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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JOSHUA TRCKA and TY SPRAGGINS,
individually, on a representative basis, and
on behalf of all others similarly situated;

Plaintiffs,

vs.

ROTOCO, LLC, a California Limited
Liability Company; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CVRI2304897
*[Assigned to Hon. Harold Hopp, Dept 1, for all
purposes]*

**DECLARATION OF BRIAN J. MANKIN,
ESQ., IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing

Date: January 21, 2026

Time: 8:30 a.m.

Dept.: 1

1 I, Brian J. Mankin, state and declare:

2 1. I am an attorney licensed to practice before all of the courts of the State of
3 California. I manage the employment department within my firm where I am also a Partner. I
4 represent Plaintiffs in this action and I am thoroughly familiar with and have personal knowledge
5 of all of the facts set forth herein. I submit this declaration in support of Plaintiffs' Motion for
6 Preliminary Approval of this Class Action Settlement. If called as a witness, I could and would
7 competently testify thereto.

8 **COUNSEL'S EXPERIENCE**

9 2. I have been a member, in good standing, of the State Bar of California since 2001.
10 I am admitted to practice in the United States District Courts for the Central and Southern
11 District of California and the Ninth Circuit Court of Appeal and have tried cases in various
12 courts in California.

13 3. I have handled over 500 employee vs. employer litigation matters during my 22
14 years in practice. Over the last 15 years, my practice has almost entirely consisted of
15 representing employees, the majority of which has included class action and representative
16 action wage and hour matters. In total, I have handled over 250 class action and representative
17 action wage/hour cases, and have been appointed by the court as class counsel and have received
18 final court approval and judgment in close to half of those actions to date, and anticipate
19 receiving final approval in many more of those in the future.

20 4. As part of these settlements and judgments, I have recovered in excess of \$250
21 million in damages for my clients and the class members (who often work as nurses, ambulance
22 drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and
23 countless other trades). At one point, my team and I held the record for the largest known
24 PAGA-only case in California's history - a \$12.5 million-dollar court approved settlement,
25 which followed extensive litigation, summary adjudication and writs to the CA Supreme Court
26 against a Fortune 50 company (*Garcia v. Macy's*, San Bernardino Superior Court).

27 5. I have tried two class and PAGA cases against Fortune 100 companies. In 2018, I
28 was lead counsel in a PAGA case that my firm tried to the bench in the Orange County Superior

1 Court and received a \$425,000 judgment. In 2019, I was co-counsel in a class action case
2 against Walmart that was tried to the jury in District Court for the Central District, wherein the
3 jury awarded Plaintiffs over \$6 million. Following the successful outcome in trial, both cases
4 were appealed.

5 6. I was named by the LA Times as one “Southern California Leading Lawyers” in
6 the May 2023 issue of Consumer Attorney’s of Southern California (a recognition given to 17
7 employment/labor law attorneys in 2023). Additionally, over the last five consecutive years, I
8 have been selected by my peers as a “Super Lawyer” in Employment Litigation, a distinction that
9 only 5% of lawyers receive.

10 **BRIEF SUMMARY OF THE SETTLEMENT**

11 7. Following mediation, Plaintiffs and Defendant (collectively, the “Parties”)
12 eventually entered into a Class and PAGA Settlement Agreement and Release of Claims
13 resolving the wage and hour claims of the putative class (the “Settlement Agreement” or “S.A.”),
14 which is attached hereto as **Exhibit A**.

15 8. The Settlement Agreement seeks to release and discharge Defendant from the
16 claims brought against it in exchange for Defendant’s agreement to pay \$1,950,000 on a non-
17 reversionary, non-claims made basis (each Class Member will receive his/her share of the Net
18 Settlement Amount without having to submit a claim form or take any action, except for those
19 who opt-out).

20 9. Plaintiffs seek to represent a Class defined as “all current and former Field
21 Employees, non-exempt Non-Field Employees, and Salespersons employed by Defendant in
22 California during the Class Period.” (S.A. ¶ 5). And the Settlement Agreement provides these
23 relevant defined terms: (1) “‘Field Employee(s)’ means all employees that performed services
24 for Defendant in the field, including plumbing technicians, pumpers, and water restoration
25 technicians” [S.A. ¶ 17]; (2) “‘Non-Field Employees’ means all nonexempt employees of
26 Defendant other than Field Employees” [S.A. ¶ 22]; and (3) “‘Salespersons’ means all
27 employees of Defendant that were compensated on a commission-only basis (without or without
28 an additional stipend) pursuant to the outside sales exemption.” (S.A. ¶ 39).

1 10. Under the terms of the Settlement Agreement, Defendant will not oppose
2 Plaintiffs' Counsel's application for a reasonable award of attorneys' fees not to exceed one-third
3 of the Settlement Amount, litigation expenses not to exceed \$30,000, Settlement Administrator
4 Costs of \$16,000, PAGA penalties of \$50,000 (with 75% to the LWDA and 25% to the
5 Aggrieved Employees on a pro rata basis), and total Service Payment to Plaintiffs of \$32,500.
6 After subtracting these deductions from the Settlement Amount, approximately \$1,204,833.33
7 will be available to pay individual settlement amounts to approximately 1,500 Class Members
8 who do not opt-out of the settlement, as follows:

<i>Settlement Amount</i>	\$ 2,000,000.00
Attorneys' Fees (1/3)	\$ 666,666.67
Litigation Costs (not to exceed)	\$ 30,000.00
Administrator Costs	\$ 16,000.00
PAGA Penalties	\$ 50,000.00
Class Representative Service Awards	\$ 32,500.00
<i>Net Settlement Amount</i>	\$ 1,204,833.33

14 11. Assuming 1,500 total Class Members, the average payment will be approximately
15 \$803.22 (NSA / 1,500). However, the actual payments will be calculated on a pro-rata basis
16 according to the number of Share Points credited to each Class Member during the Class Period.
17 And each Class Member will receive the Class Notice, explaining the nature of the case, and the
18 process for participating, objecting and opting-out, and advising of his/her estimated settlement
19 payment and the number of Work Weeks and Share Points he/she is credited with during the
20 applicable periods. True and correct copies of the Class Notice, Request for Exclusion Form,
21 Objection Form and Dispute Form are attached hereto as **Exhibits B, C, D and E**, respectively.

PROCEDURAL BACKGROUND

23 12. My office has performed considerable work and diligently investigated and
24 prosecuted this case to a successful conclusion. Our work has resulted in the creation of a
25 significant settlement fund for the benefit of the Class. We efficiently communicated and
26 exchanged information informally with Defense counsel which enabled the parties to
27 successfully settle the case. Because of the risks involved in litigating the case and the contested
28 legal and factual issues, my office believes this settlement to be fair, reasonable, and adequate.

1 13. After being retained by Plaintiff Trcka, we submitted a letter to the Labor and
2 Workforce Development Agency (“LWDA”) for civil penalties under the Private Attorneys
3 General Act of 2004 (“PAGA”), and simultaneously sent a letter to Defendant requesting the
4 production of personnel and timekeeping records to further evaluate his wage and hour claims.
5 The LWDA ultimately declined to assert jurisdiction over the PAGA, thereby giving Plaintiff the
6 right to bring PAGA claims. A true and correct copy of Mr. Trcka’s LWDA Notice Letter is
7 attached hereto as **Exhibit F**.

8 14. On September 18, 2023, my office filed this class action, alleging that Defendant
9 violated various sections of the Labor Code. Then, on December 26, 2023, my office filed a
10 separate PAGA-only action against Defendant for the same claims, Riverside Superior Court,
11 Case No. CVRI2306917.

12 15. The Parties then met and conferred over the enforceability of an arbitration
13 agreement. Ultimately, after a lengthy meet and confer, the Parties filed stipulations to arbitrate
14 Plaintiff’s individual claims, dismiss the class action claims, and stay the representative PAGA
15 claims. Plaintiff Trcka then initiated arbitration with Hon. Richard Stone (Ret.) and commenced
16 discovery in the arbitration proceeding. In November 2024, and in response to discovery in
17 arbitration, Defendant provided a signed document which Plaintiff argued nullified the
18 arbitration agreement. As such, the Parties brought this to the arbitrator’s attention and Plaintiff
19 filed (in Court) motions to rescind the stipulations to arbitration, with oral argument held on May
20 15, 2025. Then, on August 4, 2025, the Court issued its Order granting Plaintiff’s motion,
21 vacating the stipulations to arbitration and returning the Parties to their pre-stipulation pleading
22 posture.

23 16. The Parties then agreed to attend mediation with Michael Singer, Esq., a mediator
24 with an impressive background in wage-and-hour litigation. In preparation for mediation, the
25 Parties informally exchanged documents and information that allowed both sides to calculate the
26 potential damages and evaluate potential risk, including policies and procedures pertaining to the
27 claims, statistics relating to the number of current and former employees, number of shifts,
28 workweeks and pay periods worked and other things, and a sampling of payroll and timekeeping

1 records for Class Members. This information enabled both parties to take a deep dive into the
2 claims. Additionally, during this process, Plaintiffs and their counsel analyzed, researched, and
3 investigated the potential issues, including matters related to the calculation of damages, trial,
4 and appellate issues and risks.

5 17. On October 28, 2025, the Parties attended mediation. Although the matter did not
6 settle at mediation, the Parties continued to engage the services of the mediator, and settlement
7 was ultimately reached via mediator's proposal. As part of the Settlement, the Parties agreed to
8 file a first amended complaint to: (1) add Ty Spraggins as an additional Plaintiff and Class
9 Representative, and (2) consolidate the PAGA claims from CVRI2306917 into this Action.
10 Plaintiff Trcka then filed the operative first amended complaint on December 8, 2025, and
11 dismissed the separate PAGA action (since the claims are included here). The Parties now seek
12 preliminary approval of the Settlement.

13 **SUMMARY OF THE CLAIMS AND DEFENSES**

14 18. Plaintiffs alleged numerous wage and hour violations on behalf of the Class.
15 However, Defendant vigorously contested and denied each of Plaintiffs' material allegations on
16 the merits and as to the propriety of a class action or PAGA representative action. Still, Plaintiffs
17 believed there were several strong claims.

18 19. For instance, Plaintiffs alleged that Defendant failed to pay the Class for all hours
19 worked due to two allegedly illegal practices. *First*, Plaintiffs alleged that Class Members were
20 frequently required to start and end their day at the company yard (to pick up supplies, drop off
21 demolition materials, return the work van, etc.). Yet, Plaintiffs allege that Defendant only paid
22 Class Members once they arrived at the job site, and that compensation ended once they left the
23 last job site for the day, resulting in significant and recurring unpaid time for the Class Members.
24 *Second*, Plaintiffs contended that many Class Members were assigned a specific territory but
25 were frequently required to travel beyond those borders without compensation, in violation of
26 California law. But Defendant vehemently opposed these claims on the merits (arguing that
27 these events did not occur) and as to the propriety of class certification.
28

1 20. Plaintiffs also alleged that Defendant paid the Class on an hourly basis plus
2 additional earned compensation but failed to include this compensation in the regular rate
3 calculations, leading to a failure to pay all required overtime and sick pay. However, Defendant
4 opposed this regular rate claim, arguing that certain Class Members were exempt from overtime
5 and, for others, the payments were properly excluded from the regular rate, and therefore these
6 claims would lose on the merits and as to the propriety of class certification.

7 21. Plaintiffs also alleged that they and the Class Members were often denied
8 compliant meal and rest breaks due to the nature of the work. However, Defendant argued that
9 they provided and made all mandated meal and rest breaks available to the Class, and any
10 employee who did not take a break did so entirely of their own volition. Thus, Defendant argued
11 that these claims were without merit because, for each violation, a factfinder would have to
12 determine why a break was noncompliant, because if it was by the employee's choice, no
13 liability attaches to Defendant.

14 22. Finally, Plaintiffs alleged a variety of other claims (all of which Defendant
15 disputed), such as the failure to reimburse business expenses, failure to timely pay wages each
16 period and upon separation of employment and failure to provide accurate itemized wage
17 statements.

18 23. Despite the disputed nature of the claims, the Parties concluded that further
19 litigation of the Action would be protracted and expensive, and that it is desirable that the Action
20 be fully and finally settled to limit further risk, expense, and protracted litigation.

21 **CMO COMPLIANCE**

22 24. In accordance with CMO ¶ G, this section will specifically identify and address
23 each CMO requirement. This information was compiled with the assistance of Peter Carlson,
24 who was responsible for preparing the pre-mediation data and calculations, and primarily
25 assisted in the preparation of the *Kullar* analysis. As such, the following is based largely on
26 information and belief, as it was largely prepared with Mr. Carlson's assistance (but I reviewed
27 all of the information).

28 ///

1 CMO ¶ G(3)(a)(i)

2 25. Based on information obtained in discovery and through informal discovery
3 before mediation, I estimate that there will be approximately 1,500 individuals that fall within
4 the Class definition and 1,200 of those individuals are also PAGA “Aggrieved Employees.”

5 CMO ¶ G(3)(a)(ii), CMO ¶ G(3)(a)(iii), CMO ¶ G(9)(b)

6 26. The following paragraphs provide the maximum and risk-adjusted value for each
7 claim, and this includes all claims on a class and PAGA basis as required by the CMO.

8 27. The calculations below are based upon data points obtained through formal and
9 informal discovery, from which Plaintiffs’ counsel estimated the following through mediation:
10 (1) 1,500 Class Members, (2) 1,250 *former* Class Members for purposes of Labor Code § 203,
11 (3) 90,000 workweeks, (4) 423,000 shifts worked, and (4) approximately 19,500 wage
12 statements during the PAGA Period.

13 ***Unpaid Wage Claims***

14 28. Plaintiffs alleged three unpaid wage claims on behalf of the Class: (1) Defendant
15 paid the Class on an hourly basis plus additional earned compensation but failed to include this
16 compensation in the regular rate calculations and overtime pay, (2) Class Members were
17 frequently required to start and end their day at the company yard but not paid for such time, and
18 (3) Class Members were assigned a specific territory but were frequently required to travel
19 beyond those borders without compensation.

20 29. CMO ¶ G(3)(a)(ii): we calculated the maximum potential damages for the unpaid
21 wages (under all three theories) as \$1,528,205 based on evidence and analysis of the sampling.

22 30. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of these unpaid wage
23 claims as \$550,154. Defendant raised strong arguments against these claims, both on the merits
24 and to the ability to certify the claims. Thus, we placed appropriate risk reductions reflecting
25 these risks at both the class certification and merits stages, resulting in risk-adjusted value of
26 \$550,154.

27 31. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiffs
28 calculated the maximum potential PAGA penalty at trial as \$975,000 based on a 50% violation

1 rate for 19,500 wage statements issued during the period. We then applied a merits risk,
2 discussed above, and further recognized that there were certain factors that reduce the possible
3 value at trial. Specifically, when considering the amount of discretionary reduction to apply
4 against the maximum penalties, we believe the Court would consider that: (a) these unpaid wage
5 claims had a relatively small value on each alleged violation and imposing a steep penalty for
6 such violations would be inequitable, (b) if this claim succeeded, the Class would already be
7 receiving compensation for the same violations [and would thus apply a smaller penalty because
8 otherwise it is a double penalty], and (c) there were several “good faith” defenses. As a result,
9 we calculated a PAGA risk-adjusted value of \$50,000 for these unpaid wage claims.

10 ***Meal and Rest Break Claims***

11 32. Plaintiffs also alleged meal and rest break claims against Defendant, and this
12 section provides CMO-compliant information as to the value and basis for such claims.

13 33. CMO ¶ G(3)(a)(ii): we calculated the maximum potential damages as follows. For
14 the meal period claims, we calculated 63,450 violations (based on an observed 15% violation
15 rate in the sampling) and multiplied that by an average hourly rate of \$30 as the premium rate
16 under Labor Code § 226.7 to arrive at maximum potential damages of \$1,903,500. For the rest
17 break claims, we calculated 84,600 violations (20% violation rate) and multiplied that by \$30 to
18 arrive at maximum potential damages of \$2,538,000.

