq.*; all laws relating to violation of public policy, retaliation, or interference with legal rights; any and all other employment or discrimination laws; whistleblower claims; any tort, fraud, or constitutional claims; and any breach of contract claims or claims of promissory estoppel. It is agreed that this is a general release and is to be broadly construed as a release of all claims, provided that, notwithstanding the foregoing, this Paragraph expressly does not include a release of any claims that cannot be released hereunder by law. Plaintiff understands and expressly agrees that this Settlement Agreement extends to claims that he has against Defendant, of whatever nature and kind, known or unknown, suspected or unsuspected, vested or contingent, past, present, or future, arising from or attributable to an incident or event, occurring in whole or in part, on or before the execution of this Settlement Agreement. Any and all rights granted under any state or federal law or regulation limiting the effect of this Settlement Agreement, including the provisions of Section 1542 of the California Civil Code, ARE HEREBY EXPRESSLY WAIVED. Section 1542 of the California Civil Code reads as follows:

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

Nothing contained herein shall constitute a release of any rights or claims that cannot be waived as a matter of law (including but not limited to claims arising under workers' compensation laws). Nor shall anything contained herein be construed to exclude the filing of an administrative charge or complaint with the Equal Employment Opportunity Commission or National Labor Relations Board, or participation in an administrative investigation or proceeding. Notwithstanding the foregoing, Plaintiff agrees to waive his right to recover monetary damages in any charge, complaint, or lawsuit filed by Plaintiff through such agency or by anyone else on Plaintiff's behalf, asserting any claims released herein.

29. **Gross Fund Value.** As consideration, Defendant agree to pay a non-reversionary "Gross Fund Value" of Two Hundred Ten Thousand Dollars and Zero Cents (\$210,000.00) in full and complete settlement of the Action, Released Class Claims, and the Released PAGA Claims, which includes all Attorneys' Fees and Costs, Enhancement Payments, PAGA Amount, PAGA penalties payable to the LWDA, Settlement Administration Costs, and Net Settlement Amount to be paid to the Settlement Class Members, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
- B. Defendant will fund the Gross Fund Value within thirty (30) calendar days after the Effective Date, which shall be deposited with the Settlement Administrator and held in an established Qualified Settlement Fund ("QSF").
- C. This is a non-reversionary settlement. The Gross Fund Value includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Five Thousand Seven Hundred Fifty Dollars and Zero Cents (\$5,750.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff, for Plaintiff's Class Representative Enhancement Payment, in recognition of his contributions to the Action and his service to the Settlement Class. Even in the event that the Court reduces or does not approve the requested Class Representative Enhancement Payment, Plaintiff shall not have the right to revoke this Settlement Agreement, and it will remain binding. The Court's ruling on the request for the Enhancement Payment shall not affect the enforceability of this Agreement or the terms contained herein. The enhancement payment is expressly contingent on Plaintiff's execution of a general release, including a Civil Code section 1542 waiver as it pertains to Defendant;
 - (4) Up to one-third of the Gross Fund Value in Class Counsel's attorneys' fees (currently estimated at \$70,000.00), plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which

are currently estimated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and

(5) Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Fund Value has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), will be payable to the PAGA Members as the "PAGA Amount," which PAGA Amount will be distributed as described below.

(6) Any difference between these requested amounts and the amounts approved by the Court will revert to the Net Settlement Amount for distribution to the Settlement Class members who do not opt out.

E. **Escalator Clause.** Defendant represents that as of the mediation date (March 27, 2024) there are no more than approximately 2,863 workweeks worked by the approximately 32 putative Settlement Class Members during the Class/PAGA Period. Defendant also represents that as of the mediation date (March 27, 2024) there are no more than approximately 533 pay periods during the PAGA Period. If the number of workweeks or pay periods worked increases by more than 10% (i.e., if there are 3,150 or more workweeks or 587 pay periods), Defendant shall increase the Gross Fund Value on a proportional basis (For example, if the number of workweeks increase by 11% through the Class/PAGA Period, then the Gross Fund Value shall increase by 11%)., or cap the Class/PAGA Release Period as of the date that the 10% of the pay periods or 10% of the workweeks is exceeded.

F. **Employer Payroll Taxes.** The Gross Fund Value does not include the employer's share of payroll taxes. Defendant's share of employer-side payroll taxes shall be paid by Defendant separately and apart from, and in addition to, the Gross Fund Value. If Plaintiff's enhancement payment is approved by the Court, such payment will result in the issuance of a Form 1099 to Plaintiff as a Class Representative and as an individual, who shall assume full responsibility and liability for payment of taxes on such award.

30. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:

A. The Settlement Administrator shall first deduct from the Gross Fund Value the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Enhancement Payment, the amount set aside as PAGA civil penalties, and the Settlement

Administrator's fees and expenses for administration. The remaining amount shall be known as the "Net Settlement Amount."

