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8 on behalf of herself and all others similarly situated and aggrieved

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 VALERIE L. DIARD, an individual and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 MILK AND HONEY HOLDINGS, LLC et
16 al., a Texas limited liability company; and
DOES 1 through 100, inclusive,

17 Defendant.
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CASE NO.: 23STCV23686

[Assigned for all purposes to the Hon.
William F. Highberger in Dept. 10]

**DECLARATION OF VEDANG J. PATEL
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND
REPRESENTATIVE ACTION
SETTLEMENT**

DECLARATION OF VEDANG J. PATEL

1
2 1. I am an attorney at law, duly licensed to practice before all the Courts of the State
3 of California, a Partner at Bibiyan Law Group, P.C., counsel for Plaintiff Agustina Valerie L.
4 Diard (“Plaintiff”), and all others similarly situated and aggrieved. As such, I am familiar with the
5 file in this matter and, if called as a witness, I could and would competently testify to the following
6 facts of my own personal knowledge.

7 2. On or around September 29, 2023, Plaintiff filed with the Labor and Workforce
8 Development Agency (“LWDA”) and served on defendant Milk and Honey Holdings, LLC et al.
9 (“Defendant”) a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a
10 proxy of the Labor and Workforce Development Agency (“LWDA”) to recover civil penalties on
11 behalf of other non-exempt, hourly-paid employees for alleged Labor Code violations (“PAGA
12 Notice”). A true and correct copy of the PAGA Notice is attached hereto as Exhibit “2.”

13 3. On or around September 29, 2023, Plaintiff commenced this action by filing a
14 complaint against Defendant alleging: (1) failure to pay overtime wages; (2) failure to pay
15 minimum wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure
16 to provide rest periods or compensation in lieu thereof; (5) waiting time penalties; (6) wage
17 statement violations; (8) failure to timely pay wages; (9) failure to indemnify; (9) failure to pay
18 vested vacation time; and (10) engaging in unfair competition (the “Class Action”). On December
19 4, 2023, Plaintiff filed a complaint under the Private Attorneys General Act (“PAGA”) in Los
20 Angeles County, Case No. 23STCV29618, alleging Labor Code violations set out in the PAGA
21 Notice.

22 4. On August 20, 2024, the parties participated in an all-day mediation presided over
23 by Katherine Edwards, Esquire. In the months ensuing, the Parties negotiated regarding the terms
24 of the settlement and eventually reached upon the Settlement Agreement.

25 5. Prior to mediation, the Parties agreed to exchange informal discovery and attend an
26 early mediation. Prior to mediation, Plaintiff obtained, Plaintiff obtained, through informal
27 discovery: (a) timecards and payroll records for 100% of the putative class; (b) relevant policy and
28 practice documents; and (c) Plaintiff’s personnel file.

6. Class Counsel – comprised of David D. Bibiyan and Vedang J. Patel - had strong positions at mediation regarding the certifiability of Plaintiff's claims, the merits thereof, the manageability of a trial, and the likelihood of recovering civil penalties. Nevertheless, Class Counsel concluded, after considering the sharply disputed factual and legal issues involved in this litigation, the risks associated with further prosecution, and the substantial benefits to be received pursuant to the compromise and settlement of the lawsuit as set forth in the Settlement Agreement, that settlement on the terms set forth herein is in the best interest of Plaintiff, putative class members, aggrieved employees, and Defendant, and is fair, reasonable, and adequate.

7. As part of the Settlement, the Parties agreed to stipulate to Plaintiff filing a First Amended Complaint to include all claims from the PAGA Action into the Class Action for purposes of settlement. The order granting Plaintiff leave to file the First Amended Complaint has since been granted and the First Amended Complaint is filed concurrently with this Motion.

The Proposed Settlement

8. Subject to Court approval pursuant to Code of Civil Procedure section 382 and California Rules of Court, rule 3.679, *et seq.*, the Parties have agreed to settle the Action by agreement upon the terms and conditions and for the consideration set forth in the Settlement Agreement, a copy of which is attached hereto as Exhibit “1” thereto. A summary of the terms of the settlement are as follows:

Defendant will stipulate, for purpose of this settlement only, as follows:

- Certification of a class (“Settlement Class,” “Settlement Class Members” or “Class Members”) defined as: all non-exempt, hourly-paid individuals that worked for Defendant in the State of California at any time during the period from September 29, 2019 through November 18, 2024 (the "Class Period").
- Defendant will pay \$355,000.00 (“Gross Settlement Amount”) to resolve the matter.
- The settlement was negotiated based on Defendant’s representation that there are no more than 9,457 Workweeks from the beginning of the Class Period through the date of mediation, August 20, 2024. If the total number of workweeks calculated for the Class Period is 10% higher (10,403 workweeks), then the GSA is to be increased

1 proportionally by the workweeks calculated in excess of 10,403 workweeks multiplied
2 by the per workweek value of the GSA. For example, if the total workweeks during the
3 Class Period is 10,497 workweeks (an increase of 11%), then the GSA shall be increased
4 by 11% (\$39,050.00). If this provision is triggered, Defendant has the option to end the
5 Class Period at an earlier date than described above (November 18, 2024) in order to
6 limit the covered workweeks to 10,403 (or less) in lieu of paying an increase to the GSA.
7 For purposes of this provision and for submission of the total workweeks to the
8 Settlement Administrator, a workweek is one that a Class Member recorded time worked
9 in the Defendant's time and payroll systems of record. Time paid, but not worked, such
10 as vacation, medical leave, or any other type of paid or unpaid time off, does not qualify.
11 Defendant shall provide to the administrator an excel sheet containing the recorded time
12 worked for calculation by the Settlement Administrator. Parties agree that the portion of
13 the GSA allocated to attorneys' fees will increase proportionally such that the total
14 amount of attorneys' fees remains one-third of the GSA after the upward adjustment
15 required by this provision is implemented.

- 16 • Defendant will pay the employer's share of taxes separate and apart from the Gross
17 Settlement Amount.
- 18 • This is a non-reversionary settlement.
- 19 • Class Members will be paid their *pro rata* share of the class action settlement based
20 on the total number of Workweeks¹ worked during the Class Period.
- 21 • The Settlement Administration costs, estimated not to exceed \$7,995.00 will be paid
22 out of the Gross Settlement Amount.
- 23 • Class Counsel, comprised of David D. Bibiyan and Vedang J. Patel of Bibiyan Law
24 Group, P.C., hereby apply for, and Defendant will not oppose, attorneys' fees of up to
25 one-third (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to
26

27 ¹ "Workweek" means any week during which a Class Member was employed by Defendant for at least one day in a
28 non-exempt, hourly-paid position and recorded active work time in Defendant's timekeeping system during the Class Period.

1 the Settlement Agreement, amounts to \$183,333.33, and actual costs, not to exceed
2 \$30,000.00, all of which will be paid out of the Gross Settlement Amount. While the
3 Settlement Agreement states Class Counsel may seek up to 35% of the Gross
4 Settlement Amount, Class Counsel will only be seeking one-third (1/3) at the time of
5 final approval.

- 6 • Class Counsel hereby apply for, and Defendant will not oppose, a service award of
7 \$7,500.00 for the Class Representative, which will be paid out of the Gross Settlement
8 Amount.
- 9 • “Aggrieved Employees” means all non-exempt, hourly-paid individuals that worked for
10 Defendant in the State of California from September 29, 2022 through November 18,
11 2024 (the "PAGA Period").
- 12 • Defendant has agreed to pay \$20,000.00 as PAGA penalties, seventy-five percent (75%)
13 or \$15,000.00 of which will be paid to the LWDA out of the Gross Settlement Amount,
14 and twenty-five percent (25%) or \$5,000.00 of which will be distributed to the
15 Aggrieved Employees.
- 16 • For any Class Member or Aggrieved Employee whose check is uncashed after 180
17 days of issuance, it shall be cancelled and funds represented by such checks to the
18 California Controller’s Unclaimed Property Fund, in the name of the Class Member,
19 thereby leaving no “unpaid residue” subject to the requirements of California Code of
20 Civil Procedure section 384, subd. (b).

21 **Settlement Agreement and Accompanying Documents**

22 9. Attached hereto as Exhibit “1” is the Settlement Agreement. Attached to the
23 Settlement Agreement as Exhibit A is the proposed “Class Notice” to be distributed to Class
24 Members in English and Spanish.

25 10. Class Counsel have selected to use Phoenix Settlement Administrators (“Phoenix”),
26 an experienced Settlement Administrator, to administer the settlement.

27 11. On or about July 7, 2025, my office submitted a copy of the Settlement Agreement
28 to the California Labor and Workforce Development Agency (“LWDA”) in compliance with Labor

1 Code section 2699, subdivision (1)(2). A true and correct copy of each confirmation from the LWDA
2 in connection with Plaintiff is attached hereto as Exhibit 3.

3 **The Settlement Is Fair and Reasonable Based Upon Objective Evidence**

4 **The Settlement was Negotiated at Arm's-Length and is not Collusive**

5 12. The Settlement that has been reached, subject to this Court's approval, is a product
6 of substantial efforts by Class Counsel. The Settlement was reached after extensive factual and legal
7 investigation and research; substantial negotiation regarding the scope of informal discovery; an
8 exchange of documents and information that included review of time and pay records and analysis
9 thereof with the aid of Plaintiff and expert consultants; an analysis of shifts and Workweeks worked
10 by Class Members in the Class Period, analysis of the number of pay periods and number of
11 Aggrieved Employees in the PAGA Period for calculating PAGA penalties, number of Class
12 Members eligible for wage statement penalties and waiting time penalties; an analysis of Plaintiff's
13 employment records; extensive correspondence and communication between counsel; a review of
14 pleadings, evidence and rulings in similar actions litigated elsewhere in the state; a review of similar
15 cases in the same industry elsewhere in the country; and preparation for and attendance at a full-day
16 session of mediation, followed by months of further discussions and coordination to finalize the
17 terms and conditions of the general settlement parameters agreed to by the Parties.

18 13. While Class Counsel believe in the chance of success of certifying the claims, Class
19 Counsel recognized the potential risk, expense and complexity posed by further litigation.
20 Moreover, litigating Plaintiff's claims in this Litigation—claims that involve approximately 209
21 Members during the Class Period—would require substantial preparation and discovery, and
22 ultimately would involve the deposition and presentation of numerous more witnesses (including
23 Class Members and expert witnesses), as well as the consideration, preparation and analysis of
24 expert reports. Therefore, should litigation have progressed any further, there would have been
25 significant expense incurred by each side (above and beyond the expense already incurred).

26 **The Settlement Amount is Well Within Range of Reasonableness**

27 14. Class Counsel settlement amount reached in this case provides significant
28 recovery to Class Members and Aggrieved Employees, and easily falls within the range of

1 reasonableness. Based on documents and information provided by Defendant, Class Counsel
2 understand there are approximately 9,457 Workweeks during the Class Period.

3 **Unpaid Wages for Failure to Pay for All Time Worked**

4 15. Class Counsel theorized at mediation, based on Plaintiff's narrative evidence and
5 documents produced by Defendant, that Defendant failed to pay all wages due to Class Members
6 because employees are required to arrive early prior to the start of the shift, be subject to
7 disciplinary action, to change into their uniform prior to the start of shifts, to be at meetings prior
8 to the start of their shifts, waiting to be let out of buildings after clocking out, and answering phone
9 calls from supervisors off the clock.