19 34. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of the meal period
20 claims as \$475,875 and for the rest break claim as \$634,500. These risk-adjusted figures are
21 based on the numerous defenses and risks attached to such claims. For instance, Defendant
22 raised numerous arguments in response to this claim, including that it maintained fully compliant
23 written policies and specifically authorized the Class Members to take meal and rest breaks,
24 meaning that no one had a reason or cause to miss a break or take a short/late break. Therefore,
25 Defendant asserted that a fact-finder would have to determine for each Class Member whether a
26 break was missed and why, and why a break was noncompliant or nonexistent, because if it was
27 by the employee’s choice, no liability attaches to Defendant. These defenses are factored into
28 Plaintiffs’ analysis in two ways. First, these issues raise questions regarding whether the meal

1 and rest break claims could be certified, and Plaintiffs applied appropriate risk reductions for the
2 class certification stage for meal periods and for rest breaks. Second, these defenses also go
3 toward the merits given the evidentiary question of proving the number of meal and rest
4 violations. As such, we placed additional merits risks for meal breaks rest breaks, leading to
5 risk-adjusted values of \$475,875 for meal periods and \$634,500 for rest breaks.

6 35. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiffs
7 calculated the maximum potential PAGA penalty at trial as \$971,100 for meal periods (49.8%
8 pay period violation rate) and \$1,170,000 for rest breaks (60% pay period violation rate), based
9 on \$100 for each violation. But these claims faced the same merits and evidentiary risks
10 discussed above, so we applied appropriate risk reductions for the merits for each claim. Then
11 we also assumed that the Court, when considering what discretionary reduction to apply, would
12 consider the various defenses, including Defendant's attempt to enact and apply a compliant
13 written meal and rest period policy. And, as a result, we estimated that the Court would apply a
14 discretionary reduction, leading to risk-adjusted PAGA values of \$242,775 for meal periods and
15 \$292,500 for rest breaks.

16 ***Business Expense Claims***

17 36. Plaintiffs alleged that they and the Class Members often had to use personal cell
18 phones and provide their own tools and equipment to perform their work for Defendant, without
19 reimbursement.

20 37. CMO ¶ G(3)(a)(ii): Plaintiffs valued this claim at \$360,000 (based on \$300 in
21 unreimbursed expenses for 1,200 employees).

22 38. CMO ¶ G(3)(a)(iii): Defendant raised many strong defenses to this claim,
23 primarily focused on the argument that the Class Members were not required to provide their
24 own tools or use personal cell phones. Defendant also argued against possible certification of
25 this claim by arguing a lack of manageability since analysis of this claim would require highly
26 individualized testimony from Class Members about whether they had to use personal cell
27 phones and why they did so (because if it was not "required" or "necessary" then it does not lead
28 to liability). Further, even if the claim was certified, Defendant would argue that there was an

1 evidentiary issue in proving the amount of expenses that were not reimbursed. As a result, for
2 this claim, Plaintiffs placed risks at class certification and on the merits, leading to a risk-
3 adjusted value of \$176,400.

4 39. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiffs
5 calculated the maximum potential PAGA penalty at trial as \$975,000 based on a 50% violation
6 rate for the 19,500 pay periods multiplied by \$100. However, we applied the same merits risk
7 and, even though there is no requirement for “knowing and intentional” under PAGA, we
8 assumed that the Court would apply a large discretionary reduction based on Defendant’s likely
9 argument (if liability was found) that they were already liable for damages to the Class for the
10 overarching violations that triggered the violations. Thus, the total risk-adjusted PAGA penalties
11 for these violations are \$50,000.

12 *Wage Statement Claims*

13 40. Plaintiffs alleged that, because of the unpaid wage and meal/rest violations above,
14 Defendant’s wage statements failed to accurately reflect the gross and net wages payable.

15 41. CMO ¶ G(3)(a)(ii): based on the formula under Labor Code § 226(e) (\$50 for
16 initial violation and \$100 for subsequent violations), we calculated the maximum class wage
17 statement penalties as \$1,890,000 (1,200 “initial” violations at \$50 and 18,300 “subsequent”
18 violations at \$100 ([1,200 x \$50] + [18,300 x \$100] = \$1,890,000).

19 42. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of the class wage
20 statement claims as \$340,200. This analysis incorporated Defendant’s arguments and defenses
21 from above, and also accounted for the fact that these were “derivative” as opposed to “direct”
22 wage statement violations (*i.e.*, because these claims were entirely derivative of the claims
23 above, they only had merit if the claims for unpaid wages or meal/rest breaks were successful).
24 Moreover, Defendant argued that “derivative” violations cannot trigger liability under § 226 and,
25 even if there was a “technical” violation, Plaintiffs would be unable to prove the required
26 “knowing and intentional” and “injury” elements. Based on these facts and defenses, we placed
27 risks at class certification (in line with the claims on which the derivative wage statement claim
28 was based) and estimated additional risk on the merits, leading to a risk-adjusted value for the

1 derivative claims of \$340,200.

2 43. CMO ¶ G(9)(b): as for the PAGA penalty claims on these issues, Plaintiffs
3 calculated the maximum potential PAGA penalty at trial as \$1,950,000 for wage statement
4 claims based on a 100% violation rate for the 19,500 wage statements issued during the period
5 multiplied by \$100. However, like above, the risk-adjusted value must consider the difference
6 between the direct and derivative claims. Thus, we applied the same merits risk and, even
7 though there is no requirement for “knowing and intentional” under PAGA, we assumed that the
8 Court would apply a large discretionary reduction based on Defendant’s likely argument (if
9 liability was found) that they were already liable for damages to the Class and for PAGA
10 penalties for the overarching violations that triggered the derivative wage statement violations.
11 Thus, the total risk-adjusted PAGA penalties for wage statement violations are \$175,500.

12 ***Waiting Time Penalty Claims***

13 44. Plaintiffs’ claim for failure to timely pay final wages (and for waiting time
14 penalties under Labor Code § 203) was entirely derivative of the claims above (*e.g.*, because
15 Defendant failed to pay all wages and premiums owed, Defendant did not timely pay all final
16 wages owed because there are still amounts due and payable).

17 45. CMO ¶ G(3)(a)(ii): we calculated the maximum potential value of this claim as
18 \$7,344,000 based on 1,200 *former* employees who were paid \$204 per day (1,200 employees x
19 \$204 daily pay x 30-day penalty = \$7,344,000).

20 46. CMO ¶ G(3)(a)(iii): we calculated the risk-adjusted value of the waiting time
21 penalty claim as \$1,836,000. The valuation had to account for the fact that this claim was
22 derivative of the unpaid wage and meal/rest break claims and, if those claims failed at
23 certification or on the merits, there would be no waiting time penalties owed, so the same risks
24 for those claims applied to this claim. Furthermore, even if the unpaid wage and/or meal/rest
25 claims succeeded at certification and on the merits, Plaintiffs would have to prove that the
26 violations (if any existed) were “willful” under the meaning of Labor Code § 203. And, here,
27 Defendant argued there was no “willful” violation since they had compliant written policies and
28 any deviations therefrom were inadvertent and unintentional. Additionally, Defendant argued

1 that they had a “good faith” defense that prevents imposition of the waiting time penalties. As a
2 result of this analysis, Plaintiffs’ counsel applied risks at class certification and on the merits,
3 setting a risk-adjusted value of \$1,836,000.

4 47. CMO ¶ G(9)(b): as for the PAGA penalty claims, Plaintiffs calculated the
5 maximum potential PAGA penalty at trial as \$40,000 based on 400 violations multiplied by
6 \$100. But we had to incorporate the same risks as above and also assumed that, given
7 Defendant’s good faith attempts at compliance with California law, that the Court would also
8 apply a discretionary reduction in PAGA penalties, setting the risk-adjusted PAGA penalty value
9 at \$5,000.

10 ***Failure to Timely Pay Wages Each Period***

11 48. This claim is pursued on a PAGA basis (the remedy for a violation is enforceable
12 either through PAGA or the Labor Commissioner); thus, the analysis here focuses on PAGA.

13 49. CMO ¶ G(9)(b): Plaintiffs calculated the maximum potential PAGA penalty at
14 trial as \$1,950,000 for Labor Code § 204 claims based on a 100% violation rate for the 19,500
15 wage statements issued during the period multiplied by \$100. This claim is based on the
16 allegation that Defendant did not pay all wages and wage premiums (for meal/rest violations)
17 timely each period, which violated Labor Code § 204. However, because these claims were
18 entirely derivative of the claims above, they only had merit if the claims for unpaid wages or
19 meal/rest breaks were successful. And, as such, we applied a merits risks to align with the merits
20 risk of the claims above. Additionally, we assumed that the Court would apply a large
21 discretionary reduction based on Defendant’s likely argument (if liability was found) that PAGA
22 penalties for § 204 violations should be greatly reduced because these are “derivative” and were
23 already liable for damages to the Class and for PAGA penalties for the overarching violations.
24 Thus, the risk-adjusted PAGA penalties under § 204 are \$30,000.

25 ***Collective Maximum and Risk-Adjusted Class Damages/Penalties and PAGA Penalties***

26 ***CMO ¶¶ G(3)(a)(ii)(C), CMO G(3)(a)(iii)(C), and CMO ¶ G(9)(b)(iii and iv)***

27 50. The table below provides the total sums (for all claims) of the maximum and risk-
28 adjusted class damages and penalties and the total maximum and risk-adjusted PAGA penalties:

Claim	Class Values		PAGA Values	
	Maximum	Risk-Adjusted	Maximum	Risk-Adjusted
Unpaid Wages	\$1,528,205	\$550,154	\$975,000	\$50,000
Meal Periods	\$1,903,500	\$475,875	\$971,100	\$242,775
Rest Breaks	\$2,538,000	\$634,500	\$1,170,000	\$292,500
Business Expenses	\$360,000	\$176,400	\$975,000	\$50,000
Wage Statement Penalties	\$1,890,000	\$340,200	\$1,950,000	\$175,500
Waiting Time Penalties	\$7,344,000	\$1,836,000	\$40,000	\$5,000
Labor Code § 204	n/a	n/a	\$1,950,000	\$30,000
Totals	\$15,563,705	\$4,013,129	\$8,031,100	\$845,775

CMO ¶ G(3)(a)(iv)

51. Based on an assumed Net Settlement Amount of \$1,204,833.33, and an estimated 1,500 Class Members, the average payment will be \$803.22. However, the actual amounts payable to the Class will be based on Share Points credited to the Class. While we cannot generate an exact “range of recoveries” right now since the Class Data will not be provided to the Settlement Administrator until after Preliminary Approval, I can provide reasonable estimates of the high and low payments as follows.

52. Based on our analysis, we estimate that there 1,500 Class Members participating in the Settlement, who will reach receive a share of the settlement based on Weeks Worked and total Share Points. Based on an estimated 90,000 workweeks during this period, we can assume an average per-workweek value of \$13.39 (\$1,204,833.33 / 90,000). Thus, on the low end, a Class Member that worked only 2 weeks during the Class Period will receive \$26.78 (\$13.39 x 2). And, at the high end, a Class Member that worked for the entire Class Period (332 calendar weeks) will receive an estimated high payment of \$4,445.48 (\$13.369 x 332).

53. Given that these are only preliminary estimates, the Settlement Administrator will fill in the average, high, and low payments in the Class Notice after Preliminary Approval and after calculating those figures from the Class Data.

CMO ¶ G(3)(a)(v)

54. From the data and analysis conducted prior to mediation, derived through both formal and informal discovery, I estimate the following recoveries by the Aggrieved Employees.

1 First, given that we estimate 1,200 Aggrieved Employees, those individuals will receive an
2 estimated average share of \$10.41 ($\$12,500 / 1,200$). Then, based on an estimated 19,500 Work
3 Weeks during the PAGA Period, we estimate the value of each PAGA Workweek as \$0.64
4 ($\$12,500 / 19,500$); if an Aggrieved Employee worked only 2 weeks in the PAGA Period, the
5 low payment would be \$1.28 and, if an Aggrieved Employee worked the maximum weeks
6 during the PAGA Period (176), then the maximum PAGA payment will be \$112.64.

7 CMO ¶ G(3)(a)(vi)

8 55. My office conducted substantial informal discovery to investigate the size of the
9 class and strength of the claims. Specifically, in preparation for mediation, we demanded and
10 received informal discovery, including documents and information that allowed us calculate the
11 potential damages and evaluate potential risk, including policies and procedures pertaining to the
12 claims, statistics relating to the number of current and former employees, number of shifts, pay
13 periods worked and other things, and a sampling of payroll and time records for Class Members.

14 CMO ¶ G(3)(a)(vii)

15 56. I am not aware of any other class, representative, or collective action in this or
16 any other court that asserts claims similar to those asserted in this action or behalf of a class or
17 group of individuals, some or all of whom would also be members of this Class. I have also
18 made reasonable inquiry of other members of my firm and my co-counsel's firm and none of the
19 other attorneys are aware of any such similar actions.

20 CMO ¶ G(3)(c)(i)

21 57. The Court, at CMO ¶ G(C)(i), states that it "believes that redistribution of the
22 value of uncashed settlement check(s) to those class members who have cashed their checks will
23 better serve the public interest and the interest of the class than distribution in the manner
24 otherwise prescribed by [CCP § 384(b)]" (*i.e.*, payments to a *cy pres*).

25 58. Here, the Parties are not sending the value of uncashed checks to a *cy pres*.
26 Instead, any uncashed checks will be sent to the California State Controller in the name of the
27 Class Member (or Aggrieved Employee). Thus, those funds are – and always will be – paid to
28 and available for collection by the Class Member (or Aggrieved Employee) at any point in the

1 future. This does not fall under the umbrella of CCP § 384(b), as that section only relates to
2 payment of residue to “nonprofit organizations or foundations to support projects that will
3 benefit the class or similarly situated persons, or that promote the law consistent with the
4 objectives and purposes of the underlying cause of action, to child advocacy programs, or to
5 nonprofit organizations providing civil legal services to the indigent.”

6 59. I do not believe there is a need for the Parties to “explain[] the factual basis for
7 the disagreement” with the Court’s proposed method of redistributing funds, because the Court’s
8 proposal is, by its plain language, only applicable in lieu of a *cy pres* (not where the uncashed
9 funds are still paid to the Class Member, essentially held in trust by the State Controller).

10 60. However, in an abundance of caution and to prevent a delay, I want to explain
11 why we do not want to redistribute uncashed checks to class members that did cash checks.

12 61. First, the process to carry out the Court’s proposed redistribution is not as simple
13 as it sounds. Under the CMO’s proposed method, after 180 days have passed, the uncashed
14 funds would be redistributed to Class Members that cashed their checks. That step, on a
15 standalone basis, is not concerning. However, that is nowhere near the end of the process.
16 Indeed, after the second checks are issued, there will be another batch of checks that go
17 uncashed, as there always are in these class actions. What, then, happens to the funds from the
18 uncashed second checks? Are those amounts redistributed again? And to whom? Should the
19 third round of checks only go to those who cashed the first and second checks? Regardless of
20 the answer to these questions, the problem will continue because some of the third checks will
21 likely go uncashed as well, meaning that this process can repeat over and over – each time with a
22 180-day check cashing period.

23 62. Second, the Court’s proposal to redistribute uncashed checks to class members is
24 also problematic because it will greatly increase the cost of settlement administration. After all,
25 the administrator will have to keep banking and taxing accounts open for a much longer period,
26 possibly for multiple years, and will have to issue multiple tax forms with each new payment.
27 But how much extra will the Administrator charge to be exact? And how many additional
28 checks will be mailed a second and third time? How will this be priced? And once the court has

1 approved a specific amount of money for the Settlement Administrator, who will pay for the
2 increased costs, and who will be responsible for ensuring that the increased costs are fair,
3 reasonable and adequate - because after all, this entire process is occurring after the Court has
4 entered judgment.