B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:

- i. PAGA Amount: The \$2,500.00 payable to the PAGA Members as their 25% portion of the PAGA civil penalties shall be designated as the "PAGA Amount." Each PAGA Member who was employed by Defendant at any time during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action portion of the Settlement), shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the PAGA Period compared to the total number of workweeks worked by all PAGA Members during the PAGA Period.
- ii. Wage Statement Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class Member who was employed by Defendant at any time between August 23, 2022 and the close of the Class Period shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period compared to the aggregate number of workweeks worked by all participating Settlement Class Members during the aforementioned time period.
- iii. Waiting Time Amount: Twenty percent (20%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class Member who separated their employment from Defendant at any time between August 23, 2020 and the close of the Class Period.
- iv. The remainder of the Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member's proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.
- v. For purposes of calculating each Settlement Class member's Individual Settlement Payment, workweeks worked shall be defined as any regular workweeks in which the Settlement Class Member/PAGA Member actually worked one shift.

- C. Within ten (10) business days following Defendant's full deposit of the Gross Fund Value with the Settlement Administrator, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment amounts and provide the same to the Parties' counsel for review and approval. Within seven (7) calendar days of approval by the Parties' counsel, the Settlement Administrator will prepare and mail Individual Settlement Payments, less applicable taxes and withholdings, to participating Settlement Class members.
 - D. For purposes of calculating applicable taxes and withholdings, each Individual Settlement Payment from the NSA shall be allocated as follows: Ninety Percent (90%) as penalties and interest; and Ten Percent (10%) as wages. Any payment from the PAGA Amount shall be allocated as 100% penalties. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Participating Settlement Class Members are responsible for their share of the payroll taxes on portions of the Individual Settlement Payments allocated as unpaid wages, which will be deducted from their Individual Settlement Payments.
 - E. Each member of the Settlement Class who receives an Individual Settlement Payment must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds associated with a check that is not negotiated within one hundred eighty (180) days of mailing to a Settlement Class member, plus accrued interest, if any, shall be transferred to Legal Aid Foundation of Los Angeles, the Parties' agreed-upon *cy pres* designee. The Settlement Administrator shall prepare a report regarding the distribution plan pursuant to Code of Civil Procedure section 384, which shall be presented to the Court by Class Counsel along with a proposed amended judgment that is consistent with the provisions of Code of Civil Procedure section 384.
 - F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
31. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Fund Value, which is currently estimated to be Seventy Thousand Dollars and Zero Cents (\$70,000.00). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the Gross Fund Value. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated

by those objections. Class Counsel will be issued an IRS Form 1099-MISC by the Settlement Administrator for the fees and costs award approved by the Court.

32. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff, for his time and risk in prosecuting this case, for his service to the Settlement Class, and in exchange for Plaintiff's general release of claims against Defendant. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class member and shall be reported on an IRS Form 1099-MISC issued by the Settlement Administrator. In the event that the Court reduces or does not approve the requested Enhancement Payment, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.
33. **Settlement Administrator.** Defendant agrees to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff's request to the Court to pay up to Five Thousand Seven Hundred Fifty Dollars and Zero Cents (\$5,750.00) for its services from the Gross Fund Value. The Settlement Administrator shall be responsible for translating notice packets, sending notices to Settlement Class members in English, Mandarin and Vietnamese, and for calculating Individual Settlement Payments and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, which shall be deducted from the Gross Fund Value, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Fund Value by Class Counsel only after Individual Settlement Payments have been mailed to all participating Settlement Class members. The Settlement Administrator shall also be responsible for posting the Final Judgment to its website.
34. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:
 - A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
 - B. Appointing Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC as Class Counsel;
 - C. Appointing Plaintiff Richard Soto as Class Representative for the Settlement Class;
 - D. Approving Phoenix Settlement Administrators as Settlement Administrator;
 - E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
 - F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Class Action Settlement and Notice of Individual Settlement Payment), and directing the mailing of same; and
 - G. Scheduling a Final Approval hearing.

35. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Settlement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment, and the number of workweeks worked by each Settlement Class member during the Class Period (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Payment for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.

- B. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PGA settlement and release provisions will apply to all PGA Members whether or not they exclude themselves from the class action portion of the settlement. PGA Members who submit a valid and timely Request for

Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all Released PAGA Claims, whether they submit a valid and timely Request for Exclusion or not.

