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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC, LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

*Assigned for All Purposes to Hon. Jill H. Talley
Department 23*

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION, COLLECTIVE ACTION
AND PAGA SETTLEMENT**

Reservation No. A-08326-001

Date: January 31, 2025

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: September 11, 2023

FAC Filed: January 12, 2024

Trial Date: None Set

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on January 31, 2025, at 9:00 a.m., or as soon thereafter as the
3 matter may be heard in Department 23 of the above-entitled Court, Plaintiff Vanessa Ruiz, individually
4 and on behalf of all other similarly situated individuals, will move for entry of an Order for the
5 following:

- 6 1. Preliminarily certifying the proposed class herein for purposes of settlement;
- 7 2. Preliminarily appointing Plaintiff Vanessa Ruiz as Class Representative for purposes of
8 settlement;
- 9 3. Preliminarily appointing Shimoda & Rodriguez Law, PC, as Class Counsel for purposes of
10 settlement;
- 11 4. Preliminarily approving the proposed class action, collective action, and Private Attorney's
12 General Act settlement, in the amount of \$246,500, which is incorporated herein by
13 reference;
- 14 5. Preliminarily approving the appointment of ILYM Group, Inc. as the Settlement
15 Administrator and for payment to ILYM Group, Inc. for administering said class action,
16 collective action and PAGA settlement in an amount not to exceed \$15,000;
- 17 6. Preliminarily approving the settlement of claims under the Fair Labor Standards Act for
18 minimum and overtime wages in the total amount of \$20,000;
- 19 7. Preliminarily approving the settlement of claims under the Private Attorneys General Act for
20 the total amount of \$20,000, 75% of which will be paid to the Labor and Workforce
21 Development Agency and 25% of which will be paid to PAGA Group Members;
- 22 8. Granting Plaintiff leave to file a Second Amended Complaint, attached as Exhibit 1 to the
23 Agreement, to be the operative Complaint in the Action;
- 24 9. Approving as to form and content the Notice of Settlement, which provides Class Members
25 and Collective Members information regarding the Settlement, their ability to participate in,
26 to opt out of, or object to the Settlement, and which provides instruction on how to dispute an
27 individual's settlement allocation under the proposed Settlement;
- 28

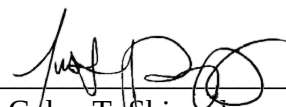
- 1 10. Approving the proposed procedures to notify the class and determining that they comply with
2 Class Members' and Collective Members' due process rights and directing the Notice of
3 Settlement to be sent by first class mail to Class Members and Collective Members;
4 11. Directing Defendants to report employment information as set forth in the Agreement to the
5 Settlement Administrator to administer the settlement proceeds;
6 12. Scheduling a fairness hearing on the question of whether the proposed Settlement should be
7 finally approved as fair, reasonable, and adequate; and
8 13. Preliminarily approving and adopting the Proposed Order and its implementation schedule,
9 which is filed herewith and incorporated by reference.

10 This motion is being made pursuant to Code of Civil Procedure section 382, Labor Code section
11 2699(l)¹, and California Rules of Court 3.769 and 3.764, on the grounds that the proposed class action
12 and Private Attorneys General Act settlement is fair, reasonable, and adequate as to all Class Members
13 and should be approved by the Court. This motion will be based on the notice of motion, memorandum
14 of points and authorities, the Declaration of Justin P. Rodriguez, the Declaration of Vanessa Ruiz,
15 exhibits, the record and files of this case, and any further oral or documentary evidence introduced at the
16 hearing of this motion.

17 **Pursuant to Local Rule 1.06(A), the court will make a tentative ruling on the merits of this matter**
18 **by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the**
19 **department may be downloaded off the court's website. If the party does not have online access,**
20 **they may call the dedicated phone number for the department as referenced in the local telephone**
21 **directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and**
22 **receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the**
23 **court day before the hearing, no hearing will be held.**

24 Dated: January 8, 2025

Shimoda & Rodriguez Law, PC

25 By: 
26 Galen T. Shimoda
27 Justin P. Rodriguez
28 Renald Konini
Attorneys for Plaintiff

¹ Although the PAGA was recently amended, the amendments specifically state they are applicable to cases filed after June 19, 2024. See Cal. Lab. Code § 2699(v)(1). Because the PAGA notice predates this, all references to the PAGA in this Motion will be based on the statutory numbering applicable prior to the July 1, 2024, amendment.