5 CMO ¶ G(3)(d)

6 63. In accordance with CMO ¶ G(3)(d), we requested bids from four different
7 settlement administrators, which resulted in the following bids: CPT Group (\$23,750), ILYM
8 (\$16,450), Phoenix (\$16,000), and Xpand (\$12,000). Phoenix was not the lowest bid, but the
9 Parties preferred to use Phoenix based on its all-in (fixed) fee to administer the settlement for
10 \$16,000, and the fact it has a track record of performing very good work and in accordance with
11 the CMO. Additionally, the difference in cost between Xpand and Phoenix is relatively marginal
12 given the size of this settlement. The Declaration of Michael Moore of Phoenix covers the other
13 information required in CMO ¶ G(3)(d)(ii).

14 CMO ¶ G(9)(b)

15 64. The paragraphs above provide the information requested in CMO ¶ G(9)(b)(i-iv);
16 this section addresses the remaining requests under CMO ¶ G(9)(b)(v-viii).

17 65. CMO ¶ G(9)(b)(v): I'd first like to point out that a finding of "knowing and
18 intentional" is not necessary under claims for PAGA penalties; that is a required element of wage
19 statement violations (on a class, not PAGA, basis) under Labor Code § 226(e). However, with
20 that said, we believe there is an argument that Defendant's unpaid wage claims would not be
21 found "knowing and intentional" (for purposes of Labor Code § 203, for instance). Additionally,
22 we believed that Defendant had a good argument that the derivative wage statement violations
23 were not "knowing and intentional."

24 66. CMO ¶ G(9)(b)(vi): If this action proceeded to trial, Defendant would have
25 argued for a discretionary reduction in PAGA penalties because the assessment of significant
26 PAGA penalties would be "unjust, arbitrary and oppressive, or confiscatory" in light of "the facts
27 and circumstances of [this] case." *See* Labor Code § 2699(h). Defendant's reliance on several
28 Labor Code exemptions presents a "mistake of law" fact pattern, and similar cases have applied

1 large reductions in PAGA penalties in such situations. *See, e.g., Cotter v. Lyft, Inc.* (N.D. Cal.
2 2016) 193 F.Supp.3d 1030, 1037 (97.5% reduction in PAGA penalties “appropriate” based on
3 the “unjust, arbitrary and oppressive, or confiscatory” factors because (i) the employer did not
4 “deliberately evad[e] a clear obligation to provide legally required pay and benefits to
5 employees,” (ii) the employer did not “negligently fail to learn about its obligations under the
6 wage and hour laws,” and (iii) the employer’s obligations were “genuinely unclear” because
7 “there is no straight answer to the question”).

8 67. CMO ¶ G(9)(b)(vii): The parties only reached settlement and the agreed-upon
9 PAGA penalties after extensive informal discovery and arms-length negotiation between the
10 parties and through an experienced mediator. Notably, Defendant raised many defenses which,
11 if accepted by the Court, could result in a significant reduction of penalties, or the elimination of
12 penalties altogether through dispositive motions. As such, an assessment of penalties greater
13 than those agreed-upon would be unjust at this stage because this settlement reflects an informed,
14 fundamentally fair, and reasonable settlement of the PAGA claims herein based on the unique
15 facts, defenses, and risks in this case.

16 68. CMO ¶ G(9)(b)(viii): the sections above show that the amount of the agreed-upon
17 penalties is fair.

18 **THE SETTLEMENT IS FAIR, JUST, AND REASONABLE**

19 69. The settlement was the product of extensive arm’s length negotiations, facilitated
20 by an experienced mediator. Though cordial and professional, the settlement negotiations were
21 adversarial and non-collusive in nature. The settlement reached is the product of substantial
22 effort by the parties and their counsel. Although we believed that there was a possibility of
23 certifying the claims, we recognized the potential risk, expense, and complexity posed by
24 litigation, such as unfavorable decisions on class certification, summary judgment, at trial and/or
25 on the damages awarded, and/or on an appeal that can take several more years to litigate.

26 70. The settlement will result in a fair payment to each class member based on the
27 number of weeks worked. Plaintiffs and my firm have diligently investigated the claims and
28 defenses on behalf of the Class Members and worked to achieve a resolution of the claims to

1 maximize the recovery by avoiding further expenditure of attorneys' fees and costs. After
2 evaluating the significant risks attendant with further litigation described above and weighing
3 them against the benefits of a known compromise and settlement as set forth in the Settlement
4 Agreement, settlement on the terms agreed to is believed to be in the best interest of Plaintiffs
5 and the Class, and is a fair and reasonable resolution of the claims alleged.

6 71. My firm brought to bear a great deal of experience in negotiating the settlement of
7 this case. As detailed herein, I, along with my senior associate Peter Carlson, engaged in the
8 necessary discovery and investigation, making it possible to exercise informed judgment
9 throughout the settlement process, including significant document review (*e.g.*, documents
10 pertaining to Defendant's policies and procedures, personnel documents, among others), and
11 conducted an extensive analysis of the detailed class-wide data provided by Defendant.

12 72. Based on my experience in other cases, including wage and hour matters, I
13 believe I am qualified to evaluate the class claims and viability of defenses in this class action.
14 In this case, the recovery for each class member is reasonable, fair, and adequate, and this
15 settlement is in the best interests of the class. The settlement provides each class member with
16 compensation for the alleged violations when viewed in relation to the costs and risks inherent in
17 obtaining class certification and proceeding to trial.

18 73. My firm, as well as defense counsel, fully endorse the terms and conditions of the
19 settlement as set forth in the abovementioned Settlement Agreement.

20 74. Of course, the settlement amount represents a compromise figure, taking into
21 account the various risks surrounding class certification and the merits of Defendant's asserted
22 defense. Nevertheless, the settlement provides for fair and adequate payments to the class
23 members, with no reversion to Defendant.

24 **PLAINTIFFS' REQUESTED ENHANCEMENT PAYMENTS**

25 75. Plaintiffs seek service award / enhancement payments of \$7,500 to Plaintiff
26 Spraggins and \$25,000 to Plaintiff Trcka for their service to the Class, and I believe these
27 amounts are fair and warranted. Plaintiffs came forward and brought this case in an effort to
28 effectuate a policy and practice change that benefitted all other Class Members (and to recover

unpaid wages and other damages). They ultimately succeeded despite significant risk.

76. Plaintiffs provided invaluable assistance to my office and the Class in this case, including providing factual background; reviewing the litigation documents; providing information and documents about Defendant's policies and practices; participating in phone calls to discuss litigation and settlement strategy; making themselves available throughout the litigation to assist with analyzing the claims and defenses; helping Class Counsel prepare for the mediation; making themselves available for a full-day mediation, and reviewing the settlement documents. Plaintiffs agreed to participate in this case with no guarantee of personal benefit.

77. The Class Representatives also assumed significant risk in bringing this litigation; namely, had they lost, they would have been ordered to pay Defendant's costs. Moreover, Plaintiffs elected to pursue the class action claims on behalf of other employees. As part of the negotiations, the parties ultimately reached a settlement of the class claims but the requested service award is also reasonable and appropriate given that Plaintiffs agreed to put the interests of the class ahead of their own interests and performed work on behalf of the class. And, as part of the negotiations, Plaintiffs put the interests of the class ahead of her interests and agreed to a general release as part of the settlement (the Class will only release the claims alleged).

**ADEQUACY OF COUNSEL AND THE PROVISIONAL REASONABLENESS OF THE
REQUESTED FEES AND COSTS**

78. As set forth above, I have handled over 250 class and representative actions, have been appointed as class counsel and have successfully resolved over half of those cases, and many others remain pending and will successfully resolve in the future.

79. When this case was taken on a contingency fee basis, with my firm agreeing to assume responsibility for all litigation costs, the ultimate result was far from certain. In the course of this litigation, my firm and my co-counsel paid all costs including filing fees, court costs, research fees, and mediation costs. There was never a guarantee that we would recoup those expenditures.

80. It is my experience that attorney fee awards of one-third of a common fund settlement is the standard in California. In this case, my firm agreed to seek one-third of the

1 Settlement Amount for attorneys' fees. Defendant does not oppose this fee request. The fee is
2 further warranted because it is within the range of reasonableness typically awarded in class
3 actions. The litigation costs are reasonably capped at \$30,000 and will be based on the actual
4 amount of costs incurred at the time of final approval.

5 SETTLEMENT ADMINISTRATOR

6 81. The Parties request that the Court appoint Phoenix Settlement Administrators as
7 the Settlement Administrator. In accordance with CMO ¶ G(3)(d), we requested bids from four
8 different settlement administrators, which resulted in the following bids: CPT Group (\$23,750),
9 ILYM (\$16,450), Phoenix (\$16,000), and Xpand (\$12,000. Phoenix was not the lowest bid, but
10 the Parties preferred to use Phoenix based on its all-in (fixed) fee to administer the settlement for
11 \$16,000, and the fact it has a track record of performing very good work and in accordance with
12 the CMO. Additionally, the difference in cost between Xpand and Phoenix is relatively marginal
13 given the size of this settlement. The Declaration of Michael Moore of Phoenix covers the other
14 information required in CMO ¶ G(3)(d)(ii).

15 SUBMISSION TO THE LWDA

16 82. Plaintiffs have concurrently submitted the settlement and all moving papers to the
17 LWDA in accordance with Labor Code § 2699(1)(2). The proof of submission is attached hereto
18 as **Exhibit G**.

19 EXHIBITS AND CONCLUSION

20 83. A true and correct copy of the Settlement Agreement is attached as **Exhibit A**.

21 84. The proposed Class Notice is attached as **Exhibit B**.

22 85. The proposed Request for Exclusion Form is attached as **Exhibit C**.

23 86. The proposed Objection Form is attached as **Exhibit D**.

24 87. The proposed Dispute Form is attached as **Exhibit E**.

25 88. A true and correct copy of the notice letter we submitted on behalf of Plaintiff
26 Trcka to the LWDA is attached as **Exhibit F**.

27 89. The LWDA's confirmation of receipt of this Motion and Declarations is attached
28 hereto as **Exhibit G**.

90. Counsel has carefully reviewed both the terms and the terminology of the order and the accompanying forms (notice, objection form, exclusion form, dispute form) to confirm that the various documents are internally consistent, consistent with each other, and consistent with the settlement agreement.

91. For the foregoing reasons, it is respectfully requested that the Court grant preliminary approval of the settlement as being fair, reasonable, and in the best interests of the class, as well as preliminarily approve the requested attorneys' fees, costs, and enhancement payment to the Class Representative.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 26, 2025, at Riverside, California.

By: Brian J. Mankin
Brian J. Mankin, Esq.

EXHIBIT “A”

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JOSHUA TRCKA and TY SPRAGGINS,
individually, on a representative basis, and on
behalf of all others similarly situated;

Plaintiffs,

vs.

ROTOCO, LLC, a California Limited
Liability Company; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CVRI2304897

*[Assigned to Hon. Harold Hopp, Dept 1, for
all purposes]*

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

1 This Class Action and PAGA Settlement Agreement and Release of Claims is entered into
2 by and between Plaintiffs Joshua Trcka and Ty Spraggins (“Plaintiffs”), individually and on
3 behalf of all others similarly situated, and on behalf of the State of California, and Defendant
4 RotoCo, LLC (“Defendant”), and is approved by their respective counsel of record, subject to the
5 terms and conditions hereof and the Court’s approval.

6 **A. Definitions**

7 1. “Action” or “Lawsuit” means and refers to the case entitled *Trcka et al. v. RotoCo,*
8 *LLC*, filed on September 18, 2023 in Riverside County Superior Court, Case No. CVRI2304897.

9 2. “Aggrieved Employee(s)” means all current and former Field Employees, non-
10 exempt Non-Field Employees, and Salespersons employed by Defendant in California during the
11 PAGA Period.

12 3. “Agreement” or “Settlement Agreement” or “Settlement” shall mean this Class
13 Action and PAGA Settlement Agreement and Release of Claims.

14 4. “Attorneys’ Fees and Costs Award” means the fees and costs payable to Class
15 Counsel from the Settlement Amount for reimbursement of attorneys’ fees and reasonable
16 litigation costs incurred by Class Counsel in their representation in this Action.

17 5. “Class” is defined all current and former Field Employees, non-exempt Non-Field
18 Employees, and Salespersons employed by Defendant in California during the Class Period.

19 6. “Class Member(s)” refers to individual members of the Class.

20 7. “Class Counsel” refers to Brian Mankin and Peter Carlson of Lauby, Mankin &
21 Lauby LLP.

22 8. “Class Data” means a complete list that Defendant will diligently and in good faith
23 compile from their records and provide to the Settlement Administrator on one spreadsheet which
24 shall include, for each Class Member: (a) individual’s full name; (b) last known mailing address;
25 (c) Social Security Number; and (d) total Workweeks worked during the PAGA Period and the
26 Class Period.

27 9. “Class Period” is deemed to be any time during the period of September 18, 2019,
28 through January 31, 2026.

1 10. “Class Representatives” or “Plaintiffs” means and refers to Plaintiffs Joshua Trcka
2 and Ty Spraggins.

3 11. “Complaint” refers to the operative first amended complaint, which pleads class
4 action and PAGA representative claims and was filed on December 8, 2025 to: (1) add Ty
5 Spraggins as an additional Plaintiff and Class Representative, and (2) consolidate the PAGA
6 claims from CVRI2306917 into this Action.

7 12. “Court” (or “Judge”) means the California Superior Court, County of Riverside.

8 13. “Defendant” means and refers to Defendant RotoCo, LLC.

9 14. “Defendant’s Counsel” or “Defense Counsel” means and refers to Ames Karanjia
10 LLP.

11 15. “Effective Date” means the latest of the following dates: (a) if no Class Member
12 timely and properly intervenes, or files a motion to vacate the judgment approving the Settlement
13 Agreement under Code of Civil Procedure section 663, then the date the Court enters an order
14 granting Final Approval; (b) if a Class Member intervenes, or files a motion to vacate the
15 judgment approving the Settlement Agreement, then sixty-one (61) calendar days following the
16 date the Court enters an order granting Final Approval, assuming no appeal is filed; or (c) if a
17 Class Member timely and properly intervenes or files a motion to vacate the Judgment under
18 Code of Civil Procedure section 663 or initiates another collateral attack, and if a timely appeal
19 is filed, then the date of final resolution of that appeal or other collateral attack (including any
20 requests for rehearing and/or petitions for *certiorari*), resulting in final judicial approval of the
21 Settlement.

22 16. “Escalator Clause:” Defendant represents that there are approximately one
23 thousand five hundred (1,500) Class Members, who collectively worked a total of approximately
24 90,000 Workweeks during the Class Period. If the total count of Workweeks (as contained in the
25 Class Data) exceeds 99,000 (10% more than Defendant’s representation), then, at Defendant’s
26 election, Defendant can either: (a) increase the Settlement Amount by \$22.22 for each additional
27 Workweek above 99,000; or (b) end the Class Period on the date through which there are no more
28 than 99,000 Workweeks. However, in no event shall the Class Period end before October 28,

2025 (the date of mediation).

17. “Field Employee(s)” means all employees that performed services for Defendant in the field, including plumbing technicians, pumpers, and water restoration technicians.

18. “Final Approval” refers to the order of the Court granting final approval of this Settlement Agreement and entering a judgment approving this Agreement on substantially the terms provided herein or as may be modified by subsequent agreement of the Parties.

19. “Individual Class Payment” refers to each Participating Class Members share of the Net Settlement Amount, as further discussed in Paragraph 57(c) below.

20. “Individual PAGA Payment” refers to each Aggrieved Employees share of the PAGA Penalties, as further discussed in Paragraph 57(c) below.

21. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 57(b) below.

22. “Non-Field Employees” means all nonexempt employees of Defendant other than Field Employees.

23. “Notice” means the notice of proposed class settlement that will be sent to the Class Members, and which will advise each Class Member of the settlement and his or her estimated Individual Class Payment and Individual PAGA Payment, total Weeks Worked, total Share Points, and will further advise of the setting of a Final Approval Hearing.

