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Attorneys for Plaintiff, ALBERTO SORIANO NARCISCO, on behalf of himself and all others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ALBERTO SORIANO NARCISCO, an individual, and on behalf of all others similarly situated,

Plaintiff,

v.

O'TASTY FOODS INC., a California stock corporation; SOUTH BAY SAFETY INC, a California stock corporation; SANDRA ROMERO, an individual, and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 23STCV23826

[Assigned for all purposes to the Hon. Theresa M. Traber in Dept. 1]

DECLARATION OF KEATON D. MENDOZA IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND PROVISIONAL CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY

HEARING INFORMATION:

DATE: February 2, 2027
TIME: 10:30 a.m.
DEPT: 1

DECLARATION OF KEATON D. MENDOZA

1. I am an attorney at law, duly licensed to practice before all the Courts of the State of California and I am an attorney at Bibiyan Law Group, P.C., counsel for plaintiff Alberto Soriano Narciso ("Plaintiff"), and all others similarly situated and aggrieved. As such, I am familiar with the file in this matter and, if called as a witness, I could and would competently testify to the following facts of my own personal knowledge.

2. On or around September 29, 2023, Elena De Jesus Sanchez filed with the California Labor and Workforce Development Agency ("LWDA") and served on defendants O'Tasty Foods, Inc., and South Bay Safety, Inc. (collectively, "Defendants"), a notice under Labor Code section 2699.3, stating she intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for alleged Labor Code violations ("PAGA Notice"). A true and correct copy of the PAGA Notice is attached hereto as Exhibit "2."

3. Also on or around September 29, 2023, Elena De Jesus Sanchez commenced this Action by filing a class action complaint alleging causes of action against Defendants for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to pay all wages due upon separation; (6) failure to provide accurate wage statements; (7) failure to timely pay wages during employment; (9) failure to pay unused vested vacation time; and (10) engaging in unfair competition (the "Action").

4. On or around December 14, 2023, Elena De Jesus Sanchez filed with the LWDA and served on Defendants an amended notice under Labor Code section 2699.3, adding Plaintiff as complainant ("Amended PAGA Notice"). A true and correct copy of the Amended PAGA Notice is also attached hereto as Exhibit "2."

5. On or around September 20, 2024, Plaintiff filed a First Amended Complaint against Defendants removing Elena De Jesus Sanchez as Plaintiff and adding Alberto Soriano Narcisco as named plaintiff in the Action.

6. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

7. Prior to mediation, Plaintiffs obtained, through informal discovery from defendant O'Tasty Foods, Inc.: (a) portions of defendant South Bay Safety, Inc.'s policies and procedures issued to defendant O'Tasty Fooods, Inc., as a proposal; (b) purported meal break waivers for a few employees from staffing agencies; (c) break sheets for a few employees tracking rest periods; (d) timecard data and reports; (e) invoices from defendant South Bay Safety, Inc., billing for the cost of employee pay; and (f) list of employees, rates of pay, and employment dates.

8. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

9. On or around September 23, 2024, the Parties participated in an all-day mediation presided over by Gig Kyriacou, Esquire. The mediation was initially unsuccessful, but the Parties continued negotiations with the aid of the mediator and agreed to globally resolve all class and PAGA claims in the Action on or around February 12, 2026.

10. On or around September 29, 2025, Plaintiff filed a Second Amended Complaint in the Action, adding a cause of action for civil penalties under PAGA against defendant O'Tasty Foods, Inc., only. The Second Amended Complaint is the operative complaint in the Action (the "Operative Complaint").

11. Class Counsel have conducted significant investigation of the law and facts relating to the claims asserted in the Action and the PAGA Notice, and have concluded that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class, taking into account the sharply contested issues involved, the expense and time necessary to litigate the Action through trial and any appeals, the risks and costs of further litigation of the Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information learned through informal discovery regarding Plaintiff's allegations, and the substantial benefits to be received by Settlement Class Members.