10 16. Class Counsel advanced a theory at mediation, based on Plaintiff's narrative
11 evidence that Class Members worked off-the-clock for a conservative estimate of five (5) minutes
12 each shift throughout the Class period, without pay. Thus, Class Counsel theorized Defendant's
13 exposure for unpaid overtime wages due to failure to track and pay for all time worked is \$5,336
14 $(0.083 \text{ hr.} \times \$27.19/\text{hr} \times 1.5 \text{ OT rate} \times 38,446 \text{ shifts} \times .041 \text{ shifts that were longer than 8 hrs.})$.
15 Class Counsel theorized Defendant's exposure for unpaid minimum wages and corresponding
16 liquidated damages is \$166,413 $(0.083 \text{ hr} \times \$27.19/\text{hr} \times 2 \text{ in liquidated damages} \times 38,446 \text{ shifts} \times$
17 $.959 \text{ shifts under 8 hours.})$. Thus, Defendant's exposure for failure to pay for all time under
18 Defendant's control is \$171,749.

19 17. Class Counsel understand from the mediator and the mediation process that
20 Defendant makes the following defenses in connection with this claim: Defendant contends that
21 their policies specifically prohibit off-the-clock work. Defendant contends that they did not
22 require Class Members to work off-the-clock and, rather, they were paid for all time suffered or
23 permitted to work. Finally, Defendant contends that any allegations that Class Members were
24 required to be under Defendant's control off-the-clock would necessitate an individualized inquiry
25 into when and why, making this claim not subject to class treatment and any trial in this litigation
26 unmanageable. Thus, Defendant contends that no damages can be recovered here, and, even if,
27 arguendo, they could, an estimate of five (5) minutes of unpaid work off-the-clock of Class
28 Members for every single shift during the Class Period is a wild exaggeration of time spent

1 working off-the-clock if any such time was spent.

2 **Recovery of Damages for Non-Compliant Meal Periods**

3 18. Class Counsel theorized at mediation, based on narrative evidence of Plaintiff and
4 documents produced by Defendant, that Defendant's meal period policies practices throughout the
5 Class Period were non-compliant. Class Counsel theorized that meal periods were cut short due to
6 managers calling or texting about work related topics and the managers would interrupt Class
7 Members in person in the breakroom or the laundry room to ask work related questions or assign
8 tasks.

9 19. Class Counsel understand from the documents produced by Defendant and analysis
10 of expert data consultants that there were 7,989 unique meal period violations (i.e. meal periods
11 that were missed, short, late) during the Class Period. Class Counsel also understand from the data
12 provided that some meal period premiums were paid. Class Counsel theorized Defendant's
13 liability for unpaid meal premiums is \$182,255 [$\$27.19/\text{hr} \times (7,989 \text{ unique meal period violations}$
14 $- 1,286 \text{ meal period premiums})$].

15 20. Counsel understand from the mediator and the mediation process that Defendant
16 makes the following defenses in connection with this claim: Defendant argued that it had
17 compliant meal period policies and practices. Defendant argued that Class Members took timely
18 and full meal periods. Defendant contends that its policy requires their employees to take timely
19 and full meal periods. Defendant further contends that any instance of a Class Member failing to
20 take a compliant meal period was voluntary, in violation of its meal period policy, would
21 necessitate an individualized inquiry and would not lend itself to a manageable trial. Thus,
22 Defendant contends that *no* monies are owed for this account but, even if any amounts were due,
23 the amount calculated by Class Counsel is excessive.

24 **Recovery of Damages for Non-Compliant Rest Periods**

25 21. Class Counsel theorized at mediation, based on Plaintiffs' narrative evidence, that
26 Class Members did not receive rest periods throughout the Class Period based on many of the
27 reasons stated above for meal period violations, including that they were interrupted, short, or
28 missed. One calculation performed by Class Counsel at mediation resulted in, assuming a

1 conservative 40% violation rate for rest-eligible shifts, of \$403,772 (\$27.19/hr. x 37,125 shifts
2 greater than 3.5 hours x .40 violation rate).

3 22. Class Counsel understand from the mediator and the mediation process that
4 Defendant make the following defenses in connection with this claim: Defendant argue that it had
5 compliant rest period policies and practices. Defendant argued that it its policy requires their
6 employees to take timely and full rest breaks. Defendant argued that Class Members took timely
7 and full rest breaks or received the required rest period premium for each instance of rest period
8 violations. Defendant further contends that any instance of a Class Member failing to take a
9 compliant rest period was voluntary and therefore would necessitate an individualized inquiry and
10 would not lend itself to a manageable trial. Thus, Defendant contends that *no* monies are owed for
11 this account but, even if any amounts were due, the amount calculated by Class Counsel is excessive.

12 **Wage Statement Violations**

13 23. Class Counsel theorized that Class Members are entitled to recover penalties for
14 Defendant's alleged failure to issue compliant wage statements under Labor Code section 226,
15 subdivision (e), because shift involved off-the-clock work that was not included on wage
16 statements. Further, many shifts included meal period and rest period violations for which
17 premiums were not paid. Thus, Defendant is liable for wage statement violations for each pay
18 period. Specifically, Class Counsel theorized that penalties are owed under Labor Code section
19 226 due to, at minimum, every shift involved off-the-clock work that was not included on wage
20 statements. Thus, Defendant is liable for wage statement violations for each pay period. Class
21 Counsel understand from the data provided by Defendant that there were 3,329 pay periods in the
22 wage statement liability period. Thus, Defendant's maximum exposure for wage statement
23 violations would be \$332,900 (3,329 pay periods in the wage statement period x \$100 penalty).

24 24. Class Counsel understand from the mediator and the mediation process that
25 Defendant make the following defenses in connection with this claim: Defendant contends that
26 the wage statements issued to the employees fully complied with Labor Code section 226.
27 Defendant contends that because they believe no wages are unpaid that, thus, there can be no
28 derivative penalties. However, Class Counsel also understand the risks inherent in this claim if

1 the above claims were not certified. Class Counsel also had to factor in, and did factor in, the risk
2 that a Court would find there was no injury to Class Members even if the wage statements were
3 inaccurate or that Defendant's conduct was not intentional, both of which are requirements of
4 Labor Code section 226 before penalties can issue. Class Counsel also note that the calculation
5 used does not consider the first pay period violation only being \$50 and the fact that all Class
6 Members did not work all pay periods.

7 **Waiting Time Penalties**

8 25. Pursuant to Labor Code sections 201, 202 and 203, each employee in the relevant
9 statutory period (*i.e.*, three years before the filing of the initial Complaint) is entitled to 30 days'
10 worth of wages as waiting time penalty for not being paid all wages due upon separation of
11 employment. Class Counsel theorized at mediation, based on relevant documents provided by
12 Defendant, that, under Labor Code section 203, Defendant is liable to pay each Class Member, who
13 was terminated during the relevant statutory period, a full 30-day worth of wages as waiting time
14 penalty for failure to pay failure to pay compensation in lieu of compliant meal and rest periods, and
15 failure to timely pay all wages due. Class Counsel understand from documents provided by
16 Defendant that there were 135 separated employees during the relevant statutory period. Thus, Class
17 Counsel theorized Defendant's exposure for this claim to be \$880,956 (135 separate Class Members
18 x \$27.19/hr. x 8 hrs x 30 days).

19 26. Class Counsel understand from the mediator and the mediation process that
20 Defendant contends that there is no credence to Plaintiff's off-the-clock theory and that, thus, no
21 waiting time penalties are owed based on that theory. Finally, Defendant contends that their actions
22 were not "willful" and that, thus, waiting time penalties cannot be awarded. Thus, Defendant argued
23 that no waiting time penalties are owed.

24 **Failure to Reimburse Work Expenses**

25 27. Class Counsel initially theorized that Defendant failed to indemnify Class Members
26 for necessary business expenses because Defendant required Class Members to download an app
27 to their personal cell phones to clock in and out. Class Counsel, after investigation, did not
28 attribute significant value to this claim for purposes of mediation and this settlement. Class

1 Counsel understand from the mediator and the mediation process that Defendant argued the
2 following: Defendant argued that it did not require Class Members to download an app to their
3 personal cell phones for work-related purposes. Defendant also argued that it reimbursed
4 employees for all expenses incurred in furtherance of work. Thus, Defendant contends that it owes
5 not monies under this theory, either.

6 **Failure to Pay Vested Vacation**

7 28. Class Counsel initially theorized that Defendant did not pay Class Members for
8 vested vacation time. However, after diligent investigation, Class Counsel did not attribute
9 significant value to this claim for purposes of mediation. Class Counsel understand from the
10 mediator and the mediation process that Defendant contends it did pay all vested vacation time owed
11 to Class Members.

12 **PAGA Penalties**

13 29. Class Counsel understand from the time and payroll data provided by Defendant
14 that there were 3,329 pay periods in the PAGA Period. Plaintiff's claims in the Action under
15 PAGA are substantially similar to those described herein. PAGA penalties include penalties for
16 initial violations and subsequent violations. Defendant contends that only initial violation rates
17 may be used instead of the subsequent violation rates initially used by Class Counsel. With this in
18 mind and because Class Counsel through investigation and discovery did not come to the
19 conclusion that Defendant at any time was notified by any governmental entity that they violated
20 any Labor Code sections presented in the PAGA Notice and PAGA claims, Class Counsel adjusted
21 the exposure model for Defendant to include only initial violation rates.

22 30. While Class Counsel are informed and believe that reasonable minds differ with
23 regard to calculation of PAGA penalties, Class Counsel believe it is reasonable to calculate
24 Defendant's maximum exposure in PAGA penalties as follows:

25 31. a. Overtime Violations: Labor Code section 558 prescribes penalties of \$50
26 for an initial violation and \$100 for each subsequent violation. Using the initial pay period rate
27 for all violations, and a violation every single pay period for every single non-exempt employee
28 in the PAGA Period, this amounts to a maximum exposure of \$166,450 (3,329 pay periods x \$50).

1 32. b. Minimum Wage Violations: Labor Code section 1197.1 prescribes penalties
2 of \$100 for an initial violation and \$250 for each subsequent violation. Using the initial pay period
3 rate for all violations and a violation every single pay period for every single PAGA Member in
4 the PAGA Period, this amounts to a maximum exposure of \$332,900 (3,329 pay periods x \$100).

5 33. c. Meal Period Violations: Labor Code section 558 prescribes penalties of
6 \$50 for an initial violation and \$100 for each subsequent violation. Using the initial pay period
7 rate for all violations and a violation every single pay period for every single non-exempt
8 employee in the Settlement Period, this amounts to a maximum exposure of \$166,450 (3,329 pay
9 periods x \$50).

10 34. d. Rest Period Violations: Labor Code section 558 prescribes penalties of \$50
11 for an initial violation and \$100 for each subsequent violation. Using the initial pay period rate
12 for all violations and a violation every single pay period for every single non-exempt employee in
13 the Settlement Period, this amounts to a maximum exposure of \$166,450 (3,329 pay periods x
14 \$50).

15 35. e. Waiting Time Penalties: Labor Code section 2699 prescribes penalties of
16 \$100 for an initial violation and \$200 for each subsequent violation. Because this violation is
17 merited only at separation of employment, a 100% violation rate would likely include just one
18 violation per employee. The data produced by Defendant indicate that there were 207 Aggrieved
19 Employees whose employment was separated during the PAGA Period. This amounts to a
20 maximum exposure of \$3,300 (66 Aggrieved Employees x \$100).