24. “Notice Packet” means the Notice, Request for Exclusion Form, Objection Form, and Dispute Form to be sent to all Class Members in English and Spanish. Each Notice Packet will provide: (i) information regarding the nature of the Action; (ii) a summary of the Settlement’s principal terms; (iii) the Class Member and Aggrieved Employee definitions; (iv) the dates of the Class Period and PAGA Period; (v) the Class Member’s estimated Individual Class Payment and the Aggrieved Employee’s Individual PAGA Payment; (vi) the number of Workweeks and Share Points used to calculate these amounts; (vii) instructions on how to submit Requests for Exclusion or Notices of Objection; (viii) the deadlines by which the Class Member must postmark Request for Exclusions, or postmark Notices of Objection to the Settlement; and (ix) the claims to be released.

1 25. “Objecting Class Member” means a Class Member, other than Plaintiffs, who
2 submits a valid and timely objection to the terms of this Agreement, pursuant to Paragraph 79(c)
3 below.

4 26. “PAGA Penalties” means the amount that the Parties have agreed to pay to the
5 California Labor and Workforce Development Agency (“LWDA”) in connection with the Labor
6 Code Private Attorneys General Act of 2004 (Lab. Code section 2698, *et seq.*, “PAGA”), as well
7 as the individual PAGA payment allocated to each Aggrieved Employee.

8 27. “PAGA Period” is deemed to be any time during the period of September 18, 2022,
9 through January 31, 2026.

10 28. “Participating Class Member” means any and all Class Members who do not opt-
11 out by submitting timely valid Requests for Exclusion.

12 29. “Parties” or “Settling Parties” mean Plaintiffs and Defendant, collectively.

13 30. “Preliminary Approval Date” means the date the Court approves the Settlement
14 Agreement and enters the Preliminary Approval Order.

15 31. “Preliminary Approval Order” means the judicial Order to be entered by the Court,
16 upon the application or motion of the Plaintiff, preliminarily approving this Settlement and
17 providing for the issuance of the Notice Packet to the Class, an opportunity to opt out of the
18 Settlement, an opportunity to submit timely objections to the Settlement, and setting a final
19 approval hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees
20 and costs. Provided that the motion is consistent with the terms herein, Defendant will not object
21 to Plaintiffs’ motion for preliminary approval but will be provided with an opportunity to review
22 and comment upon the motion before it is filed.

23 32. “QSF” means the Qualified Settlement Fund set up by the Settlement
24 Administrator for the benefit of the Participating Class Members and Aggrieved Employees, and
25 from which the settlement payments shall be made.

26 33. “Released Class Claims” or “Class Claims” means the claims stated in the
27 Complaint and those based solely upon the facts in the Complaint, including: (1) failure to pay
28 minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure

1 to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to pay sick pay, (7)
2 failure to timely pay final wages, (8) failure to provide accurate itemized wage statements, and
3 (9) unfair and unlawful competition. The time period governing the Released Class Claims shall
4 be the Class Period.

5 34. “Released PAGA Claims” means the PAGA claims that Plaintiff Trcka alleged
6 against the Released Parties, based on the facts stated in the relevant LWDA notice letter and only
7 to the extent that they are alleged in the Complaint, including all PAGA claims seeking civil
8 penalties premised upon: (1) failure to pay minimum wages, (2) failure to pay overtime wages,
9 (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse
10 business expenses, (6) failure to pay sick pay, (7) failure to timely pay wages, (8) failure to timely
11 pay final wages, (9) failure to provide accurate itemized wage statements, and (10) all other claims
12 for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et
13 seq. based on the facts or claims alleged in the LWDA notice letters and Complaint. The time
14 period governing the PAGA Released Claims shall be the PAGA Period. The Released PAGA
15 Claims do not release any Aggrieved Employees’ claims for wages or statutory penalties.

16 35. “Released Parties” means Defendant, together with its officers, directors,
17 employees, and agents.

18 36. “Release” shall mean the release and discharge of the Released Class Claims by
19 Plaintiffs and all Participating Class Members and their assignees.

20 37. “Response Deadline” is thirty (30) calendar days from the date the Notice Packet
21 is mailed to the Class Members by the Settlement Administrator. The Response Deadline is the
22 deadline by which Class Members must postmark to the Settlement Administrator any Request
23 for Exclusion Form, Objection Form, or Dispute Form. If the Response Deadline falls on a Sunday
24 or State holiday, it will be extended to the next day on which the U.S. Postal Service is open. For
25 any Class Member for whom a Notice Packet is resent after the initial mailing of the Notice Packet
26 was returned as undeliverable, the Response Deadline shall be extended by 15 calendar days after
27 the remailing of the Notice Packet.

28 38. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 79(a)

1 below.

2 39. “Salespersons” means all employees of Defendant that were compensated on a
3 commission-only basis (without or without an additional stipend) pursuant to the outside sales
4 exemption.

5 40. “Settlement Amount” or “Gross Settlement Amount” means the gross settlement
6 amount of Two Million Dollars (\$2,000,000), which is the total amount Defendant agrees under
7 the Settlement, unless the Escalator Clause is triggered, and is exclusive of Defendant’s
8 obligation to fund its share of payroll taxes, as further discussed in Paragraph 57(c) below.

9 41. “Service Payments” means the amount approved by the Court to be paid to the
10 Class Representatives in addition to their Individual Class Payments as Participating Class
11 Members and Individual PAGA Payments as Aggrieved Employees.

12 42. “Settlement Administrator” means and refers to Phoenix Settlement
13 Administrators, the third-party class action settlement administrator agreed to by the Parties, that
14 will provide the Notice Packet to the Class Members and distribute the settlement amounts as
15 described in this Agreement.

16 43. “Settlement Administration Costs” means the costs payable from the Settlement
17 Amount to the Settlement Administrator for administering this Settlement, including, but not
18 limited to, printing, translating, distributing, and tracking documents for this Settlement, tax
19 reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property
20 due diligence, reporting and remittance obligations, distributing the Settlement Amount, and
21 providing necessary reports and declarations, as requested by the Parties. The Settlement
22 Administration Costs shall be paid from the Settlement Amount, and shall not exceed the amount
23 approved by the Court, regardless of any additional costs that the Settlement Administrator may
24 request or feel is necessary to administer the Settlement.

25 44. “Share Points” will be used to calculate the Individual Class Payments, and each
26 Class Member’s Share Points will be calculated as follows: (1) each Week Worked by a Field
27 Employee during the Class Period shall be credited with 2 Share Points, and (2) each Week
28 Worked by a Non-Field Employee or Salesperson shall be credited with 1 Share Point.

1 45. “Share Point Rate” shall mean the value of each individual Share Point, as
2 calculated by dividing the Net Settlement Amount by the total of all Share Points credited to the
3 Participating Class Members.

4 46. “Workweeks” or “Weeks Worked” means, for each Class Member, all work weeks
5 during the Class Period in which the Class Member worked at least one (1) day for Defendant in
6 California. For Aggrieved Employees, it means all weeks during the PAGA Period in which the
7 Aggrieved Employee worked at least one day for Defendant in California.

8 **B. General Terms**

9 47. On September 18, 2023, Plaintiff Trcka filed the instant class action, alleging that
10 Defendant violated various sections of the Labor Code. On the same day, Plaintiff Trcka gave
11 written notice by online filing to the LWDA and by certified mail to Defendant of the specific
12 provisions of the Labor Code alleged to have been violated, including the facts and theories to
13 support the alleged violations. Then, on about December 26, 2023, Plaintiff Trcka filed a separate
14 PAGA-only action in Riverside Superior Court, Case No. CVRI2306917.

15 48. The Parties then met and conferred over the enforceability of an arbitration
16 agreement. Ultimately, after a lengthy meet and confer, the Parties filed stipulations to arbitrate
17 Plaintiff’s individual claims, dismiss the class action claims, and stay the representative PAGA
18 claims. Plaintiff Trcka then initiated arbitration with Hon. Richard Stone (Ret.). and commenced
19 discovery in the arbitration proceeding. In November 2024, and in response to discovery in
20 arbitration, Defendant provided a signed document which Plaintiff argued nullified the arbitration
21 agreement. As such, the Parties brought this to the arbitrator’s attention and Plaintiff filed (in
22 Court) motions to rescind the stipulations to arbitration, with oral argument held on May 15, 2025.
23 Then, on August 4, 2025, the Court issued its Order granting Plaintiff’s motion, vacating the
24 stipulations to arbitration and returning the Parties to their pre-stipulation pleading posture.

25 49. The Parties then agreed to attend mediation with Michael Singer, Esq., a mediator
26 with an impressive background in wage-and-hour litigation. Ultimately, the Parties reached this
27 Settlement pursuant to a mediator’s proposal.

28 50. As part of the Settlement, the Parties agreed to file a first amended complaint to:

1 (1) add Ty Spraggins as an additional Plaintiff and Class Representative, and (2) consolidate the
2 PAGA claims from CVRI2306917 into this Action. After the Court approved the Parties
3 stipulation in this regard, Plaintiffs filed the operative first amended complaint on December 8,
4 2025. Then, on December 17, 205, Plaintiff Trcka filed a request for dismissal, without prejudice,
5 of the PAGA lawsuit, Case No. CVRI2306917.

6 51. Defendant denies Plaintiffs' claims and allegations and contends that the Action
7 is not suitable for class certification.

8 52. The Class Representatives believe they can proceed with the representative and
9 class claims, that the Action is meritorious, and that class certification is appropriate.

10 53. The Parties have conducted a thorough investigation into the facts of the Action.
11 This includes an extensive exchange of informal discovery, including a sampling of payroll and
12 timekeeping records for Class Members. Class Counsel is both knowledgeable about and has done
13 extensive research with respect to the applicable law and potential defenses to the claims of the
14 Class. Class Counsel has diligently pursued an investigation of the Class Members' claims against
15 Defendant. Based on the foregoing data and on their own independent investigation and
16 evaluation, Class Counsel is of the opinion that the settlement with Defendant for the
17 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and
18 adequate and is in the best interest of the Class Members in light of all known facts and
19 circumstances, including the risk of significant delay and uncertainty associated with litigation,
20 various defenses asserted by Defendant, and numerous potential appellate issues.

21 54. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts
22 to be performed or judgment to be entered pursuant to the terms of the Settlement and Agreement,
23 shall be construed as an admission by Defendant of any wrongdoing or violation of any statute or
24 law or liability on the claims or allegations in the Action.

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

1 acknowledge that they are each represented by competent counsel and that they have had an
2 opportunity to consult with their counsel regarding the fairness and reasonableness of this
3 Settlement.

4 56. Stipulation for Class Certification. For settlement purposes only, Defendant will
5 stipulate that the Class Members described herein who do not Request Exclusion from the Class
6 may be conditionally certified as a Class. This stipulation to certification is in no way an
7 admission that class action certification is proper and shall not be admissible in this action except
8 for the sole purposes of enforcing this Agreement. Should, for whatever reason, the Court fail to
9 issue Final Approval, the Parties' stipulation to class certification as part of the Settlement shall
10 become null and void ab initio and shall have no bearing on, and shall not be admissible in this
11 Action in connection with, the issue of whether certification would be appropriate in a non-
12 settlement context. Defendant expressly reserves its rights and declares that it would continue to
13 oppose class certification and the substantive merits of the case should the Court fail to issue Final
14 Approval. Plaintiffs expressly reserve their rights and declare that they will continue to pursue
15 class certification and a trial should the Court fail to issue Final Approval.

16 **C. Terms of Settlement**

17 57. The financial terms of the Settlement are as follows:

18 (a) Settlement Amount: The Parties agree to settle this Action for the
19 Settlement Amount of \$2,000,000, which is the maximum amount that will be paid by Defendant
20 unless the Escalator Clause is triggered and except for the employer's share of payroll taxes that
21 will be paid by Defendant in addition to the Settlement Amount. The Settlement Amount includes
22 payments to the Participating Class Members, PAGA Penalties (to the Aggrieved Employees and
23 LWDA), Attorneys' Fees and Costs Award, Service Payments to the Class Representatives, and
24 Settlement Administration Costs. Defendant shall separately pay the employer's share of payroll
25 tax obligations, which shall be reported through the Settlement Administrator.

26 (b) Net Settlement Amount: The "Net Settlement Amount" is defined as the
27 Settlement Amount, less the Attorneys' Fees and Costs Award, Service Payments to the Class
28 Representatives as awarded by the Court, Settlement Administration Costs, and PAGA Penalties.

1 If the Court reduces the Attorneys' Fees and Costs Award, Service Payments, or Settlement
2 Administrator Costs, or either increases or decreases the amount allocated to the PAGA Penalties,
3 the difference shall be placed in the Net Settlement Amount and allocated to the Participating
4 Class Members.

5 (c) Individual Class Payments. Individual Class Payments for the Class will
6 be calculated and apportioned from the Net Settlement Amount based on the number of Share
7 Points credited to each Class Member. This will be calculated by the Settlement Administrator
8 using the Class Data provided by Defendant, and by determining each Class Member's Share
9 Points then multiplying the Class Member's Share Points by the Share Point Rate. The entire Net
10 Settlement Amount will be disbursed to all Participating Class Members, and the amount actually
11 distributed to Participating Class Members shall equal one hundred percent (100%) of the Net
12 Settlement Amount.

13 (d) Allocation of Individual Class Payments: The Individual Class Payments
14 to Participating Class Members will be allocated as follows: one-third (1/3) will be allocated as
15 wages subject to withholding of all applicable local, state and federal taxes; and two-thirds (2/3)
16 will be allocated for interest and statutory penalties (pursuant to, *e.g.*, Labor Code sections 203,
17 210, 226) from which no taxes will be withheld. The Settlement Administrator will issue to each
18 Participating Class Member an IRS Form W-2 and comparable state forms with respect to the
19 wage allocation and an IRS Form 1099 with respect to the penalties and interest allocations.

20 (e) Service Payments to Class Representatives: The amount, if any, awarded
21 to the Class Representatives as Service Payments will be set by the Court in its discretion, not to
22 exceed \$25,000 to Plaintiff Trcka and \$7,500 to Plaintiff Spraggins, in exchange for the service
23 that Plaintiffs performed on behalf of the Class. Defendant agrees not to oppose this request. The
24 Service Payments to Plaintiffs will be paid out of the Settlement Amount. The Class
25 Representatives will each be issued an IRS Form 1099 for these payments. Plaintiffs shall be
26 solely and legally responsible to pay any and all applicable taxes on this payment. The Parties
27 agree that any amount awarded as the Service Payments to Plaintiffs less than the requested
28 amount shall not be a basis for Class Counsel to void this Settlement Agreement. Should the Court

1 approve a lesser amount for the Service Payments, the difference shall be added to the Net
2 Settlement Amount for distribution to Participating Class Members.

3 (f) Attorneys' Fees and Costs Award: Defendant agrees to not oppose a
4 request by Class Counsel to the Court for an award of attorneys' fees of one-third of the Settlement
5 Amount, plus reasonable litigation costs subject to proof, not to exceed \$30,000 ("Attorneys' Fees
6 and Cost Award"). Defendant agrees not to oppose any contention by Class Counsel that
7 attorneys' fees should be based on the catalyst and/or common fund theory. The Attorneys' Fee
8 and Cost Award shall be paid from the Settlement Amount, and, except for this award, Defendant
9 shall have no further obligation to pay any attorneys' fees, costs or expenses to Class Counsel.
10 Should the Court approve a lesser amount than what is sought by Class Counsel, the difference
11 shall be added to the Net Settlement Amount to be distributed to the Participating Class Members.
12 Any Court order awarding less than the amount sought by Class Counsel shall not be grounds to
13 rescind the Settlement Agreement or otherwise void the Settlement. The Settlement Administrator
14 shall issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs
15 awarded by the Court.