The Proposed Settlement

12. 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 Agreement, a copy of which is attached hereto as Exhibit "1." A summary of the terms of the settlement is as follows:

Defendants 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 persons currently or formerly employed by defendant O'Tasty Foods, Inc. ("Defendant O'Tasty"), either directly or placed by defendant South Bay Safety, Inc. ("Defendant South Bay"), to work for Defendant O'Tasty, as non-exempt, hourly-paid employees during the Class Period in the State of California. "Class Period" means the period from September 29, 2019, through April 04, 2026 for Defendant O'Tasty. The "Class Period" for Defendant South Bay is September 29, 2019 through September 30, 2022 as Defendant South Bay closed its doors and stopped doing business on Friday, September 30, 2022.
- Defendants will pay $900,000.00 ("Gross Settlement Amount") to resolve the matter.
- Defendants represent that there are no more than 40,000 Workweeks during the Class Period. In the event the number of Workweeks during the Class Period increases by more than 10%, or 4,000 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the Workweeks in excess of 44,000 multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the Gross Settlement Amount by 40,000. The Parties agree that the Workweek Value amounts to $22.50 per workweek ($900,000 / 40,000 workweeks). Thus, for example, should there be 45,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by $22,500. (45,000 Workweeks – 44,000 Workweeks x $22.50/ Workweek.).
- Defendants will pay the employer's share of taxes separate and apart from the Gross Settlement Amount.
- This is a non-reversionary settlement.
- Class Members will be paid their *pro rata* share of the class action settlement based on the total number of Workweeks worked during the Class Period.

- "Workweek" means any week during which a Class Member worked for Defendants, for at least one day during the Class Period, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).
- The Settlement Administration costs, estimated not to exceed $8,500.00, will be paid out of the Gross Settlement Amount.
- Class Counsel, comprised of David D. Bibiyan and Sarah Cohen of Bibiyan Law Group, P.C., may apply for, and Defendant will not oppose, attorneys' fees of *up to* one third (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to the Settlement Agreement, amounts to $300,000.00, and actual costs, not to exceed $30,000.00, all of which will be paid out of the Gross Settlement Amount.
- Class Counsel hereby apply for, and Defendants will not oppose, service award of up to $10,000.00 to Plaintiff, which will be paid out of the Gross Settlement Amount.
- "Aggrieved Employees" is defined as all persons currently or formerly employed by Defendant O'Tasty, directly as non-exempt, hourly-paid employees during the period from September 29, 2022 through the end of the Class Period ("PAGA Period") in the State of California. Defendant South Bay Safety, Inc. is not part of the PAGA claim and is not a Defendant in the relevant operative complaint as to the PAGA cause of action.
- Defendants have agreed to pay $100,000.00 as PAGA penalties, seventy-five percent (75%) or $75,000.00 of which will be paid to the LWDA out of the Gross Settlement Amount, and twenty-five percent (25%) or $25,000.00 of which will be distributed to the Aggrieved Employees.
- For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date (180 days after the date of mailing), the Administrator shall transmit the funds represented by such checks to the California State Controller, Unclaimed Property Fund.

Settlement Agreement and Accompanying Documents

13. Attached hereto as Exhibit "1" is a true and correct copy of the Agreement fully executed by the Parties.

14. Attached to the Agreement as Exhibit "A" thereto is the proposed Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") to be distributed to Class Members in English and Spanish.

15. The Parties have agreed to use Phoenix Settlement Administrators ("Phoenix"), an experienced settlement administrator, to administer the settlement.

16. On or about October 16, 2026, my office submitted a copy of the Settlement Agreement to the LWDA in compliance with Labor Code section 2699, subdivision (l)(2). A true and correct copy of each confirmation from the LWDA in connection with Plaintiffs is attached hereto as Exhibit "3".