21 36. f. Wage Statement Violations: According to *Gunther v. Alaska Airlines, Inc.*
22 (2021) 287 Cal.Rptr.3d 229, in this instance, Labor Code section 2699 would be the appropriate
23 penalty for wage statement violations that are inaccurate, which prescribes penalties of \$100 for
24 an initial violation and \$200 for each subsequent violation (*Id.* at 247-248). Using the initial pay
25 period rate for all violations and a violation every single pay period for every single Aggrieved
26 Employee in the PAGA Period, this amounts to a maximum exposure of \$332,900 (3,329 pay
27 periods x \$100).

1 37. h. Conclusion: In sum, Class Counsel calculated Defendant's total maximum
2 exposure for PAGA violations if the Court were to find a 100% violation rate for every Aggrieved
3 Employee every pay period and not exercise its discretion to reduce any of those penalties to be
4 \$1,168,450. Class Counsel understand from the mediator and the mediation process that
5 Defendant argued the following in connection with this claim: Defendant contends that no PAGA
6 penalties are likely to be awarded and, even if they were, the maximum exposure calculated by
7 Class Counsel is vastly overstated. First, Defendant defends that PAGA penalties cannot and
8 should not be stacked. Second, Defendant asserts that individualized issues predominate the
9 PAGA claims, making the claims unmanageable for trial. Third, Defendant denies that a violation
10 for each pay period can be established. Fourth, Defendant contends that a Court is unlikely to
11 exercise its discretion to award civil penalties under PAGA where, as here, there is no conduct
12 shown by Plaintiff that would show any Labor Code violation by Defendant is knowing and
13 intentional. Defendant insists that this is especially true in this Action where class action damages
14 are available to Class Members, rendering an award of PAGA penalties in addition to class action
15 damages to be double recovery.

16 38. Class Counsel maintain that it is possible to recover the subsequent violation rate for
17 penalties, that stacking is permissible, and that there is no manageability requirement under PAGA
18 (citing *Estrada v. Royalty Carpet Mills, Inc.*). As such, Class Counsel believe a 90% discount of this
19 claim to be reasonable, resulting in a valuation of \$116,845 as a reasonable estimate of the likelihood
20 of what Plaintiff may recover at trial for PAGA penalties (\$1,168,450 x .10).

21 **Conclusion**

22 39. When including derivative penalties, such as waiting time penalties, wage
23 statement violations, and discretionary PAGA penalties, Class Counsel theorized Defendant's
24 maximum exposure to be approximately \$2,088,477. In all, Class Counsel obtained a Gross
25 Settlement Amount of \$355,000. Particularly in light of the risks involving obstacles to class
26 certification, all issues and risks related to liability, the issues with manageability at trial, the
27 discretionary nature of PAGA penalties, and considering the case law regarding fair, reasonable
28

1 and adequate settlements, Class Counsel strongly believe that the settlement reached is fair,
2 reasonable and adequate, and in the best interest of Class Members.

3 40. Moreover, \$20,000 of the Gross Settlement Amount was attributed to PAGA
4 penalties. This allocation was decided mutually by the Parties and the mutual decision was based
5 on: (1) the fact that damages are available for the failure to pay wage claims while only penalties
6 are available for the PAGA claims; (2) the risk that the Court may exercise its discretion to decline
7 to stack PAGA penalties; (3) the risk that the Court may exercise its discretion to not award the
8 full amount of PAGA penalties available; and (4) the risk that the Court may decline to award any
9 PAGA penalties at all in light of the fact that damages are available for Class Members and it may
10 find any further liability against Defendants unnecessarily punitive.

11 **Proposed Attorneys' Fees and Costs Are Reasonable**

12 41. Class Counsel seek an attorneys' fees award of *up to* one-third (1/3) of the Gross
13 Settlement Amount, which, unless escalated pursuant to this Agreement, would amount to
14 \$332,500.00. While the Settlement Agreement states Class Counsel may seek up 35% of the Gross
15 Settlement Amount in fees, Class Counsel intend to only seek one-third (1/3) at the time of final
16 approval. Class Counsel also seek reimbursement of costs not to exceed \$30,000.00. The requested
17 fees fall well within the historical range of attorney's fees awards under the common fund theory,
18 which is generally from 25% to 50%. The requested fee is fair compensation for undertaking
19 complex, risky, expensive, and time-consuming litigation on a contingent fee basis.

20 **The Requested Enhancement Award to The Named Plaintiff and Class Representative Is**
21 **Reasonable**

22 42. I believe Plaintiff is entitled to an enhanced award for her service as class
23 representative, for answering extensive questions by Class Counsel, for being available and
24 answering questions during mediation, for the risks in being the named plaintiff and for providing
25 Defendants with a more expansive release of claims, including a waiver based upon California Civil
26 Code section 1542, in exchange for the enhancement award. Defendants do not oppose the requested
27 enhancement to Plaintiff. Plaintiff risked intrusive discovery and the payment of employer costs. In
28 the experience of Class Counsel, the typical enhancement award in wage and hour class actions

1 ranges from approximately \$10,000.00 to \$25,000.00, although some awards are higher. In contrast,
2 Class Counsel seek an extremely limited enhancement of \$7,500.00 to Plaintiff, for her service.

3 **Conditional Certification for Settlement Purposes**

4 **Ascertainability**

5 43. The Class Member definition (*i.e., i.e.,* all non-exempt, hourly-paid
6 individuals that worked for defendant Milk Defendant in the State of California at any time during
7 the period from September 29, 2019 through November 18, 2024) is derived from the operative
8 complaint, which complains of alleged violations of Labor Code sections that are chiefly and, in
9 some instances, solely applicable to non-exempt employees. There is no difficulty ascertaining who
10 is a Class Member based on the above-described definition as it is readily apparent to all involved
11 who is a non-exempt employee who worked in California for Defendants during the Class Period
12 based solely from Defendants' payroll records, which amounts to approximately 209 persons.

13 **Numerosity**

14 44. Class Counsel understand from documents provided that Defendant identified at least
15 209 Class Members.

16 **Commonality**

17 45. This litigation is brought to resolve common issues that include whether Defendants
18 provided full, timely and un-interrupted meal and rest periods, whether Class Members are entitled
19 to premium pay for incomplete, untimely or interrupted meal or rest periods, among other claims as
20 set forth above.

21 **Typicality**

22 46. I believe Plaintiff: (1) is a non-exempt employee like other Class Members; (2)
23 complains of not being paid for all time under Defendant's control or suffered and/or permitted to
24 work for Defendant; (3) did not receive full premium pay for meal periods that were not compliant
25 with the Labor Code; and (4) did not receive premium pay for rest periods that were not provided,
26 among others as set forth above.

27 **Adequacy of Vedang J. Patel**

28 47. I graduated with a Bachelor of Arts degree in Economics from the University of

1 California, Davis in 2016.

2 48. I received my Juris Doctorate from the UCLA School of Law in 2019.

3 49. After graduating from law school, I practiced law as a member of Murchison &
4 Cumming, LLP on a variety of matters on behalf of defendants.

5 50. Thereafter, I joined Bibiyan Law Group, P.C. practicing law on behalf plaintiffs in
6 matters of employment law, and specifically on issues of unpaid wages and class action settlements.

7 51. I am currently a Partner at Bibiyan Law Group, P.C. and Head of the Settlement
8 Department. Among other tasks, I oversee and manage all class action and PAGA action
9 settlements at Bibiyan Law Group, P.C. I have led settlement negotiations and the approval
10 process for class action and PAGA settlements in countless matters. I also supervise several
11 attorneys, paralegals, and legal assistants in ensuring settlement are efficiently brought to
12 conclusion.

13 52. I have also been appointed as Class Counsel in the past in the following actions:

14 • *Ramirez v. Sea-win*, Case No. 21STCV22026, California Superior Court, County of Los
15 Angeles, Honorable Lawrence P. Riff presiding;

16 • *Ortega Chavez v. Winpak Lane, Inc.* Case No. CIVSB2202274, California Superior
17 Court, County of San Bernardino, Honorable Jessica Morgan presiding;

18 • *Taat v. Acell. Inc.* Case No. 37-2022-00005437-CU-OE-CTL, California Superior
19 Court, County of San Diego, Honorable Matthew Brainer presiding;

20 • *Jordan v. The Martin-Brower Company*. Case No. 21STCV41435, California Superior
21 Court, County of Los Angeles, Honorable Stuart Rice presiding;

22 • *Williams v. Marrs*. Case No. 21STCV23775, California Superior Court, County of Los
23 Angeles, Honorable Stuart Rice presiding;

24 • *Russell v. Staffmark*. Case No. CVRI2103921, California Superior Court, County of
25 Riverside, Honorable Harold Hopp presiding;

26 • *Ortega Chavez v. Winpak Lane, Inc., et al.* Case No. CIVSB2202274, California
27 Superior Court, County of San Bernardino, Honorable Jessica Morgan presiding;

28 • *Carrasco v O.H. Barkhordar D.D.S., Inc., et al.* Case No. 22STCV21188, California

1 Superior Court, County of Los Angeles, Honorable Lawrence Riff presiding;
2 • *Correia v. Gallo Glass Company, et al.* Case No. CV-21-006459, California Superior
3 Court, County of Stanislaus, Honorable Sonny S. Sandhu presiding;
4 • *Hernandez v Bromley Foods, Inc., et al.* Case No. 56-2021-00561326-CU-OE-VTA,
5 California Superior Court, County of Ventura, Honorable Henr Walsh presiding;
6 • *Moreno v. Infiniti Group LLC., et al.* Case No. CIVSB2223551, California Superior
7 Court, County of San Bernardino, Honorable Joseph T. Ortiz presiding;
8 • *Kelley v. Applus Technologies, Inc., et al.* Case No. CIVSB2204889, California Superior
9 Court, County of San Bernardino, honorable Jessica Morgan presiding;
10 • *Helaire, et al. v. Smithfield Packaged Meats Corp., et al.* Case No. JCCP5244, California
11 Superior Court, County of San Bernardino, Honorable Jesica Morgan, presiding;
12 • *Davood v. NKSFB, LLC.* Case No. 22STCV17305, California Superior Court, County of
13 Los Angeles, Honorable Christopher Lui presiding.
14 • *Flores v. United Maintenance Company, Inc., et al.* Case No. 21STCV07008, California
15 Superior Court, County of Los Angeles, Honorable Carolyn B. Kuhl presiding;
16 • *Cabral v. Laser Care Specialists, A Professional Medical Corporation, et al.* Case No.
17 21STCV25443, California Superior Court, County of Los Angeles, Honorable Carolyn B. Kuhl
18 presiding;
19 • *Lopez Cabrera v. South Valley Almond Company, LLC, et al.* Case No. BCV-2-100722,
20 California Superior Court, County of Kern, Honorable Bernard C. Barmann, Jr. presiding;
21 • *Portillo Sanchez v. Paragon Services Janitorial Orange County, LLC, et al.* Case No.
22 20STCV38562, California Superior Court, County of Los Angeles, Honorable William F.
23 Highberger presiding;
24 • *Trigueros Garcia v. Highland Plastics, Inc., et al.,* Case No. CVRI2202836, California
25 Superior Court, County of Riverside, Honorable Harold Hopp presiding;
26 • *Magana Ramirez v. 360 Support Services, et al.* Case No. 22STCV20456, California
27 Superior Court, County of Los Angeles, Honorable Lawrence P. Riff presiding;
28 • *Helaire v. Smithfield Packaged Meats Corp, et al.* Case No. JCCP5244, California