16 (g) Settlement Administration Costs: The fees and other charges of the
17 Settlement Administrator will be paid from the Settlement Amount, not to exceed \$16,000, unless
18 (i) the Escalator Clause is triggered (whereby any reasonable increase in Settlement
19 Administration Costs shall be paid from the increased Settlement Amount, subject to Court
20 approval), or (ii) as otherwise approved by all Parties and the Court.

21 (h) PAGA Penalties: The Parties agree that \$50,000 is allocated to PAGA
22 Penalties, and is to be paid from the Settlement Amount, subject to Court approval. Of this
23 amount, \$37,500 (75%) shall be paid to the LWDA in satisfaction of civil penalties under the
24 Private Attorney General Act of 2004 ("PAGA") and \$12,500 (25%) will form the Individual
25 PAGA Payments to the Aggrieved Employees, which shall be calculated and allocated pro-rata
26 on a work week basis, treated entirely as civil penalties, and which shall be reported as required
27 on an IRS Form 1099. Class Counsel shall give proper notice to the LWDA of the Settlement.
28 The Settlement Administrator will calculate Individual PAGA Payments by: (1) dividing \$12,500

1 by the total number of Workweeks worked by all Aggrieved Employees during the PAGA Period
2 and (2) multiplying the result by the number of Workweeks by each individual Aggrieved
3 Employee during the PAGA Period.

4 (i) Tax Liability: Class Counsel and Defendant make no representations as to
5 the tax treatment or legal effect of settlement amounts called for hereunder, and Plaintiffs and the
6 Class Members are not relying on any statement or representation by Class Counsel or Defendant
7 in this regard. Plaintiffs, Participating Class Members, and Aggrieved Employees understand and
8 agree that they will be solely responsible for the payment of any taxes and penalties assessed on
9 their respective Individual Class Payments and Individual PAGA Payments, described herein. An
10 IRS Forms 1099 will be distributed in the manner required by the Internal Revenue Code of 1986
11 (“Code”) and consistent with this Agreement. If the Code, the regulations promulgated
12 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes
13 set forth in this Section may be modified in a manner to bring Defendant into compliance with
14 any such changes. Plaintiffs, Participating Class Members, and Aggrieved Employees understand
15 and agree that they will be solely responsible for the payment of any taxes and penalties assessed
16 on their respective payments described herein.

17 (j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS
18 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”
19 AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING
20 PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO
21 PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR
22 DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND
23 OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
24 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
25 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
26 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
27 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
28 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX

1 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
2 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY
3 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
4 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
5 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
6 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
7 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
8 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
9 ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
10 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE
11 TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY
12 TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

13 (k) “Non-Reversionary” Settlement. This is a “non-reversionary” settlement.
14 Under no circumstances will any portion of the Settlement Amount revert to Defendant.
15 Participating Class Members and Aggrieved Employees will not have to make a claim to receive
16 an Individual Class Payment or Individual PAGA Payment. Distributions, in the form of
17 Individual Class Payment or Individual PAGA Payments will be made directly to each
18 Participating Class Member and Aggrieved Employee. The Settlement Administrator shall be
19 responsible for accurately and timely performing all reporting and remittance obligations with
20 respect to unclaimed funds as a result of a Participating Class Member and/or Aggrieved
21 Employee failing to cash any checks delivered pursuant to the Settlement by the check cashing
22 deadline.

23 (l) Class Counsel and Plaintiffs believe that the Settlement is fair and
24 reasonable and will so represent to the Court.

25 **D. Release by the Participating Class Members**

26 58. Upon the Effective Date, and except as to such rights or claims as may be created
27 by this Agreement, Plaintiffs and the Participating Class Members will forever completely release
28 and discharge the Released Parties from the Released Class Claims for the Class Period.

1 59. Each Participating Class Member will be deemed to have made the foregoing
2 Release as if by manually signing it.

3 60. Class Representatives, on behalf of themselves and the Class, acknowledge and
4 agree that the claims for unpaid wages and untimely payment of wages in the Action are disputed,
5 and that the payments set forth herein constitute payment of all sums allegedly due to them. Class
6 Representatives, on behalf of themselves and the Class, acknowledge and agree that Labor Code
7 section 206.5 is not applicable to the Parties or Settlement. Labor Code section 206.5 provides in
8 pertinent part as follows: “An employer shall not require the execution of any release of any claim
9 or right on account of wages due, or to become due, or made as an advance on wages to be earned,
10 unless payment of those wages has been made.”

11 **E. Release of PAGA Claims**

12 61. Upon the Effective Date, Plaintiff Trcka – in his individual capacity and on behalf
13 of the State of California and LWDA – shall completely release and discharge the Released
14 Parties from the Released PAGA Claims for the PAGA Period.

15 62. Regardless of submitting a valid Request for Exclusion, neither Plaintiffs nor any
16 Aggrieved Employee shall have the right to opt out or exclude themselves from releasing the
17 PAGA portion of the Settlement. Thus, Plaintiffs and all Aggrieved Employees shall be bound
18 by the Released PAGA Claims.

19 63. It is the intent of the Parties that the Final Approval Order shall have full equitable
20 and collateral estoppel and res judicata effect to the fullest extent permitted by law.

21 **F. General Release by Plaintiffs**

22 64. Plaintiffs do hereby, for themselves their spouses, heirs, successors, beneficiaries,
23 devisees, legatees, executors, administrators, trustees, conservators, guardians, personal
24 representatives, and assigns forever and completely release and discharge the Released Parties
25 from any and all charges, complaints, claims, liabilities, obligations, promises, agreements,
26 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and
27 expenses (including back wages, statutory penalties, civil penalties, liquidated damages,
28 exemplary damages, interest, attorneys’ fees, and costs) of any nature whatsoever, from the

1 beginning of time through the execution of this Agreement, whether known or unknown,
2 suspected or unsuspected, including but not limited to all claims arising out of, based upon, or
3 relating to Plaintiffs' employment with Defendant or the remuneration for or termination of such
4 employment.

5 65. Without limiting the generality of the foregoing, this general release by Plaintiffs
6 includes all federal, state and local statutory claims, federal and state common law claims
7 (including but not limited to those for contract, tort and equity), including without limitation any
8 claims for breach of any implied or express contract or covenant; claims for promissory
9 estoppel; claims of entitlement to any pay; claims of wrongful denial of insurance and employee
10 benefits (except workers' compensation benefits); claims for failure to hire, public policy
11 violations, defamation, invasion of privacy, fraud, misrepresentation, emotional distress,
12 assault/battery, or other common law or tort matters; claims of harassment, retaliation or
13 discrimination based on age, race, color, religion, sex, national origin, ancestry, physical or
14 mental disability, protected activity, medical condition, marital status, sexual preference, union
15 activity, or veteran status; claims under the Americans with Disabilities Act, Age
16 Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964 (as amended), the
17 Civil Rights Act of 1991; 42 USC sec. 1981, 42 USC sec. 1983, the Older Workers Benefit
18 Protection Act, the Family and Medical Leave Act; claims for unfair competition; claims based
19 on legal restrictions on Defendant's right to terminate, not to hire or promote employees, or to
20 change an employee's compensation; and claims based on any federal, state or other
21 governmental statute, regulation or ordinance, all statutory, constitutional, contractual or
22 common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated
23 damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable
24 relief, or any other claims arising under the Fair Labor Standards Act, the Employment
25 Retirement Security Income Act of 1974, the California Constitution, the California Fair
26 Employment and Housing Act, the California Unfair Competition Act (California Business and
27 Professions Code section 17200 et seq.), the California Labor Code, or Industrial Welfare
28 Commission Wage Orders, or arising out of or based upon the following categories of

1 allegations regardless of the forum in which they may be brought, to the fullest extent such
2 claims are releasable by law: (i) all claims for unpaid overtime; (ii) all claims for unpaid wages;
3 (iii) all claims for meal break violations; (iv) all claims for rest period violations; (v) all claims
4 for paid sick leave violations; (vi) all claims for the failure to timely pay wages upon
5 termination; (vii) all claims for the failure to timely pay wages during employment; (viii) all
6 claims for wage statement violations; (ix) all claims for reporting time pay; and (x) all other
7 penalties recoverable for such claims under PAGA.

8 66. Plaintiffs agree that there is a risk that any injury that they may have suffered by
9 reason of the Released Parties' relationship with them might not now be known, and there is a
10 further risk that said injuries, whether known or unknown at the date of this Settlement
11 Agreement, might possibly become progressively worse, and that as a result thereof further
12 damages may be sustained. Nevertheless, Plaintiffs agree to forever and fully release and
13 discharge the Released Parties and understands that, by the execution of this Settlement
14 Agreement, no further claims for any such injuries that existed at the time of the execution of
15 this Settlement Agreement may ever be asserted by Plaintiffs with respect to claims arising in
16 the time period from the beginning of time to the execution of this Settlement Agreement.

17 67. Plaintiffs expressly waive and relinquish all rights and benefits afforded by
18 Section 1542 of the Civil Code of the State of California and does so understanding and
19 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
20 of the State of California states:

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

28 Plaintiffs acknowledge and agree that this knowing and voluntary waiver is an essential
and material term of this Settlement Agreement, and the Settlement Agreement would not have
been entered into without such a waiver.

68. Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all parties, Plaintiffs expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that Plaintiffs knew of, as well as all claims that they do not know or suspect to exist in their favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such Plaintiffs' claims. Notwithstanding the above, the general release by Plaintiffs shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

G. Interim Stay of Proceedings

69. Pending completion of all prerequisites necessary to effectuate this Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such as are necessary to effectuate the Settlement.

H. Notice Process

70. Appointment of Settlement Administrator. The Parties have agreed to the appointment of the Settlement Administrator to perform the duties of a settlement administrator, including mailing the Notice Packet, using standard devices to obtain forwarding addresses, independently reviewing and verifying documentation associated with any claims or opt-out requests, resolving any disputes regarding the calculation or application of the formula for determining the Individual Class Payments and/or Individual PAGA Payments, drafting and mailing the settlement checks to Participating Class Members and Aggrieved Employees, issuing all necessary tax forms, and performing other tasks as set forth herein or as the Parties mutually agree or the Court orders.

71. Disputes Regarding Settlement Administration. Any and all disputes relating to administration of the Settlement by the Settlement Administrator (except for disputes regarding Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until Plaintiffs and Defendant notify the Court that all payments and obligations contemplated by this Agreement have been fully carried out.

1 Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to
2 resolve the dispute without the necessity of Court intervention. The Settlement Administrator
3 shall also be responsible for issuing to Plaintiffs, Participating Class Members, and Aggrieved
4 Employees, and Class Counsel any tax forms as may be required by law for all amounts paid
5 pursuant to this Agreement.

6 72. Class Data. Within thirty (30) calendar days after entry of the Preliminary
7 Approval Order, Defendant shall provide the Class Data to the Settlement Administrator. The
8 Settlement Administrator will run a check of the Class Members' addresses against those on file
9 with the U.S. Postal Service's National Change of Address List. The Class Data provided to the
10 Settlement Administrator will remain confidential and will not be used or disclosed to anyone,
11 except as required by applicable tax authorities, pursuant to Defendant's express written consent,
12 or by order of the Court. Although Class Counsel will not be provided with the list of Class Data,
13 nothing herein shall prevent Class Counsel from communicating with Class Members regarding
14 the Action and Settlement.

15 73. Total Workweeks. Within five (5) calendar days of receiving the Class Data, the
16 Settlement Administrator shall provide a spreadsheet to Class Counsel and Defense Counsel
17 containing a preliminary calculation of all payments to be paid from the Settlement Amount,
18 including the estimated Individual Class Payments to each Class Member and Individual PAGA
19 Payments to each Aggrieved Employee (a person's name shall be redacted and a control number
20 used in place of the name). In the event that the total Workweeks worked by all Class Members
21 triggers the Escalator Clause, Defendant shall have five (5) business days to make their election
22 to either increase the Settlement Amount or change the end date of the Class Period under
23 Paragraph 16 above. If Defendant fails to make an election within the required five-day period, it
24 shall be treated as a waiver of the right to shorten the Class Period, and the Settlement Amount
25 shall be increased in accordance with the Escalator Clause. In either event, the Settlement
26 Administrator shall notify the Parties of the increased Settlement Amount (if applicable), and
27 related increased payments from the Settlement Amount (if applicable), including increased
28 Attorneys' Fees and Costs and any increased Settlement Administration Costs, all of which shall

1 be subject to Court approval, and shall update the Notice accordingly (including modifying the
2 end date of the Class Period if Defendant elects that option).

3 74. Notice Packet. The Notice Packet, as approved by the Court, shall be sent by the
4 Settlement Administrator to the Class Members, by first class mail, in English and Spanish, within
5 fifteen (15) calendar days following the Settlement Administrator's receipt of the Class Data. For
6 all Class Members, the Notice Packet will include the Notice, Request for Exclusion Form,
7 Objection Form, and Dispute Form. The Settlement Administrator shall use standard devices,
8 including a skip trace, to obtain forwarding addresses of Class Members if any envelopes are
9 returned.

10 75. Returned Notice Packets. The Settlement Administrator will take steps to ensure
11 that the Notice Packet is received by all Class Members, including utilization of the National
12 Change of Address Database maintained by the United States Postal Service to review the
13 accuracy of and, if possible, update a mailing address. Any Notice Packets returned to the
14 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent
15 promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the
16 Settlement Administrator will indicate the date of such re-mailing on the Notice Packet. If no
17 forwarding address is provided, the Settlement Administrator will promptly attempt to determine
18 the correct address using a skip-trace, or other search using the name, address and/or Social
19 Security number of the Class Member involved, and will then perform a single re-mailing. Notices
20 will be re-mailed to any Class Member for whom an updated address is located within ten (10)
21 calendar days following both the Settlement Administrator learning of the failed mailing and its
22 receipt of the updated address, but no in event later than five (5) calendar days after the Response
23 Deadline. The Notice Packet shall be identical to the original Notice Packet, except that it shall
24 notify the Class Member that the exclusion (opt-out) request or objection must be returned by the
25 later of the Response Deadline or fifteen (15) calendar days after the remailing of the Notice
26 Packet.

27 76. Presumption Regarding Receipt of Notice Packet. It will be conclusively presumed
28 that if an envelope has not been returned to Settlement Administrator by the Response Deadline

1 that the Class Member received the Notice Packet.

2 77. Disputes Regarding Class Data. Class Members are deemed to participate in the
3 Settlement unless they opt-out, and Aggrieved Employees may not opt out of the PAGA portion
4 of the Settlement. The Notice will inform Class Members of his/her estimated Individual Class
5 Payment and Individual PAGA Payment, as well as the number of Weeks Worked and Share
6 Points during the Class Period and the PAGA Period. Class Members may dispute their
7 Workweeks by timely submitting evidence to the Settlement Administrator that such information
8 is inaccurate. Defendant's records will be presumed determinative absent reliable evidence to
9 rebut Defendant's records, but the Settlement Administrator will evaluate the evidence submitted
10 by the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel
11 who agree to meet and confer in good faith about the evidence to determine the Class Member's
12 actual number of Work Weeks, and estimated Individual Class and PAGA Payments. If Class
13 Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Court
14 to render a final decision. Class Members and Aggrieved Employees will have until the Response
15 Deadline to dispute Workweeks, object, or opt out, unless extended by the Court. All disputes
16 will be decided within ten (10) calendar days of the Response Deadline.

17 78. Declaration of Due Diligence. The Settlement Administrator shall provide counsel
18 for the Parties, at least five (5) calendar days after the initial Response Deadline, a declaration of
19 due diligence and proof of mailing with regard to the mailing and remailing of the Notice Packets.
20 For any Notice Packets that were undeliverable and remailed, the Settlement Administrator shall
21 also provide counsel for the Parties with a supplemental declaration advising as to the total
22 remailings, the date of remailings, and whether any of the Class Members that received a
23 remailing submitted Request for Exclusion, Objection, or Dispute Forms. The supplemental
24 declaration, if necessary, shall be provided to counsel for the Parties no later than five (5) calendar
25 days after the last additional 15-day extended Response Deadline for remailing.