The Settlement was Negotiated at Arms-Length and not Collusive

17. The Settlement that has been reached, subject to this Court's approval, is a product of substantial efforts by the Parties and their counsel. The Settlement was reached after extensive factual and legal investigation and research; a *Belaire-West* opt-out process for Class Members; requesting responses to questionnaires from some Class Members and distilling the information; the exchange of informal discovery; substantial negotiation regarding the scope of informal discovery; exchange of documents and information that included review of time and pay records and analysis thereof with the aid of Plaintiff and expert consultant; analysis of shifts and Workweeks worked by Class Members in the Class Period, analysis of the number of pay periods and number of Aggrieved Employees in the PAGA Period for calculating PAGA penalties, number of Class Members eligible for wage statement penalties and waiting time penalties; an analysis of Plaintiff's employment records; extensive correspondence and communication between counsel; a review of pleadings, evidence and rulings in similar actions litigated elsewhere in the state; a review of similar cases in the same industry elsewhere in the country; and preparation for and attendance at a full-day mediation, followed by further discussions and coordination to finalize the terms and conditions of the general settlement parameters agreed to by the Parties.

18. While Class Counsel believe in the chance of success of certifying the claims, Class Counsel recognized the potential risk, expense and complexity posed by further litigation. Moreover, litigating Plaintiff's claims in this litigation—claims that involve approximately 303

Class Members during the Class Period—would require substantial preparation and discovery, and ultimately would involve the deposition and presentation of numerous more witnesses (including Class Members and expert witnesses), as well as the consideration, preparation and analysis of expert reports. Therefore, should litigation have progressed any further, there would have been significant expense incurred by each side (above and beyond the expense already incurred).

The Settlement Amount is Well Within the Range of Reasonableness

19. The settlement amount reached in this case provides significant recovery to Class Members and Aggrieved Employees, and easily falls within the range of reasonableness. Based on documents and information provided by Defendants, Class Counsel understand, as of the date of the mediation, there are no more than 40,000 Workweeks during the Class Period.

Unpaid Wages for Failure to Pay Off-the-Clock Work

20. Class Counsel theorized, based on Plaintiff's narrative evidence, that Defendants failed to pay all wages due to Class Members because Defendants required Class Members to work off-the-clock or Class Members spent time off-the-clock under Defendants' control, including, without limitation: (1) undergoing temperature checks for CoViD-19 screening before clocking in; (2) waiting in line, together with approximately 60 employees, to clock in on only one timeclock for the entire facility; all without pay.

21. One theory advanced by Class Counsel alleged, based on Class Members' narrative evidence, that Class Members worked off-the-clock for a conservative estimate of five (5) minutes each shift throughout the Class Period, without pay. Class Counsel understand, based on time and payroll records produced by Defendants and analysis thereof by expert data consultants retained by Class Counsel, that there were approximately 165,678 shifts during the Class Period, approximately 91.3% of which were over eight (8) hours in length, and Class Members had an average hourly rate of pay of $15.00. Thus, one calculation performed by Class Counsel resulted in Defendants' exposure for unpaid off-the-clock work in a conservative amount of $318,377 ([165,678 shifts x 0.913 shifts over 8 hours x 0.083 hour x $15.00 x 1.5 overtime rate] + [165,678 shifts x 0.087 shifts less than 8 hours x 0.083 hour x $15.00 x 2 in liquidated damages]).