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individually and on behalf of similarly situated employees

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CLASS ACTION

**MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY APPROVAL
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1 **I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT**

2 Plaintiff Vanessa Ruiz (“Plaintiff”) seeks preliminary approval of a non-reversionary wage and
3 hour class action, collective action, and Private Attorneys General Act (“PAGA”) settlement in the gross
4 amount of \$246,500. *See generally* Exhibit A (Joint Stipulation Regarding Class Action, Collective
5 Action, and PAGA Settlement and Release [“Agreement”]). Plaintiff brought this lawsuit individually
6 and on behalf of similarly situated employees who worked for Defendants Symbotic, LLC and
7 Symbotic, Inc. (“Defendants”) (Plaintiff and Defendants sometimes collectively referred to as the
8 “Parties”). *See generally* Exhibit B (Plaintiff’s Operative Complaint). In connection with preliminary
9 approval, Plaintiff also seeks to file a Second Amended Complaint, which includes allegations and
10 theories of liability consistent with what was investigated and negotiated during informal discovery and
11 mediation such as rounding and the failure to pay minimum and overtime wages under the Fair Labor
12 Standards Act (“FLSA”). *See generally* Exhibit H (Plaintiffs’ Proposed Second Amended Complaint);
13 Declaration of Justin P. Rodriguez (“Decl. Rodriguez”), ¶ 4. There are approximately 172 Class
14 Members.

15 Plaintiff has alleged that Defendants 1) failed to provide overtime wages, 2) failed to provide
16 minimum wages, 3) failed to provide meal periods or pay premiums in lieu thereof, 4) failed to provide
17 rest periods or pay premiums in lieu thereof, 5) failed to provide accurate wage statements, 6) failed to
18 timely pay minimum wages, 7) failed to reimburse expenses, 8) engaged in unfair competition, and 9)
19 violated the California Equal Pay Act (“EPA”). *See generally* Exhibit B; *see also* Decl. Rodriguez, ¶¶
20 2, 10-11. Plaintiff has also alleged Defendants are liable for civil penalties under the PAGA based on
21 these violations. *See id.*; Exhibit C (Plaintiff’s Ltrs. to the Labor and Workforce Development Agency
22 [“LWDA”] Regarding PAGA Claims). Defendants have denied all of Plaintiff’s allegations in their
23 entirety and any liability or wrongdoing of any kind. *See* Decl. Rodriguez, ¶ 6. Defendants have also
24 denied that this case is appropriate for class certification other than for purposes of settlement. *See id.*
25 However, subject to Court approval, the Parties have been able to compromise and settle all asserted
26 claims as a result of extensive investigations, document and data exchanges, and extended negotiations.
27 *See* Exhibit A. Plaintiff and Plaintiff’s counsel believe the proposed Agreement is fair, reasonable, and
28 adequate based on the investigations, discovery, employee data exchanges, negotiations, and a detailed

1 knowledge of the issues in this case. *See* Decl. Rodriguez, ¶¶ 7-8, 10-11; Declaration of Vanessa Ruiz
2 (“Decl. Ruiz”), ¶ 7. The Agreement was entered into in good faith by the Parties to resolve heavily
3 contested claims and guarantees a reasonable recovery for Class Members.

4 It is well within the discretion of this Court to grant preliminary approval of the Agreement as it
5 satisfies all applicable criteria under California law. Accordingly, Plaintiff is requesting that the Court:
6 (1) certify the proposed settlement class on a preliminary and conditional basis; (2) conditionally certify
7 similarly situated Collective Members; (3) allow Plaintiff to file the proposed Second Amended
8 Complaint (Exhibit H); (4) grant preliminary and conditional approval of the proposed Agreement
9 (Exhibit A); (5) approve the form and content of the Notice of Settlement (Exhibit F) and the method
10 for providing notice to Class Members and Collective Members as set forth in the Agreement; and (6)
11 adopt the implementation schedule contained in the proposed order.

12 **II. PROCEDURAL AND LITIGATION HISTORY**

13 Plaintiff filed a class action complaint on approximately September 11, 2023, in Sacramento
14 County Superior Court against Defendants. Plaintiff exhausted administrative remedies under the
15 PAGA by providing notice of the claims and violations to the LWDA. *See* Exhibit C; Cal. Lab. Code §
16 2699.3(a), (c)¹; Decl. Rodriguez, ¶ 3. Then, Plaintiff filed a First Amended Class Action Complaint on
17 approximately January 12, 2024, to include a PAGA claim. *See id.*; Exhibit B. During the course of
18 informal discovery in connection with mediation, Plaintiff believed there was sufficient basis to support
19 minimum wage and overtime claims based on rounding. *See* Decl. Rodriguez, ¶ 4. Further
20 investigation regarding rounding was performed and Plaintiff alleged liability for rounding at
21 mediation. *See id.* To ensure the operative complaint and notice to the LWDA included allegations
22 consistent with the scope of the investigation and negotiations at mediation, the Parties agreed that
23 Plaintiff would submit an amended notice to the LWDA and file a Second Amended Complaint
24 containing the rounding theory of liability and derivative claims under the FLSA for failure to pay
25 overtime and minimum wages. *See id.*; Exhibit H. Plaintiff filed an amended notice with the LWDA
26 on October 18, 2024, adding the rounding theory of liability. *See* Exhibit C; Decl. Rodriguez, ¶ 4. The