1 Superior Court, County of San Bernardino, Honorable Jessica Morgan presiding;
2 • *Hernandez v. Bromley Foods, Inc., et al.* Case No. 56-2021-00561326-CU-OE-VTA,
3 California Superior Court, County of Ventura, Honorable Henry Walsh presiding;
4 • *Hernandez v. Central Valley Recovery Services, et al.* Case No. VCU290220, California
5 Superior Court, County of Tulare, Honorable Brett Hillman presiding;
6 • *Kelley v Applus Technologies, Inc., et al.* Case No. CIVSB2204889, California Superior
7 Court, County of San Bernardino, Honorable Jessica Morgan presiding;
8 • *Mcintosh v. WWL Vehicle Services Americas Inc., et al.* Case No. 56-2022-00562544-
9 CU-OE-VTA, California Superior Court, County of Ventura, Honorable Benjamin Coats
10 presiding;
11 • *Moore v. Dnata US Inflight Catering LLC, et al.* Case No. CGC-20-586512, California
12 Superior Court, County of San Francisco, Honorable Curtis Karnow presiding;
13 • *Peterson v. Sorenson Engineering, Inc., et al.* Case No. CIVDS2023994, California
14 Superior Court, County of San Bernardino, Honorable David Cohn presiding;
15 • *Torres v. Laurel Avenue, LLC, et al.* Case No. CIVSB2202708, California Superior
16 Court, County of San Bernardino, Honorable David Cohn presiding;
17 • *Ruiz v. Kleen Harvest, Inc., et al.* Case No. 21CV002319, California Superior Court,
18 County of Monterey, Honorable Thomas W. Wills presiding;
19 • *Russell v. Staffmark Investment LLC, et al.* Case No. CVRI12103921, California
20 Superior Court, County of Riverside, Honorable Harold Hopp presiding;
21 • *Vargas-Flores v. Barbor Bay Club, Inc., et al.* Case No. 21CV002396, California
22 Superior Court, County of Alameda, Honorable Michael Markman presiding;
23 • *Low v. Triple Canopy, Inc., et al.* Case No. 37-2023-0007078-CU-OE-CTL, California
24 Superior Court, County of San Diego, Honorable Carolyn Caietti presiding;
25 • *Lopez v. Bachem Americas, Inc., et al.* Case No. 23STCV04258, California Superior
26 Court, County of Los Angeles, Honorable Laura Seigle presiding;
27 • *Romero v. Armstrong Installation Service, et al.* Case No. 22CV022519, California
28 Superior Court, County of Alameda, Honorable Noel Wise presiding;

• *Sarmiento, et al. v. Neil Jones Food Company* Case No. 21CECG03825, California Superior Court, County of Fresno, Hon. Kristi Culver Kapetan presiding

• *Mendoza Cendejas v. E. & J. Gallo Winery, et al.* Case No. CV-22-005396, California Superior Court, County of Stanislaus, Honorable Sonny S. Sandhu presiding;

• *Garcia v. Nature Fresh Farms, LLC, et al.* Case No. ECU001961, California Superior Court, County of Imperial, Honorable Jeffery B. Jones presiding;

53. I have also settled matters on a “PAGA Only” basis for aggrieved employees in the past, including in:

• *Bailey v. Cannon Constructors*, Case No. 21STCV38274, California Superior Court, County of Los Angeles, Honorable Carolyn Kuhl presiding.

• *Johns v. Whelan Security of California, Inc., et al.* Case No. 22STCV68687, California Superior Court, County of Los Angeles, Honorable Laura Seigle presiding;

• *Carrion v. Clutter, Inc., et al.* Case No. 23STCV06709, California Superior Court, County of Los Angeles, Honorable Kerry Bensinger presiding;

• *Juarez v. Calmet Services, Inc., et al.* Case No. 21STCV33668, California Superior Court, County of Los Angeles, Honorable Kenneth R. Freeman presiding;

• *Pattingale v. Laird Family Estate, LLC et al.* Case No. 22CV000048, California Superior Court, County of Napa, Honorable Cynthia P. Smith presiding;

• *London Young v. Amazon.com LLC, et al.* Case No. 21STCV38280, California Superior Court, County of Los Angeles, Honorable Elaine Lu presiding;

• *Latrice Ackles v. Brinker Restaurant Corporation, et al.* Case No. 22STCV19068,
California Superior Court, County of Los Angeles, Honorable Gail Killefer presiding;

Adequacy of Plaintiff

54. Class Counsel believe no conflicts, disabling or otherwise, exists between Plaintiff and Class Members because Plaintiff alleges to have been damaged by the same alleged conduct of Defendants (i.e., Plaintiff was classified as non-exempt employees, was not paid premium pay, etc.) and thus have the incentive to fairly represent all Class Members' claims to achieve the maximum possible recovery.

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I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct this July 7, 2025, at Los Angeles, California.

/s/ Vedang J. Patel

Vedang J. Patel

EXHIBIT 1

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on behalf of herself and all others similarly situated,

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Attorneys for Defendant MILK AND HONEY HOLDINGS, LLC et al.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

VALERIE L. DIARD, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

MILK AND HONEY HOLDINGS, LLC et
al., a Texas limited liability company; and
DOES 1 through 100, inclusive,

Defendant.

CASE NO.: 23STCV23686

[Related with Case No. 23STCV29618]

*[Assigned for all purposes to the Hon.
William F. Highberger in Dept. 10]*

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: September 29, 2023

Trial Date: None Set

1 This Class Action and PAGA Settlement Agreement (“Settlement,” “Agreement” or
2 “Settlement Agreement”) is made by and between Plaintiff VALERIE L. DIARD (“Plaintiff”
3 and Defendant MILK AND HONEY HOLDINGS, LLC (“Defendant”). The Agreement refers
4 to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

5 **1. DEFINITIONS**

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations (“Class Action”)
7 against the Defendant, captioned *Valerie L. Diard v. Milk + Honey et al*, Case No.
8 23STCV23686, initiated on September 29, 2023, and pending in Superior Court of the State of
9 California, County of Los Angeles, in relation to Plaintiff’s lawsuit alleging civil penalties under
10 California Private Attorneys’ General Act of 2004, California Labor Code § 2698 et seq. (“PAGA
11 Action”), against the Defendant, captioned *Valerie L. Diard v. Milk + Honey et al*, Case No.
12 23STCV29618, initiated on September 29, 2023, and pending in Superior Court of the State of
13 California, County of Los Angeles. As part of this Agreement, the Parties agree to stipulate to
14 Plaintiff’s filing of a First Amended Complaint in the Class Action, adding all allegations brought
15 in the PAGA Action, and request for dismissal without prejudice of the PAGA Action, thereby
16 effectively consolidating the two actions for purposes of Settlement (hereinafter, the “Action”).
17 The First Amended Complaint is the operative complaint in the Action (“Operative Complaint”)

18 1.2. “Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”), the
19 neutral entity Plaintiff has agreed to appoint to administer the Settlement.

20 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
21 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
22 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
23 Preliminary Approval of the Settlement.

24 1.4. “Aggrieved Employees” means all non-exempt, hourly-paid individuals that worked for
25 Defendant in the State of California during the PAGA Period.

26 1.5. “Class” or “Settlement Class” means all non-exempt, hourly-paid individuals that worked
27 for Defendant in the State of California during the Class Period.

28 1.6. “Class Counsel” means David D. Bibiyan, Vedang J. Patel and Brooke W. Waldrop of

1 Bibiyan Law Group, P.C.

2 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
3 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
4 expenses, respectively, incurred to prosecute the Action.

5 1.8. “Class Data” means Class Member identifying information in the Defendant’s custody,
6 possession, or control, including the Class Member’s (1) name; (2) last known address(es); (3)
7 last known telephone number(s); (4) last four digits of the last known Social Security Number(s);
8 and (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or
9 separation date(s)).

10 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either
11 a Participating Class Member or Non-Participating Class Member (including a Non- Participating
12 Class Member who qualifies as an Aggrieved Employee).

13 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
14 current Class Member mailing addresses using all reasonably available sources, methods and
15 means including, but not limited to, the National Change of Address database, skip traces, and
16 direct contact by the Administrator with Class Members.

17 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
18 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
19 Class Members in English and Spanish in the form, without material variation, attached as Exhibit
20 A and incorporated by reference into this Agreement.

21 1.12. “Class Period” means the period from September 29, 2019 through the earlier of: (a)
22 November 18, 2024 or (b) the date of preliminary approval.

23 1.13. “Class Representative” means the named Plaintiff in the Operative Complaint in the
24 Action seeking Court approval to serve as a Class Representative.

25 1.14. “Class Representative Enhancement Award” means the payment to the Class
26 Representative for initiating the Action and providing services in support of the Action.

27 1.15. “Court” means the Superior Court of California, County of Los Angeles.

28 1.16. “Defendant” means named Defendant Milk and Honey Holdings, LLC.

- 1.17. “Defense Counsel” means Timothy Nelson of Medina McKelvey LLP.
- 1.18. “Effective Date” means the later of: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final Approval.
- 1.22. “Gross Settlement Amount” or “GSA” means \$355,000.00 (Three Hundred Fifty Five Thousand Dollars and Zero Cents) which is the total amount the Defendant agrees to pay under the Settlement, except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Enhancement Award, and Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency

entitled, under Labor Code section 2699, subd. (i).

1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Enhancement Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee was employed by Defendant for at least one day during the PAGA Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

1.31. “PAGA Period” means the period from September 29, 2022 through the earlier of: (a) November 18, 2024 or (b) the date of preliminary approval.

1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.33. “PAGA Notice” means Plaintiff’s September 29, 2023 letter to the Defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3 subd. (a).

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$20,000.00), allocated 25% to the Aggrieved Employees (\$5,000.00) and 75% to the LWDA (\$15,000.00) in settlement of PAGA claims.

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

1.36. “Plaintiff,” “Named Plaintiff,” or “Class Representative” means Valerie L. Diard, the named Plaintiff in the Action.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval

and Approval of PAGA Settlement.

1.39. “Qualified Settlement Account,” “QSA,” “Qualified Settlement Fund,” or “QSF” means a fund within the meaning of Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Administrator for the benefit of Participating Class Members.

1.40. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4 below.

1.42. “Released Parties” means: the Defendant, and each of its former, present and future owners, parents, and subsidiaries (including, but not limited to Milk + Honey Brentwood, LLC and Milk + Honey Culver City, LLC), and all of its current, former, and future officers, directors, members, managers, employees (including, but not limited to, Michelle Tsaur), consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

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

1.44. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline has expired.

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

1.46. “Workweek” means any week during which a Class Member was employed by Defendant for at least one day in a non-exempt, hourly-paid position and recorded active work time in Defendant’s timekeeping system during the Class Period.

1 **2. RECITALS**

2 2.1. On September 29, 2023, Plaintiff filed her Class Action Complaint in the County of Los
3 Angeles, Case No. 23STCV23686, alleging (1) failure to pay overtime wages; (2) failure to pay
4 minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5)
5 waiting time penalties; (6) wage statement violations; (7) failure to timely pay wages; (8) failure
6 to indemnify; (9) violation of Labor Code § 227.3; and (10) unfair competition.

7 2.2. On September 29, 2023, Plaintiff timely filed with the LWDA and served on Defendant
8 a Private Attorneys General Act of 2004 notice under Labor Code section 2699.3 stating Plaintiff
9 intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved
10 Employees for alleged Labor Code violations.

11 2.3. On December 4, 2023, Ms. Diard filed her PAGA Action Complaint in Los Angeles
12 County, Case No. 23STCV29618.