- ii. The Parties pledge their good faith and fair dealing in supporting the approval of this Settlement by the Court and at no time shall the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt-out of the Settlement, or encourage any Settlement Class member to appeal from the Court's final judgment.
 - iii. Defendant's Right to Rescind. Notwithstanding any other provision of this Settlement Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to unilaterally withdraw from and terminate this Settlement no later than five (5) court days prior to the date of the Final Approval Hearing if class members representing more than an aggregate total of ten percent (10%) of the verified workweeks opt out of the Settlement. In such an event, Defendant shall be solely responsible for all settlement administration costs incurred by the Settlement Administrator to date. In the event of Defendant's withdrawal, no party may use the fact that the Parties agreed to the Settlement for any reason. Defendant shall communicate its decision to nullify the Settlement pursuant to this paragraph in writing to the Settlement Administrator and Class Counsel no later than five (5) court days prior to the date of the Final Approval Hearing.
- C. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any written objection should: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; (4) be postmarked no later than the Response Deadline; (5) contain the case name and number of the Action. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing. Members of the Settlement class who request exclusion *may not* object to the Settlement. The Settlement Administrator will certify jointly to Class Counsel and Defendant's Counsel the number of Notices of Objection that are submitted (specifying which ones were timely and complete and which were not), and also attach them to a declaration that is to be filed with the Court in advance of the Final Approval Hearing. At no time will any of the Parties or their counsel seek

to solicit or otherwise encourage Settlement Class Members to object to the Class Settlement or appeal from the Final Approval Order and Judgment. If the Court overrules the objection and approves the Class Settlement, the Settlement Class Member will be bound by the terms of the Class Settlement in the same way and to the same extent as a Settlement Class Member who does not object.

- D. Notice of Individual Settlement Payment / Pay Period Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used from Defendant's records in order to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity to dispute the number of workweeks and/or pay period to which they were credited as stated in the Notice Packet (Workweek/Pay Period Dispute) by submitting to the Settlement Administrator the following: (a) case name and number of the Action; (b) Class Member's full name, signature, address, telephone number, and the last four (4) digits of the Class Member's Social Security number; (c) a clear statement that the Class Member disputes the number of Workweeks and/or Pay Periods credited to the Class Member and what the Class Member contends is the correct number including any supporting documentation; and (d) returning by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. If there is a Workweek/Pay Period Dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. Absent evidence rebutting the accuracy of Defendant's records and data as they pertain to the number of Workweeks and/or Pay Periods to be credited to a disputing Class Member, Defendant's records will be presumed to be correct and determinative of the dispute. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Settlement Class member and the Parties. However, if the Settlement Administrator and the Parties cannot agree on a resolution, the Parties will submit the dispute to the Court for a final determination.
- E. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing,

or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline.

- F. Reports by the Settlement Administrator. The Settlement Administrator shall provide weekly reports to counsel for the Parties providing: (a) the number of undeliverable and re-mailed Class Notices; (ii) the number of Class Members who have submitted Workweek/Pay Period Disputes; (iii) the number of Class Members who have submitted Requests for Exclusion; and (iv) the number of Settlement Class Members who have submitted Notices of Objection. Additionally, the Settlement Administrator will provide to counsel for the Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested, and immediately notify the Parties when it receives a request from an individual or any other entity regarding inclusion in the Class and/or Settlement or regarding a Workweek/Pay Period Dispute.
36. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
- A. Granting final approval of the Settlement, adjudging the terms thereof to be fair, adequate, and reasonable, and directing consummation of its terms and provisions;
 - B. Approving Plaintiff's and Class Counsel's request for attorneys' fees and reimbursement of costs, Class Representative Enhancement Payment, settlement administration costs, and payment to the LWDA for its share of civil penalties under PAGA; and
 - C. Entering Final Judgment pursuant to California Rule of Court 3.769. Said Judgment shall be posted on the Settlement Administrator's website.
37. Additionally, in the event: (i) the Court does not ultimately enter the Preliminary Approval Order without requiring material changes to the basic Settlement terms (basic Settlement terms include the amount of the Gross Fund Value; the time period of the Released Class Claims; the covered Class Period; revisions to the Escalator Clause; and revisions to Defendant's Option to Rescind Settlement as set forth herein); (ii) the Court does not ultimately finally approve the Settlement as provided herein without requiring material changes to the basic Settlement terms (basic Settlement terms include the amount of the Gross Fund Value; the time period of the Released Class Claims; the covered Class Period; revisions to the Escalator Clause contained herein; and revisions to the Defendant's Option to Rescind Settlement as set forth herein); (iii) Defendant exercises its option to rescind the Settlement Agreement based on an excessive number of opt-outs, as described in the section above; or (iv) the Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this Settlement Agreement shall be null and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as void from the beginning, and the Recitals and Terms of the Agreement contained herein shall be of no force or effect and shall not be treated as an admission by the Parties or their

counsel. In such a case, the Parties shall be returned to their respective statuses prior to the reaching of this Settlement, settlement funds placed in trust with the Settlement Administrator shall be returned to Defendant, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by Plaintiff, unless the reason for the Settlement Agreement not becoming final is due to Defendant's exercising of its right to rescind the Settlement Agreement, in which case any fees already incurred by the Settlement Administrator shall be paid by Defendant. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.