26 79. Class Members' Rights. Each Class Member will be fully advised of the
27 Settlement, the ability to object to the settlement, and the ability to opt out or request exclusion
28 from the Class Claims portion of the Settlement. The Notice Packet will inform the Class

Members of the Court-established deadlines for filing objections or requesting exclusion from the Settlement in accordance with the following guidelines:

(a) Requests for Exclusion from Class. Any Class Member, other than Plaintiffs, may request to be excluded from the Class by completing the Request for Exclusion Form provided within the Notice Packet. The Request for Exclusion Form must be mailed to the Settlement Administrator and postmarked on or before the Response Deadline in order to be timely. Any such Request must be made in accordance with the terms set forth in the Notice Packet. To be valid, a Request for Exclusion must be both timely postmarked by the Response Deadline and received by the Settlement Administrator no later than five (5) calendar days after the expiration of the Response Deadline. The postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Request for Exclusion that is not received by the Settlement Administrator will be deemed ineffective unless the Class Member submits documentary evidence conclusively demonstrating that they took all necessary steps to comply with the opt-out procedures herein and that the Settlement Administrator's failure to receive their Request for Exclusion was due to forces outside of their control. Declarations or affidavits, without additional documentary evidence corroborating the necessary steps taken, shall be deemed insufficient to conclusively demonstrate that all necessary steps to comply with the opt-out procedures herein were taken.

(b) The Settlement Administrator shall attach each Request for Exclusion to its declaration of due diligence and file with the Court prior to the Final Approval Hearing. Any Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement, including the right to object, appeal or comment on the Settlement; (ii) will not be entitled to receive any payments under this Agreement; and (iii) will not be bound by this Agreement, or the Judgment. Any Class Member who is an Aggrieved Employee who requests timely exclusion will still receive an Individual PAGA Payment. All Parties and their counsel, including Defendant and their agents and employees, shall not encourage or solicit opt-outs or objections, directly or indirectly, through any means.

(c) Binding Effect on Participating Class Members. All Participating Class

Members will: (i) be bound by the terms and conditions of this Agreement, Judgment, and releases set forth herein; and (ii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(d) Objections to Settlement. Any Class Member, other than Plaintiffs, who does not submit a valid and timely Request for Exclusion may object to the terms of this Agreement by completing the Objection Form provided within the Notice Packet. Any Class Member that intends to object must mail the Objection Form to the Settlement Administrator. The Objection Form must be postmarked on or before the Response Deadline in order to be timely, unless the Parties otherwise agree in writing. Additionally, any objection must be made in accordance with the terms set forth in the Notice Packet. The Settlement Administrator shall provide any objections to Class Counsel and Defense Counsel within three (3) calendar days of receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence and file with the Court prior to the Final Approval Hearing. Any Participating Class Member who files an objection remains eligible to receive monetary compensation from the Settlement. Plaintiffs and Defendant shall not be responsible for any fees, costs, or expenses incurred by any Class Member and/or his or her counsel related to any objections to the Settlement. Submitting an objection does not preserve the right to appeal a final judgment. The right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment under Code of Civil Procedure section 663.

(e) Failure to Object. Any Class Member who does not timely and properly become a party of record by intervening or filing a motion to vacate the judgment waives any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under Code of Civil Procedure section 473, and extraordinary writs.

(f) Responses to Objections. Counsel for the Parties may file a response to any objections submitted by Objecting Class Members at least five (5) court days before the date of the Final Approval Hearing.

(g) Class Members will have until the Response Deadline to object or submit

1 a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
2 Administrator shall disclose jointly to Class Counsel and Defense Counsel what objections or
3 Requests for Exclusion were timely submitted on a weekly basis and upon the request of Class
4 Counsel or Defense Counsel.

5 80. Funding of the Settlement Amount. Defendant shall fund the Settlement Amount
6 pursuant to the following payment plan: (1) by December 1, 2026, or ten (10) calendar days after
7 the Effective Date, whichever is later, Defendant shall fund 50% of the Gross Settlement Amount,
8 plus Defendant's proportional share of payroll taxes as determined by the Settlement
9 Administrator [the "First Installment Payment"], and (2) by December 1, 2027, or 10 days after
10 the Effective Date, whichever is later, Defendant shall fund the remaining 50% of the Gross
11 Settlement Amount, plus Defendant's remaining share of payroll taxes as determined by the
12 Settlement Administrator [the "Second Installment Payment"].

13 81. Right to Rescission: Notwithstanding any other provision of this Agreement,
14 Defendant shall retain the right, in the exercise of its sole discretion, to nullify the settlement
15 within fifteen (15) calendar days of expiration of the Adjusted Response Deadline, if more than
16 5% of the Class Members opt out of the settlement by timely submitting Request for Exclusion
17 forms. In the event of such a rescission, Defendant will be responsible for all Administration
18 Costs incurred to the date of rescission, and no party may use the fact that the Parties agreed to
19 settle this case as evidence of Defendant's liability in this lawsuit or the lack thereof. To exercise
20 its rights under this paragraph, Defendant must give written notice to Class Counsel and to the
21 Court no later than fifteen (15) calendar days after the Adjusted Response Deadline.

22 82. Distribution of Funds. No later than ten (10) calendar days after the deposit of each
23 installment payment, the Settlement Administrator shall mail amounts equal to fifty percent
24 (50%) of the Individual Class Payments to the Participating Class Members, Individual PAGA
25 Payments to the Aggrieved Employees, payment to Class Counsel for the Attorneys' Fees and
26 Costs Award, any Service Payments to the Class Representatives, payment to the LWDA for
27 PAGA Penalties, and Settlement Administration Costs.

28 83. Deadline for Cashing Settlement Checks. Participating Class Members and

1 Aggrieved Employees shall have one hundred eighty (180) calendar days after mailing by the
2 Settlement Administrator to cash their settlement checks. The release will be binding upon all
3 Participating Class Members who do not cash their checks within the 180-day period. In the event
4 that any settlement check is returned to the Settlement Administrator within 180 days of mailing,
5 the Settlement Administrator will, within five (5) business days of receipt of the returned
6 settlement check, perform a skip trace to locate the individual, and notify Defense Counsel and
7 Class Counsel of the results. If a new address is located by these means, the Administrator will
8 have ten (10) business days to re-issue the check. Neither Defendant, Defense Counsel, Class
9 Counsel, Plaintiffs, nor the Settlement Administrator will have any liability for lost or stolen
10 settlement checks, forged signatures on settlement checks, or unauthorized negotiation of
11 settlement checks. Without limiting the foregoing, in the event a Participating Class Member
12 and/or Aggrieved Employee notifies the Settlement Administrator that he or she believes that a
13 settlement check has been lost or stolen, the Settlement Administrator shall immediately stop
14 payment on such check. If the check in question has not been negotiated prior to the stop payment
15 order, the Settlement Administrator will issue a replacement check.

16 (a) If any Participating Class Member's check is not cashed within the time
17 periods noted above, the check will be void and a stop-payment will be issued. If a Participating
18 Class Member's check for the First Installment Payment is not cashed within the periods noted
19 above, then the Settlement Administrator shall re-issue the check for the First Installment
20 Payment when issuing the Participating Class Member's check for the Second Installment
21 Payment. For any checks remaining uncashed after the 180-day period after issuance of checks
22 for the Second Installment Payment, the Settlement Administrator shall issue the unclaimed funds
23 to the California State Controller's Office in the name of the Class Member.

24 (b) If any Aggrieved Employee's check is not cashed within the time periods
25 noted above, the check will be void and a stop payment will be issued. If an Aggrieved
26 Employee's check for the First Installment Payment is not cashed within the periods noted above,
27 then the Settlement Administrator shall re-issue the check for the First Installment Payment when
28 issuing the Participating Class Member's check for the Second Installment Payment. For any

1 checks remaining uncashed after the 180-day period after issuance of checks for the Second
2 Installment Payment, the Settlement Administrator shall issue the unclaimed funds to the
3 California State Controller's Office in the name of the Class Member.

4 **I. Duties of the Parties Prior to the Court's Approval**

5 84. Promptly after execution of this Agreement, Plaintiffs will move the Court for
6 Preliminary Approval of this Settlement and entry of the Preliminary Approval Order
7 accomplishing the following:

8 (a) Scheduling the Final Approval Hearing on the issue of whether this
9 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
10 and a hearing on fees, costs and the Service Payments;

11 (b) Approving as to form and content the proposed Notice Packet;

12 (c) Directing the mailing of the Notice Packet by first class mail to the Class
13 Members;

14 (d) Preliminarily approving this Settlement;

15 (e) Preliminarily certifying the class for purposes of this Settlement; and

16 (f) Advising the LWDA of the proposed Settlement.

17 **J. Duties of the Parties Following Court's Final Approval**

18 85. In connection with the Final Approval Hearing provided for in this Agreement,
19 Class Counsel shall submit a proposed Final Approval Order:

20 (a) Approving the Settlement, adjudging the terms thereof to be fair,
21 reasonable and adequate, and directing consummation of its terms and provisions;

22 (b) Approving Class Counsel's application for an award of attorneys' fees and
23 reimbursement of litigation costs and expenses, Service Payments to the Class Representatives,
24 and the payment to the Settlement Administrator for costs of administering the settlement; and

25 (c) Entering judgment approving settlement.

26 **K. Voiding the Agreement**

27 86. If the Court fails or refuses to issue the Final Approval Order or fails to approve
28 any material condition of this Agreement which effects a fundamental change of the Settlement,

the entire Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of either Party.

87. If the Settlement is voided or fails for any reason, Plaintiffs and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay the Settlement Amount, or any amounts that would have been owed under this Settlement.

88. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendant and Plaintiffs, unless otherwise specified in this Agreement.

L. Other Terms

89. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

90. Acceleration Clause. If Defendant fails to make any required payments within five (5) business days of the respective due date, Class Counsel shall send a notice of default to Defense Counsel. Defendant will then have ten (10) business days after issuance of the notice of default to cure and bring all payments up to the current required amount. If Defendant fails to timely cure the late payment, all remaining balances shall become due and payable immediately.

91. Nullification of Releases. In the event that Defendant does not fully fund the Settlement Amount and separate share of payroll taxes pursuant to the payment plan discussed herein, then the Releases granted herein, including as to the Released Class Claims, the Released PAGA Claims, and Plaintiffs' general releases, shall be nullified and deemed void *ab initio*.

92. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

93. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as

1 practicable after execution of this Agreement, Class Counsel shall, with the assistance and
2 cooperation of Defendant and Defense Counsel, take all necessary steps to secure the Court's
3 preliminary and final approval of the settlement, and the final entry of judgment.

4 94. Preview of Filings. Class Counsel will afford Defendant's Counsel an opportunity
5 to review the Motion for Preliminary Approval, Motion for Final Approval, and applicable
6 [Proposed] Orders prior to filing with the Court. Class Counsel will provide Defendant's Counsel
7 with the relevant Motions and [Proposed] Orders no less than five (5) calendar days before Class
8 Counsel plan to file such documents with the Court and Defendant will have three (3) calendar
9 days from receipt to review such documents and provide suggested changes to such documents
10 within the time frame such that Class Counsel would have at least two calendar days or one court
11 day to review and either accept or propose alternative language in the documents. Class Counsel
12 agree to consider such suggested changes in good faith. Although unlikely, if Defendant's
13 Counsel files any documents with the Court relating to the Settlement, Defendant's Counsel will
14 not file without first providing Class Counsel the same opportunity to review the documents as
15 set forth in this paragraph. In the event the Parties are required to file supplemental briefs, revised
16 Orders, or other amended documents when seeking approval, the Parties agree that such
17 documents are not subject to the provisions of this paragraph. To the extent practicable, the Parties
18 agree to provide counsel with an opportunity to review such documents before filing, however
19 this shall not delay or prevent the Parties from filing any such documents as needed for approval.
20 If, pursuant to the Memorandum of Understanding and after exhausting reasonable efforts to
21 resolve any issues through the mediator, a Party moves to enforce the Memorandum of
22 Understanding, such Party is relieved of its obligation of providing the other Party an opportunity
23 to review those papers.

24 95. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by
25 the Court or after the final fairness hearing, the Parties will present the Judgment to the Court for
26 its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for
27 purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii)
28 Settlement administration matters, and (iii) such post-Judgment matters as may be appropriate

1 under court rules or as set forth in this Settlement Agreement. Within ten (10) calendar days of
2 either the entry of judgment or the entry of order denying or granting the Settlement, Class
3 Counsel shall provide a copy of the superior court's judgment or order to the LWDA pursuant to
4 Labor Code section 2699(1)(3).

5 96. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
6 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
7 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
8 cause of action, or rights released and discharged by this Agreement.

9 97. No Admission. Defendant denies any and all liability to Plaintiffs and/or any Class
10 Member and/or Aggrieved Employee in this Action, as to any and all causes of action that were
11 asserted or that might have been asserted in this Action. Nonetheless, Defendant wishes to settle
12 and compromise the matters at issue in the Complaint to avoid further substantial expense and the
13 inconvenience and distraction of protracted and burdensome litigation. Defendant has taken into
14 account the uncertainty and risks inherent in litigation, and without conceding any infirmity in
15 the defenses that they have asserted or could assert against Plaintiffs, have determined that it is
16 desirable and beneficial that Plaintiffs' claims be settled in the manner and upon the terms and
17 conditions set forth in this Agreement.

18 98. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
19 Order, nothing contained herein, nor the consummation of this Agreement, is to be construed or
20 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant
21 or any of the other Released Parties. Each of the Parties hereto has entered into this Agreement
22 with the intention of avoiding further disputes and litigation with the attendant inconvenience and
23 expenses. This Agreement is a settlement document, and it, along with all related documents such
24 as the notices, and motions for preliminary and final approval, shall, pursuant to Evidence Code
25 section 1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding,
26 except an action or proceeding to approve the settlement, and/or interpret or enforce this
27 Agreement. The stipulation for class certification as part of this Agreement is for settlement
28 purposes only and if, for any reason the settlement is not approved, the stipulation will be of no

force or effect.

99. No Publicity. The Parties will not publicize the Settlement or disclose it to third parties prior to the Court granting Preliminary Approval, except as required or necessary to effectuate its terms and comply with law. After the Final Approval Date, Class Counsel and Class Representatives agree that they will not discuss the Settlement with the media, any settlement and verdict reporting service, any social media postings or other Internet postings. Nothing herein shall be construed to prevent Class Counsel from the public filing of motions or other case materials in the Action related to seeking and obtaining Court approval of this Settlement and the related awards of attorneys' fees and costs, or to communications with Class Members or their representatives about this Settlement, including through the posting of Court-filed documents on Class Counsel's websites for access solely by the Class Members, or to prevent the Parties or their representatives from communicating with financial or legal advisors regarding the Settlement. In response to any media inquiry, Class Counsel may state only that the Action has been settled on terms mutually agreeable to the Parties.

100. Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed:

<i>To the Class:</i>	<i>To Defendant:</i>
Brian J. Mankin <i>brian@lmfirm.com</i> Lauby, Mankin & Lauby LLP 5198 Arlington Ave, PMB 513 Riverside, CA 92504 Tel: (951) 320-1444 Fax: (951) 320-1445	Freyaan Y. Karanjia <i>frey@ameskaranjia.com</i> Ames Karanjia LLP 2488 Historic Decatur Road, Suite 100 San Diego, CA 92106 Tel: (619) 374-0205 Fax: (619) 330-5690

101. Construction. The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Agreement. Plaintiffs

1 and Defendant expressly waive the common law and statutory rule of construction that
2 ambiguities should be construed against the drafter of an agreement and further agree, covenant,
3 and represent that the language in all parts of this Agreement shall be in all cases construed as a
4 whole, according to its fair meaning.

5 102. Captions and Interpretations. Paragraph titles or captions contained herein are
6 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
7 describe the scope of this Agreement or any provision hereof. Each term of this Agreement is
8 contractual and not merely a recital.