13 2.4. Thereafter, on August 20, 2024, the Parties participated in an all-day mediation presided
14 over by Katherine Edwards, Esquire, which led to the Parties reaching an agreement to settle the
15 Action.

16 2.5. Prior to mediation, Plaintiff obtained through informal discovery (a) timecards and
17 payroll records for 100% Class Members; (b) relevant policy and practice documents; (c)
18 Plaintiff's personnel file; (d) the following pertinent data points: total number of non-exempt
19 employees during the relevant class period; estimated workweeks in the class period; total
20 employees during PAGA period; total estimated PAGA pay periods; and average rate of pay.

21 2.6. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in
22 *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker*
23 *Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

24 2.7. The Court has not granted class certification.

25 2.8. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any
26 other pending matter or action asserting claims that will be extinguished or affected by the
27 Settlement.
28

1 **3. MONETARY TERMS**

2 3.1. Gross Settlement Amount. The Defendant promises to pay \$355,000.00 as the Gross
3 Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to
4 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
5 Class Payments. The Defendant has no obligation to pay the Gross Settlement Amount (or any
6 payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator
7 will disburse the entire Gross Settlement Amount without asking or requiring Participating Class
8 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the
9 Gross Settlement Amount will revert to the Defendant.

10 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
11 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
12 in the Final Approval:

13 3.2.1. To Plaintiff: Class Representative Enhancement Award to Plaintiff in the amount
14 of \$7,500.00, in addition to any Individual Class Payment and any Individual PAGA
15 Payment Plaintiff is entitled to receive as a Participating Class Member. The Defendant
16 will not oppose Plaintiff's request for a Class Representative Enhancement Award that
17 does not exceed this amount. As part of the motion for Class Counsel Fees Payment
18 and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
19 Representative Enhancement Award prior to the Final Approval Hearing. If the Court
20 approves a Class Representative Enhancement Award less than the amount requested,
21 the Administrator will retain the remainder in the Net Settlement Amount and shall be
22 distributed to Participating Class Members as part of their Individual Settlement
23 Payment. The Administrator will pay the Class Representative Enhancement Award
24 using IRS Form 1099. Plaintiff assumes full responsibility and liability for any
25 applicable employee taxes owed on the Class Representative Enhancement Award.

26 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one third
27 (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph
28 8.1 of this Agreement, is currently estimated to be \$183,333.33 and a Class Counsel

1 Litigation Expenses Payment of not more than \$30,000.00. Defendant will not oppose
2 requests for these payments provided that do not exceed these amounts. Plaintiff and/or
3 Class Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class
4 Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves
5 a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment
6 less than the amounts requested, the Administrator will allocate the remainder to the
7 Net Settlement Amount. Released Parties shall have no liability to Class Counsel or
8 any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel
9 Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator
10 will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using
11 one or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for
12 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation
13 Expenses Payment and holds the Defendant harmless, and indemnifies the Defendant,
14 from any dispute or controversy regarding any division or sharing of any of these
15 Payments. There will be no additional charge of any kind to either the Settlement Class
16 Members or request for additional consideration from Defendant for such work unless,
17 Defendant materially breaches this Agreement, including any term regarding funding,
18 and further efforts are necessary from Class Counsel to remedy said breach, including,
19 without limitation, moving the Court to enforce the Agreement. Should the Court
20 approve attorneys' fees and/or litigation costs and expenses in amounts that are less
21 than the amounts provided for herein, then the unapproved portion(s) shall be a part of
22 the Net Settlement Amount.

23 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
24 \$7,995.00 except for a showing of good cause and as approved by the Court. To the
25 extent the Administration Expenses are less or the Court approves payment less
26 than \$7,995.00, the Administrator will retain the remainder in the Net Settlement
27 Amount.

28 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by

1 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by
2 all Participating Class Members during the Class Period and (b) multiplying the result
3 by each Participating Class Member's Workweeks.

4 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
5 Class Member's Individual Class Payment will be allocated to settlement of
6 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
7 withholding and will be reported on an IRS W-2 Form. The 80% of each
8 Participating Class Member's Individual Class Payment will be allocated to
9 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
10 Non-Wage Portions are not subject to wage withholdings and will be reported
11 on IRS 1099 Forms. Participating Class Members assume full responsibility and
12 liability for any employee taxes owed on their Individual Class Payment.

13 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
14 Class Payments. Non-Participating Class Members will not receive any
15 Individual Class Payments. The Administrator will retain amounts equal to their
16 Individual Class Payments in the Net Settlement Amount for distribution to
17 Participating Class Members on a pro rata basis.

18 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
19 \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00)
20 allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual
21 PAGA Payments.

22 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)
23 dividing the amount of the Aggrieved Employees' 25% share of PAGA
24 Penalties \$5,000.00 by the total number of PAGA Period Pay Periods worked
25 by all Aggrieved Employees during the PAGA Period and (b) multiplying the
26 result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved
27 Employees assume full responsibility and liability for any taxes owed on their
28 Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks and PAGA Pay Periods. Based on a review of its records to date, Defendant estimates there are 209 Class Members who collectively worked a total of 9,457 Workweeks, and 157 Aggrieved Employees who worked a total of 3,329 PAGA Pay Periods.

4.2. Class Data. Not later than 7 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall make payment of the Gross Settlement Amount (as the same may be increased pursuant to Paragraph 8.1 of this Agreement) and Employer Taxes to the Settlement Administrator pursuant to Internal Revenue Code section 1.468B-1 for deposit in an interest-bearing qualified settlement account ("QSA") with an FDIC insured banking institution, for distribution in accordance with this Agreement and the Court's Orders, and subject to the conditions described herein no later than 14 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within seven (7) calendar days after

1 Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all
2 Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
3 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel
4 Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of
5 the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class
6 Representative Service Payment shall not precede disbursement of Individual Class Payments,
7 and the Individual PAGA Payments. All interest accrued shall be for the benefit of the Class
8 Members and distributed on a pro rata basis to Participating Class Members based on the number
9 of Workweeks worked by them in the Class Period.

10 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
11 Individual PAGA Payments and send them to the Class Members via First Class U.S.
12 Mail, postage prepaid. The face of each check shall prominently state the date (not less
13 than 180 days after the date of mailing) when the check will be voided. The
14 Administrator will cancel all checks not cashed by the void date. The Administrator will
15 send checks for Individual Settlement Payments to all Participating Class Members
16 (including those for whom Class Notice was returned undelivered). The Administrator
17 will send checks for Individual PAGA Payments to all Aggrieved Employees including
18 Non-Participating Class Members who qualify as Aggrieved Employees (including
19 those for whom Class Notice was returned undelivered). The Administrator may send
20 Participating Class Members a single check combining the Individual Class Payment
21 and the Individual PAGA Payment. Before mailing any checks, the Settlement
22 Administrator must update the recipients' mailing addresses using the National Change
23 of Address Database.

24 4.4.2. The Administrator must conduct a Class Member Address Search for all other
25 Class Members whose checks are returned undelivered without USPS forwarding
26 address. Within 7 days of receiving a returned check the Administrator must re-mail
27 checks to the USPS forwarding address provided or to an address ascertained through
28 the Class Member Address Search. The Administrator need not take further steps to

1 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
2 The Administrator shall promptly send a replacement check to any Class Member whose
3 original check was lost or misplaced, requested by the Class Member prior to the void
4 date.

5 4.4.3. For any Class Member whose Individual Class Payment check or Individual
6 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
7 shall transmit the funds represented by such checks to the California Controller's
8 Unclaimed Property Fund, in the name of the Class Member, thereby leaving no "unpaid
9 residue" subject to the requirements of California Code of Civil Procedure section 384,
10 subd. (b).

11 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
12 not obligate the Defendant to confer any additional benefits or make any additional
13 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
14 specified in this Agreement.

15 **5. RELEASE OF CLAIMS**

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

20 5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses,
21 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
22 and discharge Released Parties from all claims, transactions, or occurrences, including, but not
23 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
24 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
25 have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA
26 Notice ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to
27 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
28 benefits, social security benefits, workers' compensation benefits that arose at any time, or based

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

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

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

5.2. Release by Participating Class Members: For the duration of the Class Period, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint including: (1) all claims for failure to pay overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide meal periods, or compensation in lieu thereof; (4) all claims for failure to provide compliant rest periods, or compensation in lieu thereof (5) all claims for the failure to pay wages due upon termination or resignation; (6) all claims for non-compliant wage statements; (7) all claims for failure to timely pay wages; (8) all claims for failure to reimburse business expenses; (9) all claims for violations of Labor Code § 227.3; and (10) all claims asserted through California Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the Operative Complaint for Class Action claims.

5.3. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security,

workers' compensation, or claims based on facts occurring outside the Class Period.

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

6. MOTION FOR PRELIMINARY APPROVAL

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendant's Declaration In Support of Preliminary Approval. Within 7 days of full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Plaintiff's Responsibilities. Plaintiff will prepare and endeavor to deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming

1 willingness and competency to serve and disclosing all facts relevant to any actual or potential
2 conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm
3 attesting to its competency to represent the Class Members; its timely transmission to the LWDA
4 of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd.
5 (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code
6 section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential conflict of interest
7 with Class Members and the Administrator.

8 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
9 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
10 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
11 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
12 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
13 Administrator.

14 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
15 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
16 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
17 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
18 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
19 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
20 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
21 Court's concerns.

22 7. SETTLEMENT ADMINISTRATION

23 7.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the
24 Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by
25 this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
26 for payment of Administration Expenses. The Parties and their Counsel represent that they have
27 no interest or relationship, financial or otherwise, with the Administrator other than a professional
28 relationship arising out of prior experiences administering settlements.

1 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
2 Identification Number for purposes of calculating payroll tax withholdings and providing reports
3 state and federal tax authorities.

4 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
5 the requirements of a Qualified Settlement Fund (“QSF”) under U.S. Treasury Regulation section
6 468B-1.

7 7.4. Notice to Class Members

8 7.4.1. No later than three (3) business days after receipt of the Class Data, the
9 Administrator shall notify Class Counsel that the list has been received and state the
10 number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the
11 Class Data.

12 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
13 days after receiving the Class Data, the Administrator will send to all Class Members
14 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
15 the Class Notice with Spanish translation, substantially in the form attached to this
16 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the
17 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable
18 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
19 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
20 update Class Member addresses using the National Change of Address database.

21 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice
22 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
23 using any forwarding address provided by the USPS. If the USPS does not provide a
24 forwarding address, the Administrator shall conduct a Class Member Address Search,
25 and re-mail the Class Notice to the most current address obtained. The Administrator
26 has no obligation to make further attempts to locate or send Class Notice to Class
27 Members whose Class Notice is returned by the USPS a second time.

28 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks

and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, the Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer, in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves from (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative, signed by the Class Member, that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, signature, the last four digits of their Social Security Number, address, and email address or telephone number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or

1 otherwise susceptible to challenge. If the Administrator has reason to question the
2 authenticity of a Request for Exclusion, the Administrator may demand additional proof
3 of the Class Member's identity. The Administrator's determination of authenticity shall
4 be final and not appealable or otherwise susceptible to challenge.

5 7.5.3. Every Class Member who does not submit a timely and valid Request for
6 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
7 to all benefits and bound by all terms and conditions of the Settlement, including the
8 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
9 regardless whether the Participating Class Member actually receives the Class Notice or
10 objects to the Settlement.