27
28 ¹ Although the PAGA was recently amended, the amendments specifically state they are applicable to cases filed after June 19, 2024. *See* Cal. Lab. Code § 2699(v)(1). Because the initial PAGA notice predates this, all references to the PAGA in this Motion will be based on the statutory numbering applicable prior to the July 1, 2024, amendment.

1 LWDA has not provided any response to any of Plaintiff's notice letters, and, as a result, Plaintiff is
2 authorized to act as a Private Attorney General and resolve the PAGA claims settled under the
3 Agreement. *See id.* There is no date set for a motion for certification or trial in this matter. *See Decl.*
4 Rodriguez, ¶ 5.

5 **III. INVESTIGATION AND DISCOVERY CONDUCTED**

6 Plaintiff thoroughly investigated issues affecting certification, the merits of the class and PAGA
7 claims, and potential damages for such claims. *See id.* at ¶¶ 3-4, 7-11; Decl. Ruiz, ¶ 3. Plaintiff
8 worked during the time all of Defendants' policies and practices at issue in the Complaint were in effect
9 and provided information regarding these policies and practices, enabling pre-filing investigations to
10 take place. *See Decl. Ruiz, ¶ 2.* The Parties engaged in informal discovery and exchange of
11 documents, including a representative sampling of employee data, such as timecards, paystubs, payroll
12 data, demographic and pay data related to the EPA claims, and relevant policies for the entirety of the
13 statute of limitations applicable to the asserted claims. The discovery covered all aspects of the
14 asserted claims, the scope and configuration of Class Members, the content and implementation of the
15 policies at issue, and issues relating to manageability concerns at trial, among other relevant areas. *See*
16 Decl. Rodriguez, ¶ 8. The information allowed Plaintiff to determine the extent and frequency of any
17 violations in accordance with Plaintiff's contentions and create an accurate damages model to assess
18 the reasonableness of any settlement. *See id.*

19 **IV. NEGOTIATION AND PROPOSED SETTLEMENT**

20 **a. Plaintiff and Defendants Engaged in Extensive Arm's Length Negotiations**

21 The final settlement occurred only after extended, arm's length negotiations. Over the course of
22 approximately seventeen (17) months, Plaintiff has been investigating the claims and discussing with
23 Defendants' counsel the merits of the claims and issues present in this case. *See id.* at ¶¶ 3, 6-11. The
24 Parties exchanged substantial amounts of information and legal analysis in connection with these
25 discussions. *See id.* It was only after these extended discussions, which included a full day mediation
26 with Michael J. Loeb, that the Parties were able resolve all claims and enter into the Agreement. *See id.*
27 at ¶ 9.
28

1 **b. The Terms of the Agreement**

2 1. The following groups of individuals are covered by the Agreement: (a) Class Members,
3 which include all non-exempt hourly employees who were employed by defendants in the State of
4 California at any time from September 11, 2019, through December 18, 2024; (b) Collective Members,
5 which include all non-exempt hourly employees who were employed by defendants in the State of
6 California at any time from September 11, 2020, through December 18, 2024; and (c) PAGA Group
7 Members, which include all non-exempt employees who were employed by Defendants in the State of
8 California at any time from September 8, 2022, to December 18, 2024. *See* Exhibit A, ¶¶ 1.4, 1.5, 1.6,
9 1.15, 1.27, 1.29. There are approximately 172 Class Members and 76 PAGA Group Members. *See id.*

10 2. Defendants will pay the Gross Fund Value of \$246,500, which is exclusive of the
11 employer's share of payroll taxes. *See id.* at ¶ 5.1. Only those funds associated with Class Members or
12 Collective Members for whom no release is obtained (*i.e.* they opted out of the class settlement or did
13 not opt in to the FLSA portion of the settlement by cashing their Individual FLSA Payment) would be
14 returned to Defendants. *See id.* at ¶ 5.7. PAGA Group Members will still be paid their share of the
15 PAGA Fund regardless of whether they opt out of being Class Members or become Collective
16 Members. *See id.* at ¶¶ 7.5.1, 7.8.3.

17 3. Up to \$10,000 will be paid to Plaintiff as an Incentive Award. This amount will be in
18 addition to any amount Plaintiff may be entitled to under the terms of the Agreement. *See id.* at ¶ 5.4.