9 103. Modification. This Agreement may not be changed, altered, or modified, except
10 in writing and signed by the Parties hereto, and approved by the Court. This Settlement
11 Agreement may not be discharged except by performance in accordance with its terms or by a
12 writing signed by all of the Parties hereto.

13 104. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
14 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide
15 written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and
16 Plaintiffs and Defendant may agree to seek the help of the Mediator to resolve any dispute they
17 are unable to resolve informally. During this period, the Parties shall bear their own attorneys'
18 fees and costs. This provision shall not apply to any legal action or other proceeding instituted by
19 any person or entity other than Plaintiffs or Defendant.

20 105. Choice of Law. This Settlement Agreement shall be governed by and construed,
21 enforced and administered in accordance with the laws of the State of California, without regard
22 to its conflicts-of-law rules.

23 106. Integration Clause. This Settlement Agreement contains the entire agreement
24 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
25 or contemporaneous agreements, understandings, representations, and statements, whether oral
26 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
27 hereunder may be waived except in writing.

28 107. Binding On Assigns. This Agreement shall be binding upon and inure to the

benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

108. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Class are numerous, it is impossible or impractical to have each Class Member execute this Agreement. The Notice Packet will advise all Class Members of the binding nature of the release provided herein and such shall have the same force and effect as if this Agreement were executed by each Class Member.

109. Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

-- Signatures on Next Page --

1 Dated: Dec 17, 2025
2 _____

PLAINTIFF AND CLASS REPRESENTATIVE

3 
4 JoshuaTrcka (Dec 17, 2025 19:21:45 PST)
5 _____
6 Joshua Trcka

7 Dated: _____

PLAINTIFF AND CLASS REPRESENTATIVE

8 _____
9 Ty Spraggins

10 Dated: _____

DEFENDANT ROTOCO, LLC

11 _____
12 By: Robert Yam
13 Title: Chief Financial Officer

14 **APPROVED AS TO FORM:**

15
16
17 Dated: _____

CLASS COUNSEL
LAUBY, MANKIN & LAUBY LLP

18 _____
19 Brian J. Mankin, Esq.
20 Attorneys for Plaintiffs

21
22 Dated: _____

DEFENSE COUNSEL:
AMES KARANJIA LLP

23 _____
24 Freyaan Karanjia, Esq.
25 Attorneys for Defendant
26
27
28

1
2 Dated: _____

PLAINTIFF AND CLASS REPRESENTATIVE

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Joshua Trcka

Dated: Dec 18, 2025

PLAINTIFF AND CLASS REPRESENTATIVE


Ty Spraggins (Dec 18, 2025 12:32:11 PST)
Ty Spraggins

Dated: 12 / 22 / 2025

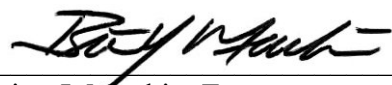
DEFENDANT ROTOCO, LLC


By: Robert Yam
Title: Chief Financial Officer

APPROVED AS TO FORM:

Dated: Dec. 18, 2025

CLASS COUNSEL
LAUBY, MANKIN & LAUBY LLP


Brian J. Mankin, Esq.
Attorneys for Plaintiffs

Dated: December 22, 2025

DEFENSE COUNSEL:
AMES KARANJIA LLP


Freyaan Karanjia, Esq.
Attorneys for Defendant

EXHIBIT “B”

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT

Trcka and Spraggins v. RotoCo, LLC

(Riverside County Superior Court, Case No. CVRI2304897)

***The Riverside County Superior Court authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit filed by Joshua Trcka and Ty Spraggins (“Plaintiffs” or “Class Representatives”) against Defendant RotoCo, LLC (“Defendant”) for alleged violations of the California Labor Code (the “Action”). (Plaintiffs and Defendant shall be collectively referred to as the “Parties”).

Plaintiffs brought the Action on behalf of the “Class Members”, defined to include all current and former Field Employees, non-exempt Non-Field Employees, and Salespersons employed by Defendant in California during the “Class Period” (which is September 18, 2019, through January 31, 2026). And these groups of employees are further defined as follows: (1) “Field Employees” are “all employees that performed services for Defendant in the field, including plumbing technicians, pumpers, and water restoration technicians”, (2) “Non-Field Employees” are “all nonexempt employees of Defendant other than Field Employees”, and (3) “Salespersons” are “all employees of Defendant that were compensated on a commission-only basis (without or without an additional stipend) pursuant to the outside sales exemption.”

The Action seeks payment of (1) unpaid wages, statutory damages and penalties, interest and attorneys’ fees on behalf of all Class Members during the Class Period; and (2) penalties under the California Private Attorneys General Act (“PAGA”) on behalf of all Aggrieved Employees, who are defined as “all current and former Field Employees, non-exempt Non-Field Employees, and Salespersons employed by Defendant in California during the PAGA Period (which is September 18, 2022, through January 31, 2026). PAGA is a California law that allows employees to bring claims for civil penalties on behalf of the California Labor and Workforce Development Agency (“LWDA”) and all Aggrieved Employees for alleged violations of the Labor Code, and any payment for PAGA penalties shall be paid 75% to the LWDA and 25% to all Aggrieved Employees as civil penalties (rather than wages).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments to Class Members, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the LWDA. Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class and PAGA Payments are shown in the charts below, along with the applicable data points from which these estimates are derived. *Please note:* Class Members are credited with 1 Share Point for each Week Worked as a Salesperson or Non-Field Employee and 2 Share Points for each Week Worked as a Field Employee.

[CLASS MEMBER NAME] [ID/CONTROL NUMBER]

<i>Calculations and Data Points for Estimated Individual Class Payment</i>			
Weeks Worked during Class Period		Total Share Points	Estimated Individual Class Payment
<i>As Field Employee</i>	<i>As Non-Field Employee or Salesperson</i>		
INSERT	INSERT	INSERT	INSERT

<i>Calculations and Data Points for Estimated Individual PAGA Payment</i>	
Weeks Worked during PAGA Period	Estimated Individual PAGA Payment
INSERT	INSERT

Please note that the actual amount you receive may be different from the above and will depend on several factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work for Defendant in California during the PAGA Period.) If you believe that you worked more weeks during the periods than are shown in the chart above, you can submit a challenge by **INSERT DATE**, (“Response Deadline”). See **Section 4** of this Notice.

In granting preliminarily approval of the proposed Settlement and approving this Notice, the Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant in California during the Class Period and/or the PAGA Period, you have a few options as shown in the Chart below:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your full settlement payment, then no further action is required on your part. You will automatically receive a settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section 3 below .
EXCLUDE YOURSELF	If you do not wish to participate in the proposed Settlement of the Class Claims, you may "opt-out" of the Settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion form by [REDACTED] (see Section 6 below for more details on how to opt-out). If you opt-out, you will no longer be a Participating Class Member, and you (1) will <u>not</u> receive an Individual Class Payment, (2) will preserve your right to pursue the Released Class Claims, subject to applicable statutes of limitations, and (3) be barred from filing an objection to the settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees. See Section 6 of this Notice.
OBJECT	Only Participating Class Members have the right to object to the Settlement. Thus, you cannot <i>both</i> opt-out and object to the Settlement. If you decide to object to the settlement with respect to the Class Claims because you find it unfair or unreasonable, you must submit an Objection Form stating why you object to the settlement by [REDACTED] (see Section 7 for more details on how to object). You cannot object to the PAGA portion of the proposed Settlement. If you object to the Settlement, you are still eligible to receive a Settlement payment should the Settlement become Final.
DISPUTE THE NUMBER OF WEEKS WORKED	If you believe the number of workweeks that you were credited with working in the chart above is incorrect, you may submit the enclosed Dispute Form with any supporting evidence to Phoenix Settlement Administrators ("Settlement Administrator"), a third party responsible for sending this Notice. (see Section 4 for more details on how to submit a Dispute Form). Defendant's records will be presumed correct, but you may provide evidence to the Settlement Administrator showing how many Work Weeks you believe you should be credited.

YOU MAY ATTEND THE FINAL APPROVAL HEARING, BUT IT'S NOT REQUIRED	
DATE: [REDACTED] TIME: 8:30 A.M.	The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. At the Final Approval Hearing, the Court will decide whether the Settlement is fair, adequate, and reasonable, and whether to finally approve the Settlement. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Objectors to the proposed Settlement will be provided notice if the hearing is rescheduled to a later date. See Section 8 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Defendant of violating California labor laws due to the alleged: failure to pay minimum and overtime wages, failure to provide meal periods and rest breaks, failure to reimburse business expenses, failure to pay sick pay, failure to timely pay wages upon separation of employment, and failure to provide accurate itemized wage statements. Based on the same claims, Plaintiffs also asserted a claim for civil penalties under PAGA.

Defendant strongly denies violating any laws or failing to pay any wages and contends that it complied with all applicable laws.

Both Parties are represented by attorneys in the Action. See Section 9 below for their contact information.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

After the exchange of relevant information and evidence, the Parties hired an experienced, neutral mediator in an effort to resolve the Action by negotiating a settlement rather than continuing the expensive and time-consuming process of litigation. With the mediator's guidance, the negotiations were successful. Plaintiffs and Defendant have negotiated a proposed Settlement Agreement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits and has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at final hearing. The Court preliminarily approved the Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$2,000,000 as the gross settlement amount (the "Settlement Amount"). Defendant have agreed to pay a total Settlement Amount of \$2,000,000. Defendant will deposit the Settlement Amount into an account controlled by the Settlement Administrator. The Settlement Administrator will use the Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representatives' Service Payments, Class Counsel's attorney's fees and expenses, the Administrator's Costs, and PAGA Penalties to be paid to the LWDA. Assuming the Court grants Final Approval, Defendant will fund the Settlement Amount under a two-part payment plan with fifty percent (50%) payable in approximately December 2026 and the remaining fifty percent (50%) paid in December 2027 (please note: these payment dates are only estimated and actual payments may occur later if, for instance, the Judgment is appealed).

2. Court Approved Deductions from Settlement Amount. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to one-third (1/3) of the Settlement Amount (\$666,666.66) to Class Counsel for attorneys' fees, plus reasonable costs and expenses, not to exceed \$30,000. To date, Class Counsel have worked incurred expenses on the Action without payment.

B. Up to \$7,500 as a Service Payment to Plaintiff Spraggins and up to \$25,000 as a Service Payment to Plaintiff Trcka for litigating the Action, working with Class Counsel, and representing the Class.

C. \$16,000 to the Settlement Administrator for services administering the Settlement.

D. Up to \$50,000 for PAGA Penalties, allocated seventy-five percent (75%) to the LWDA PAGA

Payment and twenty-five percent (25%) in Individual PAGA Payments to the Aggrieved Employees based on their share of Weeks Worked during the PAGA Period.

E. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Participating Class Members. After making the above deductions in amounts approved by the Court, the Settlement Administrator will distribute the remainder of the Settlement Amount (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their pro rata share of “Share Points” during the Class Period. In this regard, each Class Members’ “Share Points” will be calculated as follows: (1) each Week Worked by a Field Employee during the Class Period shall be credited with 2 Share Points, and (2) each Week Worked by a Non-Field Employee or Salesperson shall be credited with 1 Share Point.

4. Taxes Owed on Payments to Class Members. The proposed Settlement allocates one-third (1/3) of each Individual Class Payment to taxable wages (“Wage Portion”) and two-thirds (2/3) to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS Form W-2. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS Form 1099.

Although Plaintiffs and Defendant have agreed to these allocations, neither side is giving you any advice on whether your payments are taxable or how much you might owe in taxes. You are responsible for paying all applicable taxes on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. **Need to Promptly Cash Payment Checks.** The front of every check issued will show the date when the check expires (the “Void Date”). If you don’t cash it by the Void Date, your check will be automatically cancelled, and the monies will be deposited with the California State Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money. If you lose or misplace your check before cashing it, the Settlement Administrator will replace it as long as you request a replacement before the Void Date.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. See Section 6 of this Notice for details on how to Opt-Out.

7. The Proposed Settlement Will be Void If the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Settlement Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Settlement Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Settlement Administrator will also decide any Disputes over weeks worked, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Settlement Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and the Effective Date occurs, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or the "Released Parties" (which means Defendant, together with its officers, directors, employees, and agents) based on the facts alleged in the Action for the duration of the Class Period, which are resolved by this Settlement. The Participating Class Members will be bound by the following release:

All Participating Class Members release the Released Parties from “the claims stated in the Complaint and those based solely upon the facts in the Complaint, including: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to pay sick pay, (7) failure to timely pay final wages, (8) failure to provide accurate itemized wage statements, and (9) unfair and unlawful competition.” The “Released Class Claims” expressly excludes all claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and claims outside of the Class Period.

10. Released PAGA Claims. After the Court’s Judgment is final and the Effective Date occurs, Plaintiff Trcka, on behalf of himself, the State of California, and the LWDA shall release the Released Parties from “the PAGA claims that Plaintiff Trcka alleged against the Released Parties, based on the facts stated in the relevant LWDA notice letter and only to the extent that they are alleged in the Complaint, including all PAGA claims seeking civil penalties premised upon: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to pay sick pay, (7) failure to timely pay wages, (8) failure to timely pay final wages, (9) failure to provide accurate itemized wage statements, and (10) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et seq. based on the facts or claims alleged in the LWDA notice letters and Complaint.”

4. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Individual Class Payments. Each Participating Class Member’s Individual Class Payment will be based on the pro rata share of “Share Points” credited for their Weeks Worked during the Class Period. Each Class Members’ “Share Points” will be calculated as follows: (1) each Week Worked by a Field Employee during the Class Period shall be credited with 2 Share Points, and (2) each Week Worked by a Non-Field Employee or Salesperson shall be credited with 1 Share Point. The Administrator will then calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Share Points credited to the Participating Class Members, and (b) multiplying the result by each Participating Class Members’ Share Points.

2. Individual PAGA Payments. The Settlement Administrator will calculate Individual PAGA Payments by (a) dividing \$12,500 by the total number of Weeks Worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by the number of Weeks Worked by each individual Aggrieved Employee during the PAGA Period.

3. Disputing Weeks Worked and/or Share Points. The number of weeks you worked (and Share Points you are credited with) during the Class and PAGA Periods, as recorded in Defendant’s records, are stated in the tables on page 1 of this Notice. You have until **INSERT DATE** (the “Response Deadline”) to dispute the number of Workweeks / Share Points credited to you by mailing the enclosed Dispute Form to the Settlement Administrator on or before the Response Deadline. Section 9 of this Notice has the Administrator’s contact information.

You need to support your dispute by sending copies of pay stubs or other records. The Settlement Administrator will accept Defendant’s data and records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Settlement Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendant’s Counsel. The Settlement Administrator’s decision is final. You can’t appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members and Aggrieved Employees. The Administrator will send, by U.S. mail, checks to every Participating Class Member (which includes every Class Member who does not opt-out) and qualified Aggrieved Employee. The check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members/Aggrieved Employees Only. If you opted out of the Class settlement, but qualify as an Aggrieved Employee, then the Settlement Administrator will send, by U.S. mail, Individual PAGA Payment checks to every Aggrieved Employee, including those who opt out of the Class Settlement.

Your check will be sent to the same address as this Notice. If you change your address, notify the Settlement Administrator as soon as possible. Section 9 of this Notice has the Settlement Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. To opt-out, you must complete, sign, and mail the accompanying Request for Exclusion Form to the Settlement Administrator, postmarked on or before the Response Deadline (as a reminder, **the "Response Deadline" is INSERT RESPONSE DEADLINE**). Any person who submits a timely Request for Exclusion from the Class Claims (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive an Individual Class Payment; (3) will preserve the right to pursue the Released Class Claims, and (4) will not be bound by this Settlement, or the Judgment, as to the Released Class Claims.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Claims remain eligible to receive an Individual PAGA Payment and will be bound by the Released PAGA Claims.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement may wish to object. If you wish to object to the proposed Settlement, you or your own attorney must submit a written objection, on the enclosed Objection Form and include any and all evidence and supporting papers. The Objection Form and any accompanying evidence and papers must be sent to the Settlement Administrator at the address listed in Section 9 on the Objection Form, **postmarked** on or before **INSERT DATE**. If you do not comply with these procedures and the deadline for objections, the Court may not consider your objection at the Final Approval Hearing, and you may lose the right to contest the approval of the Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

8. WHEN IS THE FINAL APPROVAL HEARING?

On _____, at _____ a.m./p.m., the Court will hold a public hearing in Department 1 of the Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel's applications for attorneys' fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiffs' request for the service awards. This hearing may be continued or rescheduled by the Court. Objectors to the proposed settlement will be provided notice in the event that the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

If you have questions about this Notice, the enclosed Request for Exclusion Form, Dispute Form, or Objection Form, or the Settlement itself, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you should contact the Administrator for more information or to request that a copy of this Notice and request for Exclusion, Objection, and Dispute Forms be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them at the information below (you may also seek advice and guidance from your own private attorney at your own expense if you desire).