22. Class Counsel understand that Defendants make the following defenses in

connection with this claim: Defendants contend that their policies specifically prohibit off-the-clock work. Defendants contend that they did not require Class Members to work off-the-clock and, rather, they were paid for all time suffered or permitted to work. Defendants contend that temperature checks and CoViD-19 health screens were not compensable time pursuant to *Frlekin v. Apple Inc*. (2020) 8 Cal.5th 1038 because a Court must consider whether the time spent is for the benefit of the employee or the employer, and that the temperature checks were being performed for the safety of employees, not for the benefit of Defendants. Moreover, Defendants contend that the time it took to go through CoViD-19 protocols was *de minimis* and that temperature checks were only in place during a portion of the Class Period. Defendants assert that they provided a sufficient number of timeclocks at their facilities, and Class Members would not have been required to wait in line for clocking in before their shifts. Defendants further contend that any allegations that Class Members were required to be under Defendants' control off-the-clock would necessitate an individualized inquiry into when and why, making this claim not subject to class treatment and any trial in this litigation unmanageable. Thus, Defendants contend that no damages can be recovered here, and, even if, arguendo, they could, an estimate of five (5) minutes of unpaid time worked for every single shift worked by Class Members during the Class Period is a wild exaggeration of time spent working off-the-clock if any such time was spent.

Detrimental Rounding of Time

23. Class Counsel theorized at mediation, based on Plaintiff's narrative evidence and documents produced by Defendants that, during the Class Period, Defendants practiced rounding of Class Members' time entries, ultimately resulting in unrecorded and unpaid time worked by Class Members.

24. Class Counsel theorized, based on documents produced by Defendants and analysis thereof by expert data consultants retained by Class Counsel, that Defendants' time rounding practice ultimately resulted in an unrecorded and unpaid 1.6 minutes of work per shift. Thus, one calculation performed by Class Counsel at mediation resulted in Defendant's exposure for detrimental rounding in an approximate amount of $67,100 (165,678 shifts x .027 hour x $15.00/hour).

25. Class Counsel understand from the mediator and the mediation process that Defendants defend that their rounding practice was neutral on its face as it resulted in roughly equal amounts of overpaid and underpaid shifts. Thus, Defendants took the position that their rounding practice resulted in no harm to Class Members.

Recovery of Damages for Non-Compliant Meal Periods

26. Class Counsel theorized, based on Class Members' narrative evidence, that Defendants' meal period practices throughout the Class Period were non-compliant because meal periods were late, short or missed due to: (1) meal periods being on duty, as Defendants did not want their workers to leave the machines unattended for any period; (2) the time spent to walk from the workstations to the timeclock and then to the designated break room upstairs; and (3) Defendants' failure to provide a second meal period for almost all eligible shifts throughout the Class Period. Notably, there were no rest period premiums ever issued throughout the Class Period.

27. Class Counsel theorized, based on documents produced by Defendants and analysis thereof by expert data consultants retained by Class Counsel, that 35.7% of 163,777 meal-eligible shifts had unique meal break violations (late, short or missed meal periods). Thus, one calculation advanced at mediation by Class Counsel resulted in Defendants' exposure for non-compliant meal periods in an approximate amount of $877,026 (163,777 meal-eligible shifts x 0.357 violation rate x $15.00/hour).

28. Class Counsel understand that Defendants make the following defenses in connection with this claim: Defendants argue that they had compliant meal period policies and practices. Defendants argue that Class Members took timely and full meal periods. Defendants contend that their policy require their employees to take timely and full meal periods. Defendants further contend that any instance of a Class Member failing to take a compliant meal period was voluntary, in violation of their meal period policy, would necessitate an individualized inquiry and would not lend itself to a manageable trial. Thus, Defendants contend that *no* monies are owed for this account but, even if any amounts were due, the amount calculated by Class Counsel is excessive.

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Recovery of Damages for Non-Compliant Rest Periods

29. Class Counsel theorized at mediation, based on Plaintiff's narrative evidence, that Defendant's rest period practices throughout the Class Period were non-compliant because rest periods were late, short or missed due to, like meal periods, the time spent to walk from the workstations to the timeclock and then to the designated break room upstairs. Notably, there were no rest period premiums ever issued throughout the Class Period.

30. Thus, one calculation performed by Class Counsel resulted in, assuming a 40% violation rate for the 165,303 rest-eligible shifts, Defendants' exposure for failure to provide compliant rest periods in a conservative amount of $991,818 (165,303 shifts x 0.40 violation rate x $15.00/hour).