11 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
12 Non-Participating Class Member and shall not receive an Individual Class Payment or
13 have the right to object to the class action components of the Settlement. Because future
14 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
15 Participating Class Members who are Aggrieved Employees are deemed to release the
16 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
17 PAGA Payment.

18 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
19 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
20 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
21 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the
22 allocation by communicating with the Administrator via mail. The Administrator must encourage
23 the challenging Class Member to submit supporting documentation. In the absence of any
24 contrary documentation, the Administrator is entitled to presume that the Workweeks contained
25 in the Class Notice are correct so long as they are consistent with the Class Data. The
26 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
27 Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator
28 shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods

to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement

7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Enhancement Award.

7.7.2. Participating Class Members may send written objections to the Administrator, by mail. The Participating Class Member's written objection should include the objector's name, the last four digits of their Social Security Number, address, email address or telephone number, and a statement of whether the objector plans to appear at the Final Approval Hearing, along with whatever legal authority, if any, the objector asserts in support of their objections. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-mailed).

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

7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Enhancement

Award, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator’s Declaration. Before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class

Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, the Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 209 Class Members and 9,457 Total Workweeks during the Class Period and (2) there are 157 Aggrieved Employees who worked 3,329 Pay Periods during the PAGA Period.

8.1 Increase in Workweeks. Defendant represents that there are no more than 9,457 Workweeks from the beginning of the Class Period through the date of mediation, August 20, 2024. If the total number of workweeks calculated for the Class Period is 10% higher (10,403 workweeks), then the GSA is to be increased proportionally by the workweeks calculated in excess of 10,403 workweeks multiplied by the per workweek value of the GSA. For example, if the total workweeks during the Class Period is 10,497 workweeks (an increase of 11%), then the GSA shall be increased by 11% (\$39,050.00). If this provision is triggered, Defendant has the

option to end the Class Period at an earlier date than described above (November 18, 2024) in order to limit the covered workweeks to 10,403 (or less) in lieu of paying an increase to the GSA. For purposes of this provision and for submission of the total workweeks to the Settlement Administrator, a workweek is one that a Class Member recorded time worked in the Defendant's time and payroll systems of record. Time paid, but not worked, such as vacation, medical leave, or any other type of paid or unpaid time off, does not qualify. Defendant shall provide to the administrator an excel sheet containing the recorded time worked for calculation by the Settlement Administrator. Parties agree that the portion of the GSA allocated to attorneys' fees will increase proportionally such that the total amount of attorneys' fees remains one-third of the GSA after the upward adjustment required by this provision is implemented.

9. MOTION FOR FINAL APPROVAL

Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall endeavor to provide drafts of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

9.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Enhancement Award, Class Counsel Fees Payment, Class Counsel Litigation

1 Expenses Payment, and Administrator Expenses Payment shall not constitute a material
2 modification to the Agreement within the meaning of this paragraph.

3 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
4 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
5 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
6 and (iii) addressing such post-Judgment matters as are permitted by law.

7 9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
8 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
9 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
10 respective counsel, and all Participating Class Members who did not object to the Settlement as
11 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
12 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
13 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
14 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
15 Parties' obligations to perform under this Agreement will be suspended until such time as the
16 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
17 the amount of the Net Settlement Amount.

18 9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
19 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
20 modification of this Agreement (including, but not limited to, the scope of release to be granted
21 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
22 expeditiously work together in good faith to address the appellate court's concerns and to obtain
23 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
24 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
25 the Court's award of the Class Representative Enhancement Award or any payments to Class
26 Counsel shall not constitute a material modification of the Judgment within the meaning of this
27 paragraph, as long as the Gross Settlement Amount remains unchanged.

1 **10. AMENDED JUDGMENT**

2 10.1 If any amended judgment is required under the Code of Civil Procedure section 384, the
3 Parties will work together in good faith to jointly submit a proposed amended judgment.

4 **11. ADDITIONAL PROVISIONS**

5 11.1. No Admission of Liability, Class Certification or Representative Manageability for Other
6 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
7 Nothing in this Agreement is intended or should be construed as an admission by the Defendant
8 that any of the allegations in the Operative Complaint have merit or that the Defendant has any
9 liability for any claims asserted; nor should it be intended or construed as an admission by
10 Plaintiff that the Defendant's defenses in the Action have merit. The Parties agree that class
11 certification and representative treatment is for purposes of this Settlement only. If, for any reason
12 the Court does grant Preliminary Approval, Final Approval or enter Judgment, the Defendant
13 reserves the right to contest certification of any class for any reasons, and the Defendant reserves
14 all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
15 certification on any grounds available and to contest the Defendant's defenses. The Settlement,
16 this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not
17 be admissible in connection with, any litigation (except for proceedings to enforce or effectuate
18 the Settlement and this Agreement).

19 11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, the Defendant
20 and Defense Counsel separately agree that, until the Motion for Preliminary Approval of
21 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause
22 or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement
23 directly or indirectly, specifically or generally, to any person, corporation, association,
24 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses,
25 all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter;
26 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a
27 court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
28 government agency. Each Party agrees to immediately notify each other Party of any judicial or

1 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, the
2 Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any
3 conversation or other communication, before the filing of the Motion for Preliminary Approval,
4 any with third party regarding this Agreement or the matters giving rise to this Agreement except
5 to respond only that “the matter was resolved,” or words to that effect. This paragraph does not
6 restrict Class Counsel’s communications with Class Members in accordance with Class
7 Counsel’s ethical obligations owed to Class Members.

8 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
9 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
10 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s
11 ability to communicate with Class Members in accordance with Class Counsel’s ethical
12 obligations owed to Class Members.

13 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
14 together with its attached exhibits shall constitute the entire agreement between the Parties
15 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
16 inducements made to or by any Party.

17 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
18 represent that they are authorized by Plaintiff and the Defendant, respectively, to take all
19 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
20 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
21 terms of this Agreement including any amendments to this Agreement.

22 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
23 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
24 Settlement Agreement, submitting supplemental evidence and supplementing points and
25 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
26 or content of any document necessary to implement the Settlement, or on any modification of the
27 Agreement that may become necessary to implement the Settlement, the Parties will seek the
28 assistance of a mediator and/or the Court for resolution.

1 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
2 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
3 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
4 action, or right released and discharged by the Party in this Settlement.

5 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, the Defendant nor Defense Counsel are
6 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
7 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
8 Part 10, as amended) or otherwise.

9 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
10 modified, changed, or waived only by an express written instrument signed by all Parties or their
11 representatives, and approved by the Court.

12 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
13 the benefit of, the successors of each of the Parties.

14 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
15 governed by and interpreted according to the internal laws of the State of California, without
16 regard to conflict of law principles.

17 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
18 this Agreement. This Agreement will not be construed against any Party on the basis that the
19 Party was the drafter or participated in the drafting

20 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
21 during Action and in this Agreement relating to the confidentiality of information shall survive
22 the execution of this Agreement

23 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
24 §1152, and all copies and summaries of the Class Data provided to Class Counsel by the
25 Defendant in connection with the mediation, other settlement negotiations, or in connection with
26 the Settlement, may be used only with respect to this Settlement, and no other purpose, and may
27 not be used in any way that violates any existing contractual agreement, statute, or rule of court.

28 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is

1 inserted for convenience of reference only and does not constitute a part of this Agreement.

2 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
3 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
4 weekend or federal legal holiday, such date or deadline shall be on the first business day
5 thereafter.

6 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
7 by facsimile, electronically (i.e., DocuSign, AdobeSign, or similar), or email which for purposes
8 of this Agreement shall be accepted as an original. All executed counterparts and each of them
9 will be deemed to be one and the same instrument if counsel for the Parties will exchange between
10 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
11 prove the existence and contents of this Agreement.

12 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
13 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
14 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
15 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
16 process.

17 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
18 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
19 illegality, or unenforceability shall in no way effect any other provision if the Defendant’s
20 Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in
21 writing to proceed as if such invalid, illegal, or unenforceable provision had never been included
22 in this Agreement.

23
24 **IT IS SO AGREED:**

25 Valerie Diard
26 Valerie Diard (Dec 6, 2024 16:30 PST)

27 Plaintiff, VALERIE L. DIARD

For Defendant, MILK AND
HONEY HOLDINGS, LLC et al.

AGREED AS TO FORM ONLY:

Vedang J. Patel

David D. Bibiyan
Vedang J. Patel
Brooke W. Waldrop
Counsel for Plaintiff

Timothy B. Nelson
Douglas R. Leach
Counsel for Defendant

inserted for convenience of reference only and does not constitute a part of this Agreement.

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

11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

11.19. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if the Defendant’s Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Plaintiff, VALERIE L. DIARD

For Defendant, MILK AND
HONEY HOLDINGS, LLC et al.

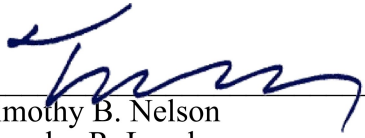
DocuSigned by:

Anna Claxton

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AGREED AS TO FORM ONLY:

David D. Bibiyan
Vedang J. Patel
Brooke W. Waldrop
Counsel for Plaintiff



Timothy B. Nelson
Douglas R. Leach
Counsel for Defendant

EXHIBIT A

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND DATE
FOR FINAL APPROVAL HEARING**

Valerie L. Diard v. Milk + Honey et al.,

(County of Los Angeles, California Superior Court Case Nos. 23STCV23686)

**As a current or former non-exempt, hourly-paid California employee of Milk and Honey Holdings, LLC
you are entitled to receive money from a class action settlement.**

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because the records of Milk and Honey Holdings, LLC (“Defendant”), show that you are a “Class Member” and, therefore, entitled to a payment from this class action settlement. Class Members are all non-exempt, hourly-paid individuals that worked for Defendant in the State of California during the period from September 29, 2019 through November 18, 2024 (“Class Period”).

- The settlement is to resolve a class action lawsuit, *Valerie L. Diard v. Milk + Honey et al.*, pending in the Superior Court of California for the County of Los Angeles, Case Number 23STCV23686 (the “Lawsuit”), alleging causes of action against Defendant for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) waiting time penalties; (6) wage statement violations; (7) failure to timely pay wages; (8) failure to indemnify; (9) violation of Labor Code § 227.3; and (10) unfair competition. Based on the alleged Labor Code violations above-mentioned and other alleged Labor Code violations, Plaintiff also seeks penalties under California Labor Code Private Attorneys’ General Act (“PAGA”). Defendant denies any wrongdoing but has agreed to settle the matter and resolve this dispute.
- On [REDACTED], the Honorable William F. Highberger of the Los Angeles County Superior Court granted preliminary approval of this class action settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendant vigorously denies the claims in the Lawsuit and contend that they fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked at any time from September 29, 2022 through November 18, 2024 ("PAGA Period") as a non-exempt, hourly-paid employee of Defendant, as well, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims,

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

	defined below, (your “Individual PAGA Payment”) even if you opt out of the class settlement.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, Phoenix Class Action Administration Solutions, about why you object to the settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval Hearing scheduled for [DATE AND TIME] in Department 10 of the Los Angeles County Superior Court, located at 312 N Spring St. Los Angeles CA 90012.

The Final Approval Hearing on the adequacy, reasonableness and fairness of the Settlement will be held at [REDACTED] : [REDACTED].m. on [REDACTED], in the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 N Spring St. Los Angeles CA 90012, in Department 10. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

Defendant’s records show that you currently work, or previously worked, for Defendant as a non-exempt, hourly-paid employee in the State of California at some point during the Class Period. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a “Settlement Administrator” appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

What is This Case About?