19 4. Subject to Court approval, the Parties have selected ILYM Group, Inc. to act as the
20 Settlement Administrator, who has provided a maximum cost estimate of \$15,000. *See* Exhibit D
21 (ILYM Group, Inc. Bid); Exhibit A, ¶ 1.39; Decl. Rodriguez, ¶ 21.

22 5. The Parties agree that \$20,000 of the Gross Fund Value shall be allocated towards
23 resolving claims under the FLSA. Any amount not approved by the Court for the allocated FLSA
24 Settlement Fund shall be added to the Net Settlement Amount to be distributed to Participating Class
25 Members on a pro rata basis. *See* Exhibit A, ¶ 5.6.

26 6. The Parties agree that \$20,000 of the Gross Fund Value shall be allocated to resolving
27 claims under the PAGA. Seventy-Five percent (75%) of the PAGA Fund will be paid to the LWDA
28 and Twenty-Five percent (25%) will be paid to PAGA Group Members. *See* Exhibit A, ¶ 5.5. Given

1 the risk to proving the claims on the merits, the derivative nature of the penalties, the efforts by
2 Defendants to maintain compliant policies and take corrective action, the presence of what may likely
3 be deemed good faith disputes, and the Court's discretion to reduce any penalty award, the \$20,000
4 PAGA Fund allocation represents a meaningful settlement aimed at deterring non-compliance given the
5 facts of this case. See Decl. Rodriguez, ¶¶ 6-11; see also *Nordstrom Com. Cases*, 186 Cal.App.4th
6 576, 589 (2010) (approving \$0 allocation to the resolution of PAGA claims based on their being
7 disputed and being part of a class settlement which was evaluated based on the terms of the agreement
8 overall); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, *8 n.2 (E.D. Cal. 2022) (collecting
9 cases with PAGA settlement values ranging from .037%-1%); *Jennings v. Open Door Marketing, LLC*,
10 2018 WL 4773057, *9 (N.D. Cal. 2018) (approving settlement of PAGA claims at 0.6% of total
11 estimated value due to risk of no recovery); *Ruch v. AM Retail Grp., Inc.*, 2016 WL 5462451, *7 (N.D.
12 Cal. 2016) (approving \$10,000 PAGA settlement allocation where total PAGA penalty exposure was
13 approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox Commc 'ns California,*
14 *LLC*, 2017 WL 1496407, *1 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation in
15 \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 WL 12571448, *5 (S.D. Cal. 2014) (approving
16 \$2,500 PAGA allocation when attorneys' fees award alone amounted to \$200,000); *Jack v. Hartford*
17 *Fire Ins. Co.*, 2011 WL 4899942, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in
18 \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 WL 2196104, *2 (S.D. Cal. 2010);
19 *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *1, *9 (N.D. Cal. 2009) (approving \$1,500 PAGA
20 allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 WL 714367, *13 (E.D. Cal. 2017)
21 (approving \$100,000 PAGA allocation in \$3,950,000 Gross Fund Value allocated to California class
22 even though PAGA exposure was calculated at \$53,600,000, or 0.2% of total estimated potential
23 value); *Garcia v. Gordon Trucking, Inc.*, 2012 WL 5364575, *6-*7 (E.D. Cal. 2012) (approving
24 \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*, 2012 WL
25 5941801, *14 (E.D. Cal. 2012) (\$10,000 PAGA allocation from \$2,500,000 settlement fund); *Chu v.*
26 *Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D. Cal. 2011) (\$10,000 PAGA allocation from
27 \$6,900,000 settlement fund).

1 7. The Parties agree that up to Thirty-five percent (35%) of the Gross Fund Value
2 (\$86,275) will be paid for Plaintiff's attorneys' fees incurred in the litigation of this case. Defendants
3 will not oppose any application for attorneys' fees so long as it is within this threshold. *See id.* at ¶ 5.2.
4 Additionally, the Parties agree that Plaintiff will also be entitled to the actual litigation costs as
5 approved by the Court in an amount not to exceed \$15,000. *See id.* The proposed notice to be sent to
6 Class Members will state this information. *See* Exhibit F.

7 8. Any amounts allocated under the Agreement for Settlement Administrator Costs, any
8 Incentive Award, and attorney's fees and costs that are not ultimately awarded by the Court will remain
9 part of the Net Settlement Amount and be paid out to Participating Class Members on a pro rata basis
10 as set forth in the Agreement. *See* Exhibit A, ¶¶ 5.1-5.6, 5.8. These amounts will be paid out from the
11 Gross Fund Value, not in addition to the Gross Fund Value. *See* Exhibit A, ¶¶ 5.1-5.6.