38. **Non-Admission of Liability.** The Parties enter into this Settlement 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 Settlement Agreement, Defendant does not admit, and specifically denies, it has 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 its employees. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to Federal Evidence Code Section 408 and California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by Federal Evidence Code Section 408 and the California Evidence Code Section 1152.
39. **No Prior Assignments.** Plaintiff and Class Counsel represent, covenant, and warrant that they have not directly or indirectly encumbered, assigned, transferred, or otherwise given away any of the claims, demands, causes of actions, or rights that they are releasing by signing this Settlement Agreement, nor has any of them purported to do so. Plaintiff and Defendant, and each of them, waive any and all claims for fees, costs, indemnity or contribution against Plaintiff, any Class Member, Plaintiff's Counsel, Defendant, or Defendant's Counsel in the Action other than as provided herein.
40. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members, as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein, and as necessary in any filings with the Court in order to seek approval of the Settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other lawsuits, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

41. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties or their respective counsel, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.
42. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:
- if to Defendant: Tyler J. Woods of Fisher & Phillips LLP, 2050 Main Street, Suite 1000, Irvine, California 92614; twoods@fisherphillips.com.
- if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com.
43. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.
44. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the Action contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof. Further, all terms of this Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California.
45. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.
46. **Enforcement Action.** The Parties agree that the Los Angeles County Superior Court shall have jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6, and California Rule of Court 3.769. 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 successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

DATED: July 3, 2024

DEFENDANT APPLIED BIOCODE, INC.

By: Julian C Sanchez
Title: Sr. Director, Human Resources

DATED: _____, 2024

PLAINTIFF RICHARD SOTO

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: July 3, 2024

FISHER & PHILLIPS LLP

By: Tyler J. Woods
Tyler J. Woods
Attorneys for Defendant

DATED: _____, 2024

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Fletcher W. Schmidt
Matthew K. Moen
Attorneys for Plaintiff

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

DATED: _____, 2024

DEFENDANT APPLIED BIOCODE, INC.

By: _____
Title: _____

DATED: Jul 3, 2024, 2024

PLAINTIFF RICHARD SOTO

By: 
Richard Soto (Jul 3, 2024 06:36 EDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: _____, 2024

FISHER & PHILLIPS LLP

By: _____
Tyler J. Woods
Attorneys for Defendant

DATED: July 3, 2024

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Fletcher W. Schmidt
Matthew K. Moen
Attorneys for Plaintiff

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

RICHARD SOTO, as an individual and on behalf of all
others similarly situated,

Plaintiff,

vs.

APPLIED BIOCODE, INC., a California corporation;
and DOES 1 through 100,

Defendants.

Case No. 23STCV20199

**NOTICE OF CLASS AND PAGA ACTION
SETTLEMENT**

To: All current and former non-exempt and/or hourly employees who worked for Defendant Applied BioCode, Inc., including its family of companies, in California at any time from August 23, 2019 until <<PRELIM APPROVAL DATE>> (the "Class Period"). Collectively, these employees will be referred to as "Class Members" or the "Settlement Class."

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class and PAGA action settlement (the "Settlement") in *Richard Soto v. Applied BioCode, Inc.*, Los Angeles County Superior Court Case No. 23STCV20199 (the "Lawsuit"). Your rights may be affected by the Settlement, and it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant Applied BioCode, Inc.'s ("Defendant") records show that you were employed by Defendant as a non-exempt and/or hourly employee in California during the 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.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Richard Soto ("Plaintiff") brought this lawsuit against Defendant, asserting claims on behalf of all Class Members. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Class Members, are known as "Class Counsel."

In the Lawsuit, Plaintiff alleges that Defendant: (1) failed to pay all overtime wages; (2) failed to pay all minimum wages; (3) failed to provide all lawful meal periods; (4) failed to authorize and permit all lawful rest periods; (5) failed to reimburse necessary business expenses; (6) failed to issue accurate itemized wage statements; (7) failed to timely pay all final wages upon separation; (8) engaged in unfair competition; and (9) is liable for civil penalties under the Private Attorneys General Act ("PAGA").

Defendant denies that it has done anything wrong and denies that it owes Class Members any damages, restitution, penalties, or other payments. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with business operations, the parties concluded that it is in the best interests of Defendant and the Class Members to settle the Lawsuit on the terms summarized in this Notice. After Defendant provided relevant information and documents to Class Counsel, the Settlement was reached after mediation and arms'-length negotiations between the parties.

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

If you are still employed by Defendant, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant's policy strictly prohibit unlawful retaliation. Defendant will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Class Member because of his or her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff / Class Members: HAINES LAW GROUP, APC Paul K. Haines (SBN 248226) phaines@haineslawgroup.com Fletcher W. Schmidt (SBN 286462) fschmidt@haineslawgroup.com Matthew K. Moen (SBN 305956) mmoen@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Defendants: TYLER J. WOODS (SBN 232464) twoods@fisherphillips.com FISHER & PHILLIPS LLP 2050 Main Street, Suite 1000 Irvine, California 92614 Telephone: (949) 851-2424 Facsimile: (949) 851-0152
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class – for settlement purposes only – of all current and former non-exempt and/or hourly employees who worked for Defendant in California at any time during the Class Period. Class Members who do not submit a valid and timely Request for Exclusion from the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendant, as described below in the “Release” section.