Valerie L. Diard was a non-exempt, hourly-paid employee of Defendant. She is the “Plaintiff” in this case and is suing on behalf of herself and Class Members for Defendant’s alleged failure to pay overtime wages, failure to pay minimum wages, failure to provide meal periods, failure to provide rest periods, waiting time penalties, wage statement violations, failure to timely pay wages, failure to indemnify, violation of Labor Code § 227.3, and unfair competition.

Based on the alleged Labor Code violations above-mentioned and other alleged Labor Code violations, Plaintiff also seeks penalties under California Labor Code Private Attorneys’ General Act (“PAGA”).

Defendant denies all the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff’s claims. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Summary of the Settlement Terms

Plaintiff and Defendant have agreed to settle this case on behalf of themselves and Class Members and Aggrieved Employees for the Gross Settlement Amount of \$355,000.00, unless increased pursuant to the Settlement Agreement. The Gross Settlement includes: (1) Administration Costs up to \$7995.00; (2) a service award of up to \$7,500.00 to Plaintiff Valerie L. Diard, for her time and effort in pursuing this case; (3) up to one third (1/3) of the Gross Settlement Amount in attorneys' fees which, unless increased pursuant to the Settlement Agreement, amounts to \$183,333.33; (4) up to \$30,000.00 in litigation costs to Class Counsel, according to proof; and (5) payment allocated to PAGA penalties in the amount of \$20,000.00 of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent (75%) of the amount allocated toward PAGA, or \$15,000.00, will be paid to the LWDA and twenty-five percent (25%), or \$5,000.00, will be distributed to Aggrieved Employees. After deducting these sums, a total of approximately not less than \$106,171.67 will be available for distribution to Class Members ("Net Settlement Amount").

Defendant represents that there are no more than 9,457 Workweeks from the beginning of the Class Period through the date of mediation, August 20, 2024. If the total number of workweeks calculated for the Class Period is 10% higher (10,403 workweeks), then the GSA is to be increased proportionally by the workweeks calculated in excess of 10,403 workweeks multiplied by the per workweek value of the GSA. For example, if the total workweeks during the Class Period is 10,497 workweeks (an increase of 11%), then the GSA shall be increased by 11% (\$39,050.00). If this provision is triggered, Defendant has the option to end the Class Period at an earlier date than described above (November 18, 2024) in order to limit the covered workweeks to 10,403 (or less) in lieu of paying an increase to the GSA.

Distribution to Class Members

Class Members who do not opt out will receive a *pro rata* payment of the Net Settlement Amount based on the number of weeks worked by Class Members in non-exempt, hourly-paid positions for Defendant in California during the Class Period ("Eligible Workweeks"). Specifically, Class Members' payments will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. Otherwise stated, the formula for a Class Member is: (Net Settlement Amount ÷ total Settlement Class Eligible Workweeks) x Participating Class Member's Workweeks = Participating Class Member's Individual Class Payment. In addition, Class Members who worked during the PAGA Period (*i.e.*, Aggrieved Employees) will receive a *pro rata* share of the \$5,000.00 allocated as PAGA penalties, whether or not they opt out, based on the number of workweeks worked by each Aggrieved Employee during the PAGA Period.

Defendant's records indicate that you worked [Eligible Workweeks] Workweeks as a non-exempt, hourly-paid employee in California during the Class Period and [Eligible Workweeks] Workweeks during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment as an Aggrieved Employee would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than [RESPONSE DEADLINE]. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on IRS Form 1099. 20% of each Settlement Payment to Class Members who do not opt out will be allocated as wages and reported on an IRS Form W-2, and 80% will be allocated as penalties and interest reported on IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Your check will be valid for 180 days after issuance. After 180 days, uncashed checks will be cancelled and the funds associated will be transmitted to the California Controller's Office, Unclaimed Property Fund.

Your Options Under the Settlement

Option 1 – *Do Nothing and Receive Your Payment*

If you do not opt out, you are automatically entitled to your Individual Settlement Payment (*i.e.*, your share of the Net Settlement Amount) because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the entire release in the settlement and receive your Individual Settlement Payment, as well as your Individual PAGA Payment if you are also an Aggrieved Employee. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment(s) set forth above.**

Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all "Released Claims" he or she may have or had upon final approval of this Settlement and payment by Defendant to the Settlement Administrator.

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

Release by Participating Class Members: For the duration of the Class Period, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint including: (1) all claims for failure to pay overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide meal periods, or compensation in lieu thereof; (4) all claims for failure to provide compliant rest periods, or compensation in lieu thereof (5) all claims for the failure to pay wages due upon termination or resignation; (6) all claims for non-compliant wage statements; (7) all claims for failure to timely pay wages; (8) all claims for failure to reimburse business expenses; (9) all claims for violations of Labor Code § 227.3; and (10) all claims asserted through California Business & Professions Code section 17200, et seq. arising out of the Labor Code violations referenced in the Operative Complaint for Class Action claims.

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

"Released Parties" means the Defendant, and each of its former, present and future owners, parents, and subsidiaries (including, but not limited to Milk + Honey Brentwood, LLC and Milk + Honey Culver City, LLC), and all of its current, former, and future officers, directors, members, managers, employees (including, but not limited to, Michelle Tsaur), consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

Option 2 – *Opt Out of the Settlement*

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

If you do not wish to receive your Individual Settlement Payment or release the Class Released Claims, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must include your name, signature, the last four digits of your Social Security Number, address, and email address or telephone number and any statement standing for the proposition that you do not wish to participate in the settlement. Sign, date and mail your written request for exclusion to the address below.

[Phoenix Class Action Administration Solutions]
[Mailing Address]

Your written request for exclusion must be mailed and postmarked to the Administrator not later than [RESPONSE DEADLINE]. If you submit a Request for Exclusion which is not postmarked by this date, your Request for Exclusion will be rejected, and you will remain a part of the Class.

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, if you are an Aggrieved Employee, you will still receive your Individual PAGA Payment and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right, if any, to individually pursue only the Class Released Claims.

Option 3 – *Submit an Objection to the Settlement*

If you wish to object to the Settlement, you may submit an objection in writing by mail, stating why you object to the Settlement. Your written objection must provide your name, your signature, the last four digits of your Social Security Number, address, email address or telephone number, a statement of whether you plan to appear at the Final Approval Hearing, and a statement of the reason(s), along with whatever legal authority, if any, why you believe that the Court should not approve the Settlement. Your written objection must be mailed and postmarked to the Administrator no later than [RESPONSE DEADLINE]. Please note that you cannot both object to the Settlement and opt out of the Settlement. If you exclude yourself, then your objection will be overruled. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

Even if you don't submit a written objection, you may appear at the Final Approval Hearing and provide a verbal objection before the Court.

Final Approval Hearing

You may, if you wish, appear at the Final Approval Hearing set for [REDACTED] at [REDACTED]:[REDACTED] .m. in the Department 10 of the Los Angeles County Superior Court, located at 312 N Spring St. Los Angeles CA 90012, and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may attend this hearing virtually by audio or video at <https://lacourt.org/>. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may call the Settlement Administrator at [PHONE NUMBER] or Class Counsel, whose information appears below:

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

BIBIYAN LAW GROUP, P.C.

David D. Bibiyani (SBN 287811)

david@tomorrowlaw.com

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

Megan Lazar (Cal. Bar. No. 315007)

megan@tomorrowlaw.com

1460 Westwood Boulevard

Los Angeles, California 90024

Tel: (310) 438-5555; Fax: (310) 300-1705

You may also visit the Settlement Administrator's website at [WEBSITE] to gain access to key documents in this case, including the Settlement Agreement, the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Department 10 of the Los Angeles County Superior Court, located at 312 N Spring St. Los Angeles CA 90012, during regular business hours of each court day. You may also obtain these documents through the Court's website at <https://lacourt.org/>.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.**

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

EXHIBIT 2



BIBIYAN LAW GROUP, P.C.

8484 Wilshire Blvd., Suite 500
Beverly Hills, California, 90211
310.438.5555 T
310.300.1705 F
www.employmentlawyerla.com

September 29, 2023

PAGA NOTICE FILED ELECTRONICALLY

Re: Notice Letter of Valerie L. Diard on Behalf of Herself and
Aggrieved Employees Under California Labor section 2699.3

Employer: MILK AND HONEY HOLDINGS, LLC
2905 San Gabriel St. Ste. 300
Austin, Texas 78705

MILK + HONEY BRENTWOOD, LLC
2905 San Gabriel St. Ste. 300
Austin, Texas 78705

MILK + HONEY CULVER CITY, LLC
2905 San Gabriel St. Ste. 300
Austin, Texas 78705

MICHELLE TSAUR
11826 San Vicente Blvd, Los Angeles,
California 90049

To Whom It May Concern:

This letter shall constitute notice under Labor Code section 2699.3 (hereinafter “PAGA Notice”). The \$75 filing fee for the PAGA Notice was paid online by credit card at the time this PAGA Notice was submitted online to the Department of Industrial Relations.

This PAGA Notice concerns Valerie L. Diard (“Employee”) employment with Employee’s former employers: Milk and Honey Holdings, LLC, Milk + Honey Brentwood, LLC, Milk + Honey Culver City, LLC and Michelle Tsaur. Employee was employed as a non-exempt employee of Milk and Honey Holdings, LLC, Milk + Honey Brentwood, LLC, Milk + Honey Culver City, LLC and Michelle Tsaur at, without limitation, 11826 San Vicente Blvd, Los Angeles, California 90049, with duties that included, but were not limited to, maintaining the locker rooms, cleaning the showers, changing out dirty laundry and tending to clients from approximately July of 2022 and through approximately October of 2022. In connection with the alleged claims for failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 245, *et seq.*, Labor Code section 432, Labor Code section 1198.5, Labor Code section 2802, restraints on competition, whistleblowing and freedom of speech, Employee seeks to represent all employees of Milk and Honey Holdings, LLC, Milk + Honey Brentwood, LLC, Milk + Honey Culver City, LLC and Michelle Tsaur and each of them, as well as their parents, subsidiaries and affiliates (hereinafter, collectively, “Employer”). On all other claims mentioned herein, Employee seeks to represent only non-exempt employees of Employer.

Employee and other aggrieved employees are covered by Labor Code section 510 and applicable Wage Orders. Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of requiring its employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without paying them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to come early to work and leave late work without being able to clock in for all that time, to suffer under Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make phone calls or drive off the clock, and/or go through security screenings and/or temperature checks off the clock; failing to include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods where overtime was worked and the additional compensation was earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked, and for paying straight pay instead of overtime pay to the detriment of Employee and other aggrieved employees. Consequently, Employee is informed and believes, and based thereon alleges, that Employer violated Labor Code sections 510, 1194, and applicable Wage Orders based on its practice of providing total compensation that is less than the required legal overtime compensation for the overtime worked, entitling Employee and other aggrieved employees to damages. Employer would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of failing to compensate Employee and other aggrieved employees with minimum wages for all hours worked or otherwise under Employer's control as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to come early to work and leave late work without being able to clock in for all that time, to suffer under Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make phone calls or drive off the clock; detrimental rounding of employee time entries; editing and/or manipulation of time entries to show less hours than actually worked; and failing to pay split shift premiums. In addition, Employee and other aggrieved employees were required to report to work, and did report, but were not put to work and/or were furnished less than half their usual or scheduled day's work without being paid for half the usual or scheduled work at their regular rate of pay. As such, Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code sections 221, 223, 1197, 1182.12, Cal. Code Regs, title 8, section 110404(5)(A), and applicable Wage Orders based on its continued failure to pay minimum wages for all hours worked, entitling Employee and other aggrieved employees to actual and liquidated

damages under, without limitation, Labor Code sections 1194 and 1194.2. Employer would also be liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of compelling its employees to work in excess of five (5) and ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof including, without limitation: by interrupting meal periods; not providing timely meal periods; failing to provide first and second meal periods; providing short meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal periods; and auto-deducting meal periods that could not be auto-deducted by law or during which employees worked. Consequently, Employee is informed and believes, and based thereon alleges, that Employer violated Labor Code section 512, entitling Employee and other aggrieved employees to premium payments under Labor Code section 226.7. However, Employee is informed and believes that those premium payments under Labor Code section 226.7 were not made, either, for these non-compliant meal periods, either at all or at the proper regular rate of pay. Employer would thus be liable for civil penalties pursuant to Labor Code sections 558 and 2699 for both failing to authorize the taking of compliant meal periods, as well as for failing to provide premium pay under Labor Code section 226.7.