12 9. Class Members who fail to timely opt-out of this settlement will waive all Released
13 Class Claims and Collective Members who opt in to the FLSA settlement by cashing their Individual
14 FLSA Payment will waive all Released FLSA Claims as set forth in the Agreement. *See* Exhibit A, ¶¶
15 1.14, 1.25, 1.31, 11.35, 1.36, 6.1, 6.2. PAGA Group Members will waive all Released PAGA Claims
16 as set forth in the Agreement regardless of whether they opt out of being a Class Member or opt in to
17 being a Collective Member. *See id.* at ¶¶ 1.14, 1.25, 1.27, 1.37, 6.3, 7.5.1.

18 10. For any portion of the Net Settlement Amount or PAGA Fund allocated to Participating
19 Class Members and/or PAGA Group Members that is not claimed by them by cashing their respective
20 settlement checks within 180 calendar days of issuance, the remaining amount shall be paid to the State
21 of California Unclaimed Property Fund to be held in the name of each expired check payee, pursuant to
22 applicable unclaimed property laws. *See* Exhibit A, ¶ 5.8. Because the Agreement provides a plan for
23 distribution of all funds, there is no "residue" that will need to be addressed in connection with entering
24 judgment pursuant to California Rules of Court, Rule 3.769(h). *See also In re Microsoft I-V Cases*, 135
25 Cal.App.4th 706, 718, 720, 722-724 (2006).

26 **c. Allocation of Settlement Funds**

27 Payment to Participating Class Members, Collective Members and PAGA Group Members will
28 not require the submission of a claim form. A Net Settlement Amount will be determined by

1 subtracting from the Gross Fund Value any attorneys' fees and costs, any Incentive Award, Settlement
2 Administrator Costs, FLSA Settlement Fund, and/or PAGA Fund that are approved and/or awarded by
3 the Court. Each Class Member's share will be determined by dividing their total weeks worked within
4 the Class Period by the total weeks worked by all Class Members within the Class Period. That
5 fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's
6 individual share of the Net Settlement Amount. Each Collective Member's share of the FLSA
7 Settlement Fund will be determined by dividing their total weeks worked within the Collective Period
8 by the total weeks worked by all Collective Members within the Collective Period. That fraction will
9 then be multiplied by the FLSA Settlement Fund to arrive at the Collective Member's individual share.
10 See Exhibit A, ¶ 5.10. Twenty-five percent (25%) of the payment to Participating Class Members and
11 Collective Members will be characterized as W-2 wages and seventy-five percent (75%) will be
12 characterized as 1099 income for tax reporting purposes. See *id.* ¶¶ 5.11.1-5.11.2.

13 Each PAGA Group Member's share of the PAGA Fund will be determined by dividing their
14 total weeks worked within the PAGA Period by the total weeks worked by all PAGA Group Members
15 within the PAGA Period. That fraction will then be multiplied by the 25% portion of the PAGA Fund
16 to arrive at the PAGA Group Member's individual share. See Exhibit A, ¶ 5.10. The payment to
17 PAGA Group Members will be characterized as 1099 income for tax reporting purposes. See *id.* at ¶
18 5.11.3.

19 **V. THE PROPOSED PROCEDURES TO NOTIFY CLASS MEMBERS AND**
20 **COLLECTIVE MEMBERS SATISFY DUE PROCESS AS THEY PROVIDE THE BEST**
21 **NOTICE PRACTICABLE UNDER THE CIRCUMSTANCES**

22 It is not required that Class Members be given actual notice of a class settlement; instead, the
23 best practicable notice under the circumstances is all that is required. See *Silber v. Mabon*, 18 F.3d
24 1449, 1453 (9th Cir. 1994); *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1129 (9th Cir. 2017);
25 *Walsh v. CorePower Yoga LLC*, 2017 WL 4390168, *5 (N.D. Cal. 2017); *Wright v. Linkus Enters.*, 259
26 F.R.D. 468, 474-75 (E.D. Cal. 2009). In *Silber v. Mabon*, 18 F.3d 1449 (9th Cir. 1994), the Court
27 rejected a class member's argument that he had not received due process because he did not receive
28 notice until after the opt out period, finding that, so long as the notice process utilized is the best
practicable under the circumstances, due process is satisfied even if there is no actual receipt of the

notice. *See Silber*, 18 F.3d at 1453-1454. A similar finding was made in *Briseno v. Conagra Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017). With regard to any potential for undeliverable notice mailings, the Court in *Rannis v. Recchia*, 380 F.App'x 646 (9th Cir. 2010) found that class members who did not receive actual notice due to their mailings being deemed undeliverable were still properly held to be part of the class settlement because they received the best notice practicable under the circumstances. *See Rannis v. Recchia*, 380 F.App'x at 650-651. In *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980-984 (2019), the California Supreme Court noted that California has adopted a similar approach regarding providing notice to class members.