31. Class Counsel understand that Defendants make the following defenses in connection with this claim: Defendants argue that they had compliant rest period policies and practices. Defendants argue that Class Members took timely and full rest periods. Defendants contend that their policy require their employees to take timely and full rest periods. Defendants further contend that any instance of a Class Member failing to take a compliant rest period was voluntary, in violation of their rest period policy, would necessitate an individualized inquiry and would not lend itself to a manageable trial. Defendants contend that a 40% violation rate is a wild exaggeration of non-compliant rest periods, if there were any. Thus, Defendants contend that *no* monies are owed for this account but, even if any amounts were due, the amount calculated by Class Counsel is excessive.

Wage Statement Violations

32. Class Counsel theorized that Class Members are entitled to recover penalties for Defendants' alleged failure to issue compliant wage statements under Labor Code section 226, subdivision (e), for the derivative impact of the failure to pay all wages owed on providing accurate information on wage statements. Specifically, Class Counsel theorized that penalties are owed under Labor Code section 226 due to, at minimum, Defendants' failure to pay premium

wages. A non-exempt employee suffering injury as a result of a knowing and intentional failure by an employer to comply with Labor Code section 226, subdivision (a), is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period. Class Counsel understand from the data provided by Defendants that there were 11,613 pay periods during the relevant statutory time period for Class Members. If, in fact, Class Members worked every off-the-clock every shift as set forth above, and no rest premiums were paid, every wage statement would thus, Class Counsel theorized, violate Labor Code section 226. Thus, one calculation performed by Class Counsel, resulted in Defendants' maximum exposure for wage statement violations in the amount of $1,161,300 (11,613 pay periods x $100/pay period).

33. Class Counsel understand that Defendants make the following defenses in connection with this claim: Defendants contend that the wage statements issued to the employees fully complied with Labor Code section 226. Defendants contend that because they believe no wages are unpaid that, thus, there can be no derivative penalties. However, Class Counsel also understand the risks inherent in this claim if the above claims were not certified. Class Counsel also had to factor in, and did factor in, the risk that the Court would find there was no injury to Class Members even if the wage statements were inaccurate or that Defendants' conduct was not intentional, both of which are requirements of Labor Code section 226 before penalties can issue. Class Counsel also note that the calculation used does not take into account the first pay period violation only being $50 and the fact that all Class Members did not work all pay periods and, therefore, do not qualify for the maximum penalty of $4,000 as calculated in Plaintiff's exposure model used at mediation.

Waiting Time Penalties

34. Pursuant to Labor Code sections 201, 202 and 203, each employee in the relevant statutory period (*i.e.*, three years before the filing of the initial Complaint) is entitled to 30 days' worth of wages as waiting time penalty for not being paid all wages due upon separation from employment. Class Counsel theorized, based on relevant documents provided by Defendants, that, under Labor Code section 203, Defendants are liable to pay each Class Member, who was terminated

during the relevant statutory period, a full 30-day worth of wages as waiting time penalty for failure to pay compensation in lieu of compliant meal and rest periods, and failure to timely pay all wages due at the time of termination or resignation. Based on relevant documents provided by Defendants, there were approximately 219 Class Members who were terminated or resigned during the relevant statutory period. Thus, one calculation performed by Class Counsel resulted in Defendants' exposure for waiting time penalties to be approximately $788,400 (219 separated Class Members x $15.00/hour x 8 hours x 30 days).

35. Class Counsel understand that Defendants contend that there is no credence to Plaintiff's off-the-clock theory and that, thus, no waiting time penalties are owed based on that theory. Finally, Defendants contend that their actions were not "willful" and that, thus, waiting time penalties cannot be awarded. Thus, Defendants argued that no waiting time penalties are owed.