Defendant has agreed to pay \$210,000.00 (the “Gross Fund Value”) to fully resolve all claims in the Lawsuit, including payments to Class Members, attorneys’ fees and verified cost reimbursement, settlement administration costs, payment to the California Labor and Workforce Development Agency (“LWDA”) for its share of PAGA civil penalties, and the Class Representative Enhancement Payment. The following deductions from the Gross Fund Value will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and who will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$5,750.00 from the Gross Fund Value to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel 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 Gross Fund Value. Class Members are not personally responsible for any of Class

Counsel's attorneys' fees or expenses. Class Counsel will ask for attorneys' fees of up to one-third of the Gross Fund Value (which is currently estimated to be \$70,000.00) as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through final approval of the Settlement. Class Counsel also will ask for reimbursement of up to \$15,000.00 for verified costs and expenses which were incurred by Class Counsel in connection with the Lawsuit.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award \$5,000.00 to Plaintiff as a Class Representative Enhancement Payment. This is meant to compensate Plaintiff for his general release of claims against Defendant and his service and extra work provided on behalf of the Class Members.

PAGA Payment to the State of California. The parties have agreed to allocate \$10,000.00 of the Gross Fund Value as PAGA civil penalties. Per Labor Code Section 2699(i), 75% of such penalties (\$7,500.00) will be payable to the LWDA for its share of PAGA penalties, and the remaining 25% (\$2,500.00) will be payable to the Settlement Class as part of the Net Settlement Amount.

Calculation of Class Members' Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Gross Fund Value will form the Net Settlement Amount, which will be distributed to all Class Members who do not submit a valid and timely Request for Exclusion (described below). The Net Settlement Amount will be divided as follows:

- (i) PAGA Amount: The \$2,500.00 payable to the PAGA Members as their 25% portion of the PAGA civil penalties shall be designated as the "PAGA Amount." Each current and former hourly-paid and/or non-exempt employee who worked for Defendant in California at any time from August 23, 2022 through <<PRELIM APPROVAL DATE>> (the "PAGA Period") ("PAGA Members"), regardless of whether they timely submit a Request for Exclusion, shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the PAGA Period compared to the total number of workweeks worked by all PAGA Members during the PAGA Period.
- (ii) Wage Statement Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Class Member who worked for Defendant at any time between August 23, 2022 and <<PRELIM APPROVAL DATE>>, shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period compared to the aggregate number of workweeks worked by all participating Class Members during the aforementioned time period.
- (iii) Waiting Time Amount: Twenty percent (20%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Class Member who separated their employment from Defendant at any time between August 23, 2020 and <<PRELIM APPROVAL DATE>>.
- (iv) The remainder of the Net Settlement Amount will be distributed to all participating Class Members based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.

Payments to Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Class Members who did not submit a valid and timely Request for Exclusion. Settlement checks will be valid for 180 calendar days from the date the Settlement Administrator mails it. Any funds payable to participating Class Members whose checks are not cashed within 180 calendar days after mailing will be transferred to Legal Aid Foundation of Los Angeles, the parties' agreed-upon *cy pres* designee.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be allocated as 10% wages (subject to applicable withholdings), and 90% interest and penalties (not subject to withholdings). Each PAGA Amount payable to the PAGA Members shall be allocated as 100% penalties. Class Members are responsible for the proper

income tax treatment of the Individual Settlement Payments. The Gross Fund Value does not include the employer's share of payroll taxes, which shall be paid by Defendant separate and apart from, and in addition to, the Gross Fund Value. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, each Class Member who has not submitted a timely and valid Request for Exclusion will fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and its past, present, and future respective subsidiaries, dba's, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, staffing agencies, PEOs, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, and attorneys (collectively, the "Released Parties") from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Action, including but not limited to: claims for failure to pay overtime wages; failure to pay minimum wages; any claims for additional wages owed due to "off the clock" work; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due; failure to pay all wages earned at least twice during each calendar month; failure to reimburse necessary business expenses; waiting time penalties; wage statement violations failure to keep and maintain accurate payroll records; unfair competition under Bus. & Prof. Code section 17200 *et seq.* (in connection with the allegations brought in the Action); violation of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 226, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2698, 2699, 2802, 2804, and the applicable Wage Order and/or claims for attorneys' fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 218.6, 3287(b), and 3289 ("Released Class Claims"). The period of the Released Class Claims shall extend to the limits of the Class Period.

PAGA Release. If the Court approves the Settlement, the PAGA Members will be issued a check for their share of the PAGA Amount, regardless of whether they validly opt-out of the class-action portion of the Settlement, and will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of any and all PAGA claims and/or PAGA causes of action which were alleged or could have been alleged based on the factual allegations in the PAGA Notice and the Action, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq.*, including but not limited to: PAGA claims for failure to pay overtime wages; failure to pay minimum wages; any claims for additional wages owed due to "off the clock" work; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to timely pay all wages due; failure to reimburse necessary business expenses; waiting time penalties; wage statement violations failure to keep and maintain accurate payroll records; unfair competition under Bus. & Prof. Code section 17200 *et seq.* (in connection with the allegations brought in the Action); violation of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 226, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2698, 2699, 2802, 2804, and the applicable Wage Order and/or claims for attorneys' fees under Code of Civil Procedure section 1021.5 and/or claims for interest under Civil Code Sections 218.6, 3287(b) and 3289, which occurred during the PAGA Period ("Released PAGA Claims").