EXHIBIT “C”

REQUEST FOR EXCLUSION FORM

Trcka and Spraggins v. RotoCo, LLC

(Riverside County Superior Court, Case No. CVRI2304897)

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU WANT TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT CHECK? (check the box that applies)

☐

YES: STOP HERE -- DO NOT RETURN THIS FORM. NO FURTHER ACTION IS NEEDED TO PARTICIPATE IN THE SETTLEMENT.

☐

NO: SIGN, DATE AND RETURN THIS FORM TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

By signing below, I am excluding myself from the Settlement:

I do NOT want to participate in the settlement in *Trcka and Spraggins v. RotoCo, LLC* (Riverside Superior Court Case No. CVRI2304897). I understand by excluding myself that I will no longer be a Class Member, and I will not receive an Individual Class Payment. I further understand that I cannot opt-out of the PAGA portion of the Settlement, and that if I qualify as an Aggrieved Employee (see first page of the Notice), I will receive an Individual PAGA Payment even if I exclude myself.

Signed on _____

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name

Mailing Address

Telephone Number

EXHIBIT “D”

OBJECTION FORM

Trcka and Spraggins v. RotoCo, LLC

(Riverside County Superior Court, Case No. CVRI2304897)

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU OBJECT TO THE SETTLEMENT? (check the box that applies)

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM

Please note: if you wish to object to this Settlement, this form and any accompanying evidence must be mailed to the Settlement Administrator at the address listed below and **postmarked** on or before **INSERT DATE**. If your form is submitted untimely, the Court may not consider your objection at the Final Approval Hearing, and you may lose the right to contest the approval of the Settlement.

The Court will consider your objection at the Final Approval Hearing if you submit a timely and valid written statement of objection. Any objection should describe the nature of and basis for the objection, and any other information that you would like the Court to consider. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

I OBJECT to the Settlement in the case of *Trcka and Spraggins v. RotoCo, LLC* (Riverside Superior Court Case No. CVRI2304897) on the following grounds (if additional space is necessary, please include additional sheets of paper):

Signed on _____ **[NAME]** _____

<u>MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:</u> <table border="1"><tr><td> <u>Settlement Administrator:</u> Name Mailing Address Telephone Number </td></tr></table>	<u>Settlement Administrator:</u> Name Mailing Address Telephone Number
<u>Settlement Administrator:</u> Name Mailing Address Telephone Number	

EXHIBIT “E”

DISPUTE FORM

Trcka and Spraggins v. RotoCo, LLC

(Riverside County Superior Court, Case No. CVRI2304897)

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

PLEASE COMPLETE AND RETURN THIS FORM IF YOU DISAGREE WITH (DISPUTE) ANY OF THE INFORMATION IN THE CHARTS BELOW AND WANT THE PARTIES AND ADMINISTRATOR TO INVESTIGATE FURTHER

The following charts are based on the records of RotoCo, LLC (“Defendant”) and reflect the number of Weeks Worked for Defendant in California during the “Class Period” (September 18, 2019, through January 31, 2026) and/or the “PAGA Period” (September 18, 2022, through January 31, 2026) in any of the following three categories of employee covered by this Settlement:

- (1) “**Field Employees**” defined as “all employees that performed services for Defendant in the field, including plumbing technicians, pumpers, and water restoration technicians”
- (2) “**Non-Field Employees**” defined as all nonexempt employees of Defendant other than Field Employees, or
- (3) “**Salespersons**” defined as all employees of Defendant that were compensated on a commission-only basis (without or without an additional stipend) pursuant to the outside sales exemption”

Data Points for Calculations of Individual Class Payment

Weeks Worked during Class Period as Field Employee	INSERT
Weeks Worked during Class Period as Non-Field Employee or Salesperson	INSERT

Data Points for Calculations of Individual PAGA Payment

Weeks Worked during PAGA Period	INSERT
---------------------------------	--------

DO YOU DISAGREE WITH ANY OF THE INFORMATION ABOVE AND WANT THE PARTIES AND ADMINISTRATOR TO INVESTIGATE FURTHER?

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM.

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM.

In the space below, please state why you believe that you should be credited with more Weeks Worked than shown in the chart and attach copies (not originals) of supporting documentation. Please note: you need to support your dispute by sending copies of pay stubs or other records. The Settlement Administrator will accept Defendant's data and records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Settlement Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendant's Counsel. The Settlement Administrator's decision is final. You can't appeal or otherwise challenge its final decision

The Parties and Settlement Administrator will consider your challenge and make a determination as to these issues.

Signed on _____

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name
Mailing Address
Telephone Number

EXHIBIT “F”



LAUBY, MANKIN & LAUBY LLP

September 18, 2023

Submitted Via Online Filing to the LWDA

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Sent Via U.S. Mail and Certified Mail

RotoCo, LLC
2141 Industrial Court, Suite B
Vista, CA 92081

James Holcomb
2141 Industrial Court, Suite B
Vista, CA 92081

Re: PAGA Civil Penalty Claim
Joshua Trcka v. RotoCo, LLC., et al.

To the Labor and Workforce Development Agency and all Entities and Individuals Listed Herein:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as notification of the PAGA civil penalty claim of aggrieved employee Joshua Trcka (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against his former employers, RotoCo, LLC, as well as its owners/officers, including James Holcomb, among others (the “Owners”) (collectively, the “Company”) for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from approximately April through August 2023. Claimant alleges that he and all other employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to which Claimant was subjected during his employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum, regular, and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. As one specific example, Claimant and the Aggrieved Employees were paid on a commission-only basis. But, under this commission-only pay plan, the Company failed to pay the Aggrieved Employees at no less than the minimum wage for unpaid, on-duty time and tasks performed for the Company (*i.e.*, Aggrieved Employees did not receive any compensation for non-commission-generating tasks or mandated *paid* rest breaks). And the Company did not pay any overtime compensation despite that the Aggrieved Employees frequently worked in excess of 8 hours per day and 40 hours per week.

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Physical Address

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Claimant and the Aggrieved Employees were also denied proper minimum, regular, and overtime wages due to the Company's other practices that violated California law, including: (1) not paying the Aggrieved Employees for all compensable drivetime while traveling between jobs during the workday, (2) subjecting the Aggrieved Employees to an "auto-deduct" policy where the Company altered timekeeping records to reflect a 30-minute meal period for Aggrieved Employees despite that no such meal period was taken (thus illegally reducing compensable time by the amount of time under the "auto-deduct" practice), (3) requiring the Aggrieved Employees to remain on call and/or on controlled standby status between jobs during the workday without any compensation, and (4) failing to pay required split shift premiums.

Also, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional earned compensation in the form of nondiscretionary bonuses and similar payments. However, when the Aggrieved Employees worked overtime hours and received additional earned compensation during the same workweek, the Company failed to properly include these amounts in the calculations for Claimant's regular rate of pay – in violation of California law and which led to the failure to pay proper overtime.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company's policies and practices, as well as the hectic and demanding workload, Claimant was subjected to meal period violations when: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a shortened meal period, (4) forced to take a meal period after the 5th hour of work, and (5) not provided a mandated second meal period for shifts in excess of 10 hours.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks. Furthermore, on occasions when Claimant worked 10 hours or more in a shift, the Company failed to authorize and/or permit the mandated additional rest breaks. Furthermore, at all relevant times, Claimant and the Aggrieved Employees were denied paid rest breaks by virtue of the Company's policy that only paid on a commission basis. As Claimant and the Aggrieved Employees could not generate commission compensation during a rest break, Claimant and the Aggrieved Employees were illegally denied paid rest breaks.

Also, the Company required Claimant and the Aggrieved Employees to incur necessary business-related expenses and costs without reimbursement, including, but not limited to, acquiring and maintaining cellular phones and tools to perform their tasks for the Company. Moreover, at all relevant times, the Company utilized a policy and practice through which Claimant and the Aggrieved Employees accrued vacation and/or PTO hours (collectively, "vacation hours"). However, on the occasions when Claimant and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages and, further, failed to pay for vested and unused vacation at the "final rate" as required by Labor Code § 227.3.

The Company also failed to comply with the mandates of Labor Code §§ 204 and 210 regarding the timing of the payment of wages to its employees each period, including minimum and overtime wages, as well as meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201–203 regarding timing of payment of final wages and failed to pay all wages due and owing upon separation of employment including minimum wages, overtime, meal and rest break premiums, vacation wages, and the Company further failed to pay the Aggrieved Employees for mandated sick time at a rate "calculated in the same manner as the regular rate of pay" as required by Labor Code § 246.

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Finally, during employment with the Company, Claimant received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a).

Claimant alleges that he worked under the joint direction and control of the Company and the Owners and is informed and believes that each of them acted in all respects pertinent to this action as the agent of the others, carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of each are legally attributable to the others. On information and belief, a unity of interest and ownership between each exists such that the Company and the Owners acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the Company and the Owners are an integrated enterprise and should be treated as a single employer because the Company and the Owners share an interrelation of operations, with common human resources and personnel policies and shared common offices and facilities. Upon information and belief, the Company and the Owners share common management, a centralized control of labor operations, and common ownership or financial control.

Furthermore, Claimant alleges that the Owners are now and at all material times herein mentioned were the owners/officers of the Company, and Claimant's and the Aggrieved Employees' actual employer or, in the alternative, were individuals employed by the Company as a managerial and/or supervisory employee and/or agent. In addition, Claimant alleges that at all relevant times herein the Owners had the authority, in the interest of the Company to exercise independent judgment to hire, transfer, promote, discharge, assign, discipline, or take other similar actions against Claimant and the Aggrieved Employees, and were in Claimant's chain of command at the time of and direct participants in the wrongful conduct which constitutes the basis of Claimant's complaint herein. Claimant also alleges that the Company and the Owners are the agents, servants, employees, partners, affiliates, and/or representatives of each other, and were, at all times herein mentioned, acting within the course, scope, and purpose of such relationship(s) and with the knowledge, consent and/or ratification of each other. Furthermore, in conducting themselves in the manner described herein, the Company and the Owners were acting in active concert with on another such that the acts of each were fully attributable to the other in all material respects.

Claimant also alleges that the Company was merely the alter ego of the Owners in that there existed a unity of interest and ownership such that any separateness between them ceased to exist and the Owners exercised undue dominance, control, influence, and management over the Company. Claimant further alleges that, at all relevant times, the Company has been inadequately capitalized to conduct its business, has failed to follow appropriate corporate formalities, and has simply been a shell and instrumentality through which the Owners have conducted their personal affairs. Accordingly, the corporate veil should be pierced, and any liability attached to the Company should be imposed jointly and severally against the Owners. Adherence to the fiction of the separate existence of the corporate entity of the Company would permit abuse of the corporate privilege, thereby sanctioning fraud and promoting injustice.

Also, in a separate, but not necessarily mutually exclusive, alternative theory of liability, the Owners are liable for PAGA civil penalties under Labor Code § 558 as "other person(s)" who caused the violations regarding minimum wage among other claims. *See Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 ("if there is evidence and a finding that a party other than the employer 'violates, or causes to be violated' the overtime laws (§ 558(a)) or 'pays or causes to be paid to any employee' less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer"); *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S.Dist.LEXIS 40851 (holding the same)

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Based on Claimant's own personal observations, all Aggrieved Employees employed or formerly employed by the Company are entitled to similar wage and hour claims, as further set forth below.

**PAGA ASSESSMENT FOR FAILURE TO
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 210, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees. This resulted in earned, but unpaid, wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees performed work for the Company without receiving proper payment of the requisite minimum, overtime, and/or doubletime wages. Accordingly, Labor Code §§ 210, 558, 1194.2, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

**PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS,
REST BREAKS, AND WAGE PREMIUMS**

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...” Labor Code § 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.” Section 12 of applicable IWC Wage Order states in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company's policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums and did not do so at the proper rate. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

FAILURE TO PAY VESTED VACATION UPON SEPARATION OF EMPLOYMENT

(Labor Code § 227.3)

Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at his final rate of pay. However, as alleged herein, the Company failed to pay all vested vacation upon separation of employment and, further, only paid vested

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vacation upon separation at the base rate of pay, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802; IWC Wage Order § 9(b))

Labor Code § 2802(a) states “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.” IWC Wage Order § 9(b) states “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer.”

Here, the Company required Claimant and the Aggrieved Employees to incur expenses in direct consequence of the discharge of their duties. Accordingly, Labor Code § 2699 imposes a penalty upon the Company for each such violation of Labor Code § 2802.

PAGA ASSESSMENT FOR FAILURE TO PAY SICK TIME AT PROPER RATE OF PAY

(Labor Code § 246)

Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must be “calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.” Additionally, Labor Code § 246(l)(2) states that the paid sick time must be “calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

Here, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional compensation. However, when Aggrieved Employees took sick time and received paid sick leave, the Company only paid sick time at the base rate of pay, not factoring in the additional compensation as required by Labor Code §§ 246(l)(1-2). As such, penalties may be assessed pursuant to Labor Code § 2699.

PAGA ASSESSMENT FOR FAILURE TO KEEP ACCURATE RECORDS

(Labor Code § 1174; IWC Wage Order § 6(A); IWC Wage Order § 7(A))

Labor Code § 1174 and the relevant IWC Wage Order required the Company to accurately record and maintain “each employee’s “[t]ime records showing when the employee begins and ends each work period,” the time that each meal period began and ended, daily hours worked, and total hours worked in the payroll period. The Company failed to comply with these requirements, triggering civil penalties under § 2699 each period.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 210, 256 and 2699)

Under Labor Code § 204(a), wages are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states “[t]he requirements

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of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” As a result of the Company’s failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 210 and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code § 202(a) states in pertinent part “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours’ previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Labor Code § 203(a) states “If an employer willfully fails to pay, without abatement or reduction, [...] any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a “waiting time penalty.” (Labor Code § 203.) Labor Code § 2699 also imposes a penalty.

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee’s name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Here, the Company failed to provide accurate itemized wage statements due to violations including: failure to accurately state total hours worked (the paystubs failed to provide any information as to hours worked and, alternatively, failed to accurately reflect total compensable hours); failure to accurately state gross/net wages earned and all deductions (due to the failure to pay all required minimum/overtime and other wages); failure to state the applicable hourly rates (including the accurate overtime rate of pay); failure to state the accurate start/end dates of the pay period; failure to accurately state the name and address of the legal entity that is the employer, and; failure to accurately state the number of hours worked at each hourly rate. Additionally, the Company’s wage statements directly violated Labor Code § 226(a) each period due to the failure to pay and report premium wages for denied meal/rest breaks under § 226.7. Accordingly, Labor Code §§ 226.3 and 2699 impose civil penalties for these violations.

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PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199

(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company's violations described herein, the Company is subject to civil penalties in accordance with Labor Code § 2699.

ATTORNEYS' FEES, INTEREST, AND PENALTIES

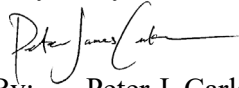
(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimant seeks the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimant is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees. Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for civil penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment or other employees of the Company, he reserves the right to supplement this notice letter.

Very Truly Yours,



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EXHIBIT “G”