PAGA Penalties

36. Class Counsel understand, as of the date of mediation, from the time and payroll data provided by Defendants that Aggrieved Employees collectively worked 11,613 Pay Periods in the PAGA Period. Plaintiff's claims in the Action under PAGA are substantially similar to those described herein. PAGA penalties include penalties for initial violations and subsequent violations. Defendants contend that only initial violation rates may be used instead of the subsequent violation rates initially used by Class Counsel. With this in mind and because Class Counsel through investigation and discovery did not come to the conclusion that Defendants at any time were notified by any governmental entity that they violated any Labor Code sections presented in the PAGA Notice and PAGA claims, Class Counsel adjusted the exposure model for Defendants to include only initial violation rates.

37. While Class Counsel are informed and believe that reasonable minds differ with regard to calculation of PAGA penalties, Class Counsel believe it is reasonable to calculate Defendants' maximum exposure in PAGA penalties as follows:

a. Overtime Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all

violations, and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $580,650 (11,613 pay periods x $50).

b. Minimum Wage Violations: Labor Code section 1197.1 prescribes penalties of $100 for an initial violation and $250 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single Aggrieved Employee in the PAGA Period, this amounts to a maximum exposure of $1,161,300 (11,613 pay periods x $100).

c. Meal Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $580,650 (11,613 pay periods x $50).

d. Rest Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $580,650 (11,613 pay periods x $50).

e. Wage Statement Violations: According to *Gunther v. Alaska Airlines, Inc.* (2021) 287 Cal.Rptr.3d 229, in this instance, Labor Code section 2699 would be the appropriate penalty for wage statement violations that are inaccurate, which prescribes penalties of $100 for an initial violation and $200 for each subsequent violation (*Id.* at 247-248). Using the initial pay period rate for all violations and a violation every single pay period for every single Aggrieved Employee in the PAGA Period, this amounts to a maximum exposure of $1,161,300 (11,613 pay periods x $100).

f. Waiting Time Penalties: Labor Code section 2699 prescribes penalties of $100 for an initial violation and $200 for each subsequent violation. Because this violation is merited only at separation of employment, a 100% violation rate would likely include just one violation per employee. The data produced by Defendants indicate that there were 110 Aggrieved Employees whose employment was separated during the PAGA Period. This amounts to a maximum exposure of $11,000 (110 Aggrieved Employees x $100).

g. Conclusion: In sum, Class Counsel calculated Defendants' total maximum exposure for PAGA violations if the Court were to find a 100% violation rate for every Aggrieved Employee every pay period and not exercise its discretion to reduce any of those penalties to be $4,075,550. Class Counsel understand that Defendants argued the following in connection with this claim: Defendants contend that no PAGA penalties are likely to be awarded and, even if they were, the maximum exposure calculated by Class Counsel is vastly overstated. First, Defendants defend that PAGA penalties cannot and should not be stacked. Second, Defendants assert that individualized issues predominate the PAGA claims, making the claims unmanageable for trial. Third, Defendants deny that a violation for each pay period can be established. Fourth, Defendants contend that a Court is unlikely to exercise its discretion to award civil penalties under PAGA where, as here, there is no conduct shown by Plaintiff that would show any Labor Code violation by Defendants is knowing and intentional. Defendants insist that this is especially true in the Action where class action damages are available to Class Members, rendering an award of PAGA penalties in addition to class action damages to be double recovery.

38. Class Counsel maintain that it is possible to recover the subsequent violation rate for penalties, that stacking is permissible, and that there is no manageability requirement under PAGA (citing *Estrada v. Royalty Carpet Mills, Inc.*). As such, Class Counsel believe a 90% discount of this claim to be reasonable, resulting in $407,555 as a reasonable estimate of the likelihood of what Plaintiff may recover at trial for PAGA penalties ($4,075,550 x 0.10).

Conclusion

39. When including derivative penalties, such as waiting time penalties, wage statement violations, and discretionary PAGA penalties, Class Counsel theorized Defendants' maximum exposure to be approximately $4,611,576. In all, Class Counsel obtained a Gross Settlement Amount of $900,000.00. Particularly in light of the risks involving obstacles to class certification, all issues and risks related to liability, the issues with manageability at trial, the discretionary nature of PAGA penalties, and considering the case law regarding fair, reasonable and adequate settlements, Class Counsel strongly believe that the settlement reached is fair, reasonable and adequate, and in the best interest of Class Members.