Conditions of Settlement. The 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 Members, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your Individual Settlement Payment, which has been calculated for you based on the formula set forth above, as stated in the accompanying Notice of Individual Settlement Payment. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Individual Settlement Payment. Your award is based on the proportionate number of workweeks that you worked during the relevant time periods and whether your employment separated during the relevant time period. The information contained in Defendant's records regarding this information, along with your

estimated Individual Settlement Payment, is listed on the accompanying Notice of Individual Settlement Payment. If you disagree with the information in your Notice of Individual Settlement Payment, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual Settlement Payment. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Class Members. Should a consensus not be reached, any outstanding disputes will be submitted to the Court for a final determination.

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 written "Request for Exclusion" letter, postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. The Request for Exclusion must state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *RICHARD SOTO V. APPLIED BIOCODE, INC.* LAWSUIT FILED IN THE LOS ANGELES COUNTY SUPERIOR COURT, CASE NO. 23STCV20199. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION PORTION OF THE SETTLEMENT IN THIS LAWSUIT."

Send the Request for Exclusion directly to the Settlement Administrator at <<ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Class Member, shall be barred from participating in the class action portion of the Settlement, and shall receive no benefits from the class action portion of the Settlement. However, all PAGA Members, including those who submit a timely Request for Exclusion, will be bound by the PAGA portion of the Settlement and will receive a portion from the PAGA Amount. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the 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 Settlement, or any portion of it, you may mail a written objection by <<RESPONSE DEADLINE>> to the Settlement Administrator at <<ADMINISTRATOR CONTACT INFO>>. Your written objection should include your full name, signature, address, telephone number, and the last four digits of your Social Security number, as well as contact information for any attorney representing you regarding your objection, the case name and number, all objections and the factual and legal basis for the same, and any and all supporting papers, briefs, declarations, and/or other evidence supporting your objection. All objections or other correspondence must state the name and number of the case, which is *Richard Soto v. Applied BioCode, Inc.*, Los Angeles County Superior Court Case No. 23STCV20199. Objections in writing must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department SSC-17 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing, if you wish to appear in person. You have the right to appear either in person or through your own attorney at this hearing, whether or not you submit a written objection. 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 Class Members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department SSC-17 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. The location, date, and time of the Final

Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, the Enhancement Payment to the Class Representative, the Settlement Administrator's costs, and the amount related to the PAGA civil penalties. **You are not required to attend the Final Approval Hearing.**

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Clerk's Office at the Stanley Mosk Courthouse, located at 111 N. Hill Street, Los Angeles, California 90012, during regular business hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<**RESPONSE DEADLINE**>>.

NOTICE OF INDIVIDUAL SETTLEMENT PAYMENT

RICHARD SOTO V. APPLIED BIOCODE, INC.
LOS ANGELES COUNTY SUPERIOR COURT, CASE NO. 23STCV20199

Please complete, sign, date and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the information listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City State Zip Code

(III) Information Used to Calculate Your Individual Settlement Payment:

According to Defendant's records:

- (a) You worked _____ workweeks during the Class Period;
- (b) You worked _____ workweeks between August 23, 2022 and <<PRELIM APPROVAL DATE>> (the Wage Statement Amount/PAGA Period); and
- (c) Your employment with Defendant <<DID/DID NOT>> end between August 23, 2020 and <<PRELIM APPROVAL DATE>> (the Waiting Time Amount).

Based on the above, your Individual Settlement Payment is estimated to be \$_____.

(IV) If you disagree with items (a) - (c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Defendant's records, those records will control unless you are able to provide documentation that establishes that Defendant's records are mistaken. If there is a dispute about whether Defendant's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the parties and the Settlement Administrator as described in the Class Notice that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**

Signature: _____ Date: _____

EXHIBIT 3

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

August 23, 2023

VIA LWDA WEBSITE

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

Re: *Richard Soto v. Applied Biocode, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Richard Soto (“Mr. Soto”) in claims arising from his employment with Applied Biocode, Inc. and Does 1 through 100 (“Defendants”). Mr. Soto is an “aggrieved employee” within the meaning of Labor Code section 2699.3 as to all of the violations alleged herein. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 754 (“any Labor Code penalties recoverable by state authorities may be recovered in a PAGA action by a person who was employed by the alleged violator and affected by at least *one* of the violations alleged in the complaint.”) (emphasis added). The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” includes all of Defendants’ employees who worked for Defendants in California during the one year immediately preceding the date of this letter through the present.