Under the proposed notice procedures, Class Members and Collective Members will have sixty (60) days from the date of mailing to review and respond to the Notice of Settlement, which will also be available online. *See Exhibit A*, ¶¶ 1.25, 7.2. The Notice of Settlement contains all information necessary for Class Members and Collective Members to assess the litigation, the Settlement, and whether they want to participate, object, or opt-out. *See id.* at ¶¶ 7.2, 7.5.1-7.5.3; Exhibit F. National change of address database searches, skip-traces, and surveying of current employees will be utilized as set out in the Agreement to provide the best practical means of ensuring Class Members and Collective Members receive the notice mailing. *See Exhibit A*, ¶¶ 7.3-7.4. Any individual whose initial mailing was deemed undeliverable will have additional time to respond. *See id.* at ¶ 7.4. Additional time to respond will also be provided to cure any deficiencies in opt-outs, objections, or disputes. *See id.* ¶ 7.5.4. This notice method is regularly utilized in wage and hour class actions and similar to the one approved in *Rannis*. Thus, the proposed procedures for notifying Class Members satisfy due process and should be approved in this case.

VI. THE AGREEMENT WARRANTS PRELIMINARY APPROVAL AS IT IS FAIR, REASONABLE, AND ADEQUATE AS TO ALL CLASS MEMBERS AND COLLECTIVE MEMBERS BASED ON THE FACTS OF THIS CASE

A class action may not be dismissed, compromised, or settled without Court approval and the decision to approve or reject a settlement is committed to the Court's sound discretion. *See Cal. Rules of Court*, Rule 3.769; *Fed. R. Civ. Proc.*, Rule 23(e)²; *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th

²The California Supreme Court has authorized California's trial courts to rely on these federal resources to decide class certification issues. *See Green v. Obledo*, 29 Cal.3d 126, 145-46 (1981).

224, 234-35 (2001); *see also* Cal. Lab. Code § 2699(1)(2). However, “[d]ue regard should be given to what is otherwise a private consensual agreement between the parties. The inquiry ‘must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.’” *See Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); *see also Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1118 (2009); *In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 723 (2006); *Nordstrom Com. Cases*, 186 Cal.App.4th 576, 581 (2010). The law favors settlement of lawsuits, particularly class actions and other complex cases where substantial resources can be conserved by avoiding the time, expense, and rigors of formal litigation. *See Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1117-1118 (2009); *In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 723 n.14 (2006); *Nordstrom Com. Cases*, 186 Cal.App.4th 576, 581 (2010); *see also Neary v. Regents of Univ. of Cal.*, 3 Cal.4th 273, 277-81 (1992).

a. The Terms of The Settlement Are Fair and Within the Range of Reasonableness

The purpose of the Court’s preliminary evaluation of a proposed class action settlement is to determine only whether it is within the range of possible approval such that notice to the class of its terms and conditions and the scheduling of a formal fairness hearing is warranted. *See Wershba*, 91 Cal.App.4th at 234-35. If the Court finds a proposed settlement falls within “the range of reasonableness,” it should grant preliminary approval of the class action settlement. *See, e.g., North County Contr.’s Assn., Inc. v. Touchstone Ins. Svcs.*, 27 Cal.App.4th 1085, 1089-90 (1994); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 133 (2008). Factors to consider in determining whether the settlement is fair, reasonable, and adequate include the strength of the Plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement. *See Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996). Approval of FLSA settlements follow a similar approval review framework where there is a bona fide dispute over the potential claims. *See Kerzich v. Cnty. of Tuolumne*, 335 F.Supp.3d 1179, 1184 (E.D. Cal. 2018). As there is clearly a bona fide dispute over the claims at issue in this case,

the following approval analysis applies equally to the state wage and hour and FLSA claims. *See id.*; *see also* Decl. Rodriguez, ¶¶ 10-11. However, this Court should begin its analysis with a presumption that the proposed settlement is fair. “A presumption of fairness exists where: (1) the settlement is reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Id.* at 1802.

i. The Agreement is a Result of Extensive, Non-Collusive Arm’s Length Negotiations Between the Parties

Settlement of this case was reached only after substantial litigation and extensive arm’s length negotiations lasting nearly seventeen (17) months, which included a full day mediation. *See* Decl. Rodriguez, ¶¶ 3, 8-9. At all times, the negotiations were adversarial, although still professional in nature. *See id.*

ii. The Extent of Investigation and Discovery Completed Provided Ample Information to Enter Into an Informed and Reasonable Settlement