40. Moreover, $100,000.00 of the Gross Settlement Amount was attributed to PAGA penalties. This allocation was decided mutually by the Parties and the mutual decision was based on: (1) the fact that damages are available for the failure to pay wage claims while only penalties are available for the PAGA claims; (2) the risk that the Court may exercise its discretion to decline to stack PAGA penalties; (3) the risk that the Court may exercise its discretion to not award the full amount of PAGA penalties available; and (4) the risk that the Court may decline to award any PAGA penalties at all in light of the fact that damages are available for Class Members and it may find any further liability against Defendants unnecessarily punitive.

The Proposed Attorneys' Fees and Costs are Reasonable

41. Class Counsel seek an attorneys' fees award of *up to* one third (1/3) of the Gross Settlement Amount, which, unless escalated pursuant to this Agreement, would amount to $300,000.00. Class Counsel also seek reimbursement of costs not to exceed $30,000.00.

The Requested Enhancement Award to the Named Plaintiff and Class Representative is Reasonable

42. I am informed and believe Defendants do not oppose the requested enhancement to Plaintiff. Class Counsel seek an extremely limited enhancement of up to $10,000.00 to Plaintiff.

Conditional Certification for Settlement Purposes

Ascertainability

43. Here, the Class Members definition (*i.e.*, all persons currently or formerly employed by Defendant O'Tasty, either directly or placed by Defendant South Bay, to work for Defendant O'Tasty, as non-exempt, hourly-paid employees during the Class Period in the State of California) is derived from the operative complaint. Based solely from Defendants' payroll records, which amounts to approximately 303 persons.

Numerosity

44. Class Counsel understand from documents provided that Defendants identified at least 303 Class Members.

Commonality

45. This litigation is brought to resolve common issues that include whether Defendants

failed to pay for all hours worked; whether Defendants provided full, timely and un-interrupted meal and rest periods; whether Class Members are entitled to premium pay for incomplete, untimely or interrupted meal or rest periods, among other claims as set forth above.

Typicality

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

Adequacy of Keaton D. Mendoza

47. I graduated with a Bachelor of Science degree in Business Administration from San Diego State University in 2011.

48. I received my Juris Doctorate from California Western School of Law in 2016.

49. From 2018 to 2022, I practiced law in the General Counsel's office for Adventist Health, handling labor and employment matters for the health system, specifically in harassment, discrimination, retaliation, and wage and hour matters.

50. From 2023 through 2026, I practiced law as an attorney for Lewis Brisbois Bisgaard & Smith handling general liability defendant-side litigation.

51. Thereafter, I joined Bibiyan Law Group, P.C., practicing law on behalf of plaintiffs in matters of employment law, and specifically on issues of unpaid wages and class action settlements. Among other tasks, I oversee and manage class action and PAGA action settlements at Bibiyan Law Group, P.C. I have led settlement negotiations and the approval process for class action and PAGA settlements, including some of those set forth in the declaration of David D. Bibiyan, filed concurrently with this declaration.

Adequacy of Plaintiff

52. 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 is classified as non-exempt, hourly paid employee, not paid premium pay,

etc.) and thus has the incentive to fairly represent all Class Members' claims to achieve the maximum possible recovery.

Superiority of Class Action

53. Class Counsel believe this wage and hour class action is a superior vehicle for resolution of the issues it seeks to resolve. It deals with common issues that are most efficiently adjudicated together, as indicated above. Moreover, with at least 303 Class Members, presentation of all of them before this Court may be problematic, impractical, and burdensome.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct this October 16, 2026, at Los Angeles, California.

/s/ Keaton D. Mendoza
KEATON D. MENDOZA