Defendants develop and manufacture various scientific and medical testing and diagnostic products, including COVID test kits and other medical testing devices. Mr. Soto was employed by Defendants as a Receiving Clerk from approximately September 2020 to June 2023. Plaintiff’s job duties included receiving incoming products, verifying and logging inventory, and dispersing products.

Defendants utilized a timekeeping system, which upon information and belief, resulted in Mr. Soto and other aggrieved employees were not being compensated for all hours actually worked. Specifically, in order to clock in for a shift, Mr. Soto and other aggrieved employees needed to first boot up a computer terminal, navigate to the correct screen, and input multiple passwords before being able to clock in for the shift. Similarly, at the end of a shift, after clocking out, Mr. Soto and other aggrieved employees would still be required to shut down the computer system, close and lock doors, and on occasions, receive after-hours shipments from FedEx. As a result of Defendants’ timekeeping policies/practices, aggrieved employees consistently performed compensable work off-the-

clock for which they were not compensated, resulting in unpaid minimum and overtime wages.

Defendants failed to provide Mr. Soto and other aggrieved employees with all legally-compliant meal periods due to Defendants' unlawful meal period policies/practices that failed to provide timely, duty-free 30-minute meal periods, including second meal periods when working shifts over 10.0 hours. In addition, Defendants at times interrupted Mr. Soto and other aggrieved employees during their purported meal periods with work-related phone calls. On occasions when Mr. Soto and other aggrieved employees were not provided with all lawful meal periods to which they were entitled, Defendants failed to pay Mr. Soto and other aggrieved employees an additional hour of premium pay at their respective regular rates of pay for each workday in which a meal period violation occurred, as required by Labor Code section 226.7. Upon information and belief, Defendants failed to maintain pay codes for the payment of meal period premium payments as required by Labor Code section 226.7.

Mr. Soto and other aggrieved employees were not authorized and permitted to take a rest period for every 4 hours worked (or major fraction thereof) due to Defendants' rest period policies/practices. Specifically, Mr. Soto and other aggrieved employees were frequently denied rest periods either due to pressure from supervisors to skip the rest periods, or due to overwhelming work demands. Defendant also failed to provide Mr. Soto and other aggrieved employees with an additional hour of premium pay for each workday in which a rest period violation occurred, as required by Labor Code § 226.7.

Defendants would frequently call Mr. Soto and other aggrieved employees on their personal cellular phones with work-related questions or updates. Despite requiring Mr. Soto and other aggrieved employees to use their personal cellular phones for work purposes, Defendants did not reimburse Mr. Soto and other aggrieved employees for any portion of their cellular phone bill, in violation of Labor Code § 2802.

As a result of Defendants' failure to pay all minimum wages, overtime wages, as well as rest period premium wages, Defendants maintained inaccurate payroll records, issued inaccurate wage statements, and failed to pay all final wages to Mr. Soto and other aggrieved employees upon their separation of employment.

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

Overtime Wage Violations

Defendants were required to properly pay Mr. Soto and other aggrieved employees for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours" per work day and/or in excess of 40 hours of work in the workweek. Defendants caused

Mr. Soto and other aggrieved employees to work overtime hours but did not compensate Mr. Soto or other aggrieved employees at one and one-half times their regular rate of pay for all such hours.

Minimum Wage Violations

Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. Defendants failed to conform their pay practices to the requirements of the law by failing to pay Mr. Soto and other aggrieved employees for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 1.

Meal Period Violations

As alleged above, Defendants failed to provide Mr. Soto and other aggrieved employees with all required and compliant meal periods. See Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As a result, Mr. Soto and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

Rest Period Violations

As described above, Defendants also failed to authorize and permit Mr. Soto and other aggrieved employees to take all required and compliant rest periods. See Labor Code §§ 226.7 and 516; Wage Order 1, § 12. As a result, Mr. Soto and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that all rest periods were not authorized and permitted. See Labor Code § 226.7.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Mr. Soto and other aggrieved employees with complete and accurate wage statements with respect to gross wages earned, total hours worked, net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code § 226 *et seq.* Defendants' failures in furnishing Mr. Soto and other

aggrieved employees with complete and accurate itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime wages as well as meal and rest period premium wages and deprived them of the information necessary to identify the discrepancies in Defendants' reported data and whether they have been paid all wages earned.

Waiting Time Penalties

Labor Code §§ 201-203 require an employer to pay all wages earned immediately at the time of separation of employment in the event the employer discharges the employee, or if the employee provides at least 72 hours of notice of his/her intent to quit. In the event the employee provides less than 72 hours of his/her intent to quit, said employee's wages become due and payable no later than 72 hours upon said employee's last date of employment. Defendants failed to timely pay Mr. Soto and other aggrieved employees all final wages due to them at the time of their separation, which includes, among other things, overtime wages and meal and rest period premium wages. Further, as a matter of uniform policy and practice, Defendants continue to fail to pay aggrieved employees all earned wages at the end of employment in a timely manner pursuant to Labor Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Mr. Soto and other aggrieved employees their earned wages upon separation from employment, results in a continued payment of wages up to thirty (30) days from the time the wages were due.