Employee is informed and believes, and based thereon alleges, that Employer maintains policies or practices of compelling its non-exempt employees, including, without limitation, Employee, to work over four-hour periods (or major fractions thereof) without authorizing and permitting Employee and other aggrieved employees to take uninterrupted, timely, and complete ten-minute rest periods in which the employees are completely relieved of all of their duties, including, without limitation: by failing to provide rest periods all together; requiring that they be bundled together and/or with meal periods; interrupting them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not providing them in a timely fashion; and not permitting employees to leave the premises; and otherwise requiring on-duty/on-call rest periods. As such, Employee is informed and believes, and based thereon alleges, that Employee and other aggrieved employees are entitled to relief under, without limitation, Labor Code section 226.7. However, Employee is informed and believes that those premium payments under Labor Code section 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper regular rate of pay. Employer would thus be liable for civil penalties pursuant to Labor Code sections 558 and 2699 for both failing to authorize the taking of compliant rest periods, as well as for failing to provide premium pay under Labor Code section 226.7.

Employee is informed and believes, and based thereon alleges, that Employer maintains policies or practices of failing to permit Employee and other aggrieved employees from taking cooldown rest periods as required under California Code of Regulations, Title 8, Section 3395 and premium pay in lieu thereof under Labor Code section 226.7. As a result, Employer would be liable for civil penalties under Labor Code sections 558 and 2699.

In addition to the above, Employee is informed and believes, and based thereon alleges that Employer failed and continue to fail to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under Labor Code section 1174, making it difficult for Employee and other aggrieved employees to calculate their unpaid wages and/or premium payments. Employer also failed to provide these documents to Employee and other aggrieved employees upon request. This would entitle Employee and other aggrieved employees to penalties prescribed by Labor Code sections 226 and 1198.5. Employer would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5 and 2699.

As a result of, among other things, Employer's herein-described policy or practice of failing to: accurately record time; failing to pay overtime and minimum wages; provide meal periods; provide rest periods; and provide compensation in lieu of meal or rest periods; as described above, Employee is informed and believes, and based thereon alleges, that Employer also intentionally failed and continues to fail to furnish aggrieved employees, including, without limitation, Employee, with itemized wage statements that accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; the legal name and address of the other; and other such information as required by Labor Code section 226, subdivision (a). Specifically, Employer intentionally failed to furnish employees with itemized wage statements that accurately reflect the hours worked by Employee and other aggrieved employees and the rates of pay at which they were or should have been paid (including due to failure to pay at the proper regular rate), thus resulting in a failure to reflect gross and net wages earned and paid at each rate, as well. Consequently, since Employer would have failed to comply with Labor Code section 226, subdivision (a), Employee and other aggrieved employees would be entitled to recover penalties under, without limitation, Labor Code section 226, subdivision (e). Employer would also be liable for civil penalties pursuant to Labor Code sections 226.3, 558, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer also failed and refused, and continue to fail and refuse, to timely pay compensation to Employee and other terminated or resigned employees, including but not limited to, all overtime wages owed; all minimum wages owed; and all premium pay owed as set out above, including, without limitation, for failure to pay at the proper regular rate of pay, among other things. Consequently, Employer would be liable for waiting time penalties for having violated California Labor Code sections 201, 202, and 203. Employer would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges, that Employer has or had a policy or practice of unlawfully deducting wages by issuing in payment of wages due, or to become due, or as an advance on wages to be earned: an order, check, draft, note, memorandum, gift card, or other acknowledgement of indebtedness, (unless it was negotiable and payable in cash, on demand, without discount, at some established place of business in the state), the name and address

of which must but did not appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be but was not at least 30 days, the maker or drawer did not have sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment or any scrip, coupon, cards, or other thing redeemable, in merchandise or purporting to be payable or redeemable otherwise than in money. Employee is further informed and believes, and based thereon alleges, that such wages were not compensated at the “regular rate” of compensation as provided under Labor Code sections 226.7 and 510, subsection (a). Consequently, Employee is informed and believes, and based thereon alleges, that Employee and other aggrieved employees are entitled to relief under, without limitation, Labor Code sections 212, 213, 226.7, and 510 subsection (a). Employer would thus be liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

Employee is further informed and believes, and based thereon alleges that Employer failed and refused, and continues to fail and refuse, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employee and other aggrieved employees with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employer, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employer under Labor Code section 2810.5. Employee is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employer to pay employees at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Employee is additionally informed and believes that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting. Among other relief, employees may collect from Employer in connection with these violations’ civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer also failed and refused, and continues to fail and refuse, to reimburse employees, including, without limitation, Employee and other aggrieved employees, with their costs incurred for driving personal vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits, separately laundering mandatory uniforms, for the purchase of tools and safety equipment, and for the purchase and maintenance of cellular phones and cellular phone plans, in direct consequence of the discharge of their duties, or of their obedience to the directions of Employer, as required by Labor Code section 2802, and other statutory and common law offenses. As a result, Employer are liable to reimburse Employee and other aggrieved employees for these costs incurred in furtherance of work duties. In addition, Employer would be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is further informed and believes, and based thereon alleges, that Employer has or had a policy or practice of failing to reimburse deposits made, including uniform deposits together with all interest owed at the separation of employment in violation of Labor Code section 404, entitling Employee and other aggrieved employees to damages in the amount of the deposit

and accrued interest. Employer would also be liable for civil penalties under Labor Code sections 558 and 2699.

Employee is further informed and believes, and based thereon alleges, that Employer has or had a policy or practice of failing to provide Employee and other aggrieved employees with all rights afforded to them under the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*, including, without limitation, the amount of paid sick leave required to be provided pursuant to California and local laws. Employee is further informed and believes that the sick pay was not provided at the proper regular of pay as required under California law due to failure to properly calculate the regular rate. Employee is further informed and believes that Employer also did not permit its use upon request by Employee and other aggrieved employees as contemplated under California and local laws. Employee is additionally informed and believes that the notice requirement of Labor Code section 245 *et seq.* involves a mandatory payroll or workplace injury reporting. As such, Employer would be liable for civil penalties for violation of the paid sick leave regulations under Labor Code section 2699, as well as equitable, injunctive, or restitutionary relief, and reasonable attorneys' fees and costs.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to pay aggrieved employees their paid time off and vacation time owed upon separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3 and applicable Wage Orders. As such, Employer would be liable for civil penalties for violation of Labor Code section 227.3 under Labor Code section 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to pay aggrieved employees their wages in accordance with Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following month." Employee is informed and believes and based thereon alleges that Employer did not and do not pay Employee and other aggrieved employees in accordance with Labor Code Section 204. As such, Employee is informed and believes, and based thereon alleges that Employer violated Labor Code section 204. Employer would be liable for civil penalties pursuant to Labor Code sections 210, 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy of failing to provide all temporary workers with owed wages weekly by not later than the regular payday of the following week. As a result, pursuant to Labor Code section 201.3, Employer would be liable for civil penalties pursuant to Labor Code sections 201.3.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to provide all working employees with suitable seats when the nature of the work reasonably permits the use of seats. Employee is further informed and believes, and based thereon alleges that Employer has failed to place an adequate number of seats in reasonable

proximity to the work area and/or permitted employees to use such seats when it does not interfere with the performance of their duties when employees are not engaged in the active duties of their employment and the nature of their work requires standing.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from using or disclosing the skills, knowledge and experience they obtained at Employer for purposes of competing with Employer, including, without limitation, preventing Employees from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employer and under what circumstances that they might be receptive to an offer from a rival employer. As such, Employee is informed and believes that this violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employer would be liable for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from disclosing violations of state and federal law, either within Employer to their managers or outside Employer to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition, Employee is informed and believes that these policies and/or practices prevent Employee and/or other aggrieved employees from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code section 232 and 232.5. These violations of the Labor Code would expose Employer to liability for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from engaging in lawful conduct during non-work hours, thus violating state statutes entitling employees to disclose wages, working conditions, and illegal conduct, including, without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision (k). Employee is informed and believes that this lawful conduct includes the exercise of Employee and/or other aggrieved employee's constitutional rights of freedom of speech and economic liberty and would thus expose Employer to liability for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of conducting unlawful background checks on prospective and current employees prior to making a conditional offer. Employee is informed and believes, and based thereon alleges, that Employer violated applicable laws by, without limitation: requiring job applicants and employees to disclose their conviction history before Employer made a conditional offer of employment; inquiring into or considering the conviction history of applicants before Employer made any conditional offers of employment; considering, distributing, or disseminating information about arrests not followed by conviction, referrals to or participation in a pretrial or posttrial diversion program, convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a full

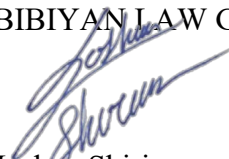
pardon or has been issued a certificate of rehabilitation, while conducting conviction history background checks in connection with any applications for employment; intending to deny an applicant a position of employment solely or in part because of the applicant's conviction history; and asking applicants for employment to disclose, through any written form or verbally, information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of the juvenile court, to the detriment of Employee and other aggrieved employees. As such, Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code section 432.7 and Government Code section 12952, entitling Employee and other aggrieved employees to damages. Employer would also be liable for civil penalties pursuant to Labor Code sections 432.7, 432.8, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of relying on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer the applicant in violation of Labor Code section 432.3 by including, on Employer's application for employment, an inquiry regarding current and/or former salary history information, including, without limitation, compensation and benefits of the applicant for employment. As such, Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code section 432.3 entitling Employee and other aggrieved employees to damages. Employer would also be liable for civil penalties pursuant to Labor Code sections 432.3 and 2699.

Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), please advise within sixty-five (65) calendar days of the postmarked date of this notice whether the LWDA intends to investigate the violations alleged above. Our office understands that if we do not receive a response within sixty-five (65) calendar days of the postmark date of this PAGA Notice that the LWDA intends to investigate these allegations, Employee may immediately thereafter file a civil complaint against Employer to allege causes of action for civil penalties under the Private Attorney General Act for the herein-described alleged violations of the Labor Code.

Very truly yours,

BIBIYAN LAW GROUP, P.C.



Joshua Shirian

cc: Milk and Honey Holdings, LLC (via U.S. Certified Mail, Return Receipt Requested)
cc: Milk + Honey Brentwood, LLC (via U.S. Certified Mail, Return Receipt Requested)
cc: Milk + Honey Culver City, LLC (via U.S. Certified Mail, Return Receipt Requested)
cc: Michelle Tsaur (via U.S. Certified Mail, Return Receipt Requested)