The Parties were in possession of all necessary information during the negotiations. The Parties engaged in substantial informal discovery, which included all necessary components for evaluating the class claims and creating an accurate damages model. *See id.* at ¶¶ 7-11. Plaintiff was in possession of this information prior to calculating any damages in this case. *See id.* As a result, Plaintiff was able to make a reasonable estimation of Defendants’ potential liability. *See id.* For these reasons, the settlement now before the Court was reached at a stage where “the parties certainly have a clear view of the strengths and weaknesses of their cases” sufficient to support the settlement. *See Kang v. Credit Bureau Connection, Inc.*, 2023 WL 6811994, *5 (E.D. Cal. 2023); *Monterrubio v. Best Buy Stores, L.P.*, 291 F.R.D. 443, 454 (E.D. Cal. 2013).

iii. Plaintiff’s Counsel are Experienced in Similar Litigation

Plaintiff’s counsel have considerable experience in complex litigation such as class and PAGA actions. *See* Decl. Rodriguez, ¶¶ 13-19. Thus, Plaintiff’s counsel are qualified to evaluate the class claims, the value of settlement versus moving forward with litigation, and viability of possible affirmative defenses. Plaintiff’s counsel believe that the Agreement is fair, reasonable, and adequate in

light of the risks associated with the claims, the uncertainties of complex litigation, and the secured benefit to Class Members. *See id.*

iv. The Settlement is Fair, Reasonable, and Adequate Based on the Strength of Plaintiff's Case and the Risks and Costs of Further Litigation

Plaintiff's claims and the ability to obtain and maintain certification all the way through trial were heavily disputed by Defendants. *See* Decl. Rodriguez, ¶¶ 6-10. Based on the records and facts of this case, Plaintiff has secured a gross recovery of approximately 6% of the maximum value of the claims in this matter (\$3,816,477.47) and between 17% and 47% of the more realistic range of recovery (\$524,034.16 to \$1,480,009.80). *See* Decl. Rodriguez, ¶¶ 10-11. The net recovery represents approximately 3% of the maximum value of the claims in this matter and between 7% and 19% of the more realistic range of recovery. The average net award is approximately \$582.70, which equates to approximately \$11.79 per workweek. *See id.*

This settlement is a reasonable compromise of the class and PAGA claims, and is within the percentile ranges of the total available damages that have been approved in other class settlements. *See Wershba*, 91 Cal.App.4th at 246, 250; *Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1990); *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 628 (9th Cir. 1982); *see also In re Omnivision Technologies, Inc.*, 559 F.Supp.2d 1036, 1042 (2007) (noting that certainty of recovery in settlement of 6% of maximum potential recovery after reduction for attorney's fees was higher than median percentage for recoveries in shareholder class action settlements, averaging 2.2%-3% from 2000 through 2002); *Bravo v. Gale Triangle, Inc.*, 2017 WL 708766, *2, *10 (C.D. Cal. 2017) (approving a settlement where the net recovery to class members was approximately 7.5% of the projected maximum recovery amount [\$210,500/\$2,750,000]); *Avila v. Cold Spring Granite Co.*, 2018 WL 400315, *2, *6 (E.D. Cal. 2018) (approving a settlement with a gross recovery of 11% of the projected maximum damages available [\$500,000/\$4,441,633.60]) and a net recovery of approximately 6.7% of the projected maximum recovery [\$297,332.98/\$4,441,633.60]); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 256 (N.D. Cal. 2015) (approving a settlement where the gross recovery was approximately 8.5% of the projected maximum recovery [\$1,000,000/\$11,565,677]); *Schiller v. David's Bridal, Inc.*, 2012 WL 2117001, *13 (E.D. Cal. June 11, 2012) ("Class Members will receive

1 an average of approximately \$198.70, with the highest payment to a Class Member being \$695.78 . . .
2 Overall, the Court finds that the results achieved are good, which is highlighted by the fact that there
3 was no objection to the settlement amount or the attorneys' fees requested"), *report and*
4 *recommendation adopted*, 2012 WL 13040405 (E.D. Cal. 2012); *Gardner v. GC Servs., LP*, 2012 WL
5 1119534, *7 (S.D. Cal. 2012) ("the results achieved in this case were very favorable. Class members
6 are provided with immediate monetary relief, with an average award of around several hundred dollars
7 and a minimum award of \$50").