As an "aggrieved employee", Mr. Soto will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties (including an amount equal to the unpaid wages) resulting from the wage and hour violations alleged herein. Based on Mr. Soto's own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

- a. Defendants violated Labor Code §§ 204, 510, 558, 1194 and 1198 by failing to pay Mr. Soto and other aggrieved employees all overtime compensation earned;
- b. Defendants violated Labor Code §§ 1182.12, 1194, 1194.2, and 1197 by failing to pay Mr. Soto and other aggrieved employees the statutory minimum wage for all hours worked;
- c. Defendants violated Labor Code §§ 226.7, 512, and 558, by failing to provide meal periods as required by law and failing to pay meal period premiums to Mr. Soto and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Mr. Soto and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premiums to

Mr. Soto and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations;

- e. Defendants violated Labor Code § 226 by failing to furnish Mr. Soto and other aggrieved employees with accurate and compliant itemized wage statements;
- f. Defendants violated Labor Code §§ 201-203 by failing to timely pay all final wages due to Mr. Soto and other aggrieved employees;
- g. Defendants violated Labor Code §§ 558 and 1174 by failing to maintain accurate records on behalf of Mr. Soto and aggrieved employees; and
- h. Defendants violated Labor Code § 204 by failing to pay Mr. Soto and other aggrieved employees all wages earned at least twice during each calendar month.

Pursuant to Labor Code § 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Fletcher W. Schmidt

cc: Applied Biocode, Inc., c/o Ingrid U. Joseph, Agent for Service of Process, 12130 Mora Drive, Unit 2 Santa Fe Springs, CA 90670 (via certified mail)

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 08/24/2023

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8327 5380 04

Our records indicate that this item was accepted by the USPS at:

SHIPMENT RECEIVED ACCEPTANCE PENDING EL SEGUNDO,CA 90245 08/23/2023

ORIGINAL INTENDED RECIPIENT:

APPLIED BIOCODE INC

C/O: INGRID U JOSEPH AGENT FOR SERVICE OF PROCESS

12130 MORA DR STE 2

SANTA FE SPGS CA 90670-7357

JR

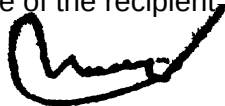
Mailer: Haines Law Group

Date Produced: 09/11/2023

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8329 0085 29. Our records indicate that this item was delivered on 09/08/2023 at 12:04 p.m. in SACRAMENTO, CA 95811. The scanned image of the recipient information is provided below.

Signature of Recipient :


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A/AO CSC

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State of California

Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Fletcher

Your Last Name *

Schmidt

Firm Name (if any) *

Haines Law Group, APC

(Enter "in pro per" if you are representing yourself)

Your Email Address *

jramirez@haineslawgroup.

Your Street Name, Number and Suite/Apt *

2155 Campus Drive, Suite

Your Mobile Phone Number

Your City *

El Segundo

Your Work Phone Number

4242922350

Your State *

California

Your Zip/Postal Code *

90245

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Richard Soto

Plaintiff/Aggrieved Employee Occupation *

Receiving Clerk

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...

Employer Name *

Applied Biocode, Inc.

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

Employer City *

12130 Mora Drive, Unit #2

Santa Fe Springs

Employer State *

California

Employer Zip/Postal Code *

90670

Employer Industry *

Other

Employer Industry for "Other" *

Manufacturing

Add additional defendants

- ☐ Add any entity other than an individual
- ☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *

50

Notice Violations – Check All that Apply *

Child Labor – Specify Ages

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☒ Minimum Wage
- ☒ Overtime
- ☐ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☐ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☒ Improper or Incomplete Wage Statements
- ☒ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☒ Other

Provide Details of Other Violation *

Failure to pay twice monthly

Other(Maybe Multiple)

- ☐ Other Violation

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☒ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

- ☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Paul

Billing Last Name *

Haines

Billing Email *

jramirez@haineslawgroup.

Billing Phone

4242922350

Billing Street Name, Number and Suite/Apt *

2155 Campus Drive, Suite 180

Billing City *

El Segundo

Billing State *

California

Billing Zip/Postal Code *

90245

Credit Card Type *

Visa

Credit Card Number *

4154178575546940

CVV Number *

182

Credit Card Expiration Month *

05

mm

Credit Card Expiration Year *

2024

yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

Choose File 2023-08-23 ... LWDA Ltr.pdf

Other Attachment – (if any) (must be a .pdf)

Choose File No file chosen

[Add Another Attachment](#)

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

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

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

Previous Page

Submit

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Jonathan Ramirez](#)
Subject: Thank you for submission of your PAGA Case.
Date: Wednesday, August 23, 2023 10:13:18 AM

8/23/2023

LWDA Case No. LWDA-CM-977120-23
Law Firm : Haines Law Group, APC
Plaintiff Name : Richard Soto
Employer: Applied Biocode, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

EXHIBIT 4