8 **v. The Proposed Settlement is a Reasonable Compromise of Claims**

9 In *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008), the Court required additional
10 information be presented in class action settlements "to ensure that the recovery represents a reasonable
11 compromise, given the magnitude and apparent merit of the claims being released, discounted by the
12 risks and expenses of attempting to establish and collect on those claims by pursuing the
13 litigation" *Id.* at 129. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th 399
14 (2010), clarified that *Kullar* does not require an illusory prediction of the outer reaches of exposure
15 without taking into account the actual risks of litigation such as dispositive motions and trial. *Kullar*
16 also does not require an explicit statement of the maximum amount to be recovered if a plaintiff
17 prevailed on all the claims, provided there is a record that allows "an understanding of the amount that
18 is in controversy and the realistic range of outcomes of the litigation." *Id.* at 409.

19 Plaintiff has thoroughly set forth the realistic range of outcomes in this litigation as well as the
20 data points relied upon in reaching these ranges. *See* Decl. Rodriguez ¶¶ 9-10. The record
21 demonstrates that the compromises made by Plaintiff was reasonable and have resulted in a settlement
22 with recovery percentage well within the range of what has been found to be sufficient in several other
23 cases. *See, supra*, Section VI.a.iv; *see also Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1242 (9th
24 Cir. 1998) ("The fact that a proposed settlement may only amount to a fraction of the potential recovery
25 does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be
26 disapproved"); *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 (2d Cir. 1974) ("In fact there is no
27 reason, at least in theory, why a satisfactory settlement could not amount to a hundredth or even a
28 thousandth part of a single percent of the potential recovery").

1 **b. Provisional Certification of the Class is Appropriate**

2 **i. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous**

3 The proposed settlement class is ascertainable because all putative Class Members can be
4 readily identified through employee personnel and payroll files. *See Noel v. Thrifty Payless, Inc.*, 7
5 Cal.5th 955, 980 (2019); *Rose v. City of Hayward*, 126 Cal.App.3d 926, 932 (1981); *Lee v. Dynamex*,
6 *Inc.*, 166 Cal.App.4th 1325, 1334 (2008). The numerosity requirement is met because there are 172
7 individuals who fall within the definition of Class Member, which makes joinder of all members
8 impracticable. *See Gay v. Waiters' & Dairy Lunchmen's Union*, 489 F.Supp. 282 (N.D. Cal. 1980),
9 *aff'd* 694 F.2d 531 (9th Cir. 1982); *Hebbard v. Calgrove*, 28 Cal.App.3d 1017, 1030 (1972) (noting no
10 set minimum to meet the numerosity prerequisite, but a class as few as twenty-eight (28) members is
11 acceptable). Thus, these requirements are satisfied.

12 **ii. The Commonality, Predominance, and Typicality Requirements are Met**

13 The commonality requirement is met when there are questions of law or fact regarding the class
14 as a whole. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998). Commonality requires
15 only that some common legal or factual questions exist; Plaintiff need not show that all issues in the
16 litigation are identical. *See Richmond v. Dart Ind., Inc.*, 29 Cal.3d 462, 473 (1981); *City of San Jose v.*
17 *Superior Court*, 12 Cal.3d 447, 460 (1974). Common questions of law or fact must also predominate
18 over individual questions and class-wide treatment of a dispute must be superior to individual
19 litigation.³ *See Richmond*, 29 Cal.3d at 469. Predominance requires a putative class be sufficiently
20 cohesive to warrant adjudication by representation. *See Hanlon*, 150 F.3d at 1022. The typicality
21 requirement is met when claims of the named representative are typical of those of the class, though
22 “they need not be substantially identical.” *Id.* at 1020; *Classen v. Weller*, 145 Cal.App.3d 27, 46-47
23 (1983).

24 The common questions of law and fact in this case stem from Plaintiff’s contention that
25 Defendants 1) failed to pay Plaintiff and similarly situated employees for the time it took them to walk
26 back and forth from the entrance of the building before and after the end of their shift to clock in and
27

28 ³When assessing predominance and superiority, a court may consider that the class will be certified for settlement purposes only and that manageability of trial is therefore irrelevant. *See Amchem Products v. Windsor*, 521 U.S. 591 (1997).

1 out, 2) rounded employees hours worked to the nearest quarter hour up until approximately November
2 2023, 3) failed to pay Plaintiff and similarly situated employees for off the clock work for tasks
3 performed after business hours, such as responding to phone calls, emails, and texts, 4) failed to pay
4 Plaintiff and similarly situated employees the correct amount of retroactive pay after their raises, 5)
5 failed to incorporate the value of bonuses into the regular rate of pay in calculating Plaintiff's and
6 similarly situated employees' premium wages, including overtime, meal and rest period premiums, and
7 sick leave, 6) failed to pay restrictive stock units ("RSUs") that were vested to Plaintiff and to similarly
8 situated employees, 7) failed to incorporate the value of the RSUs into the regular rate of pay in
9 calculating Plaintiff's and similarly situated employees' premium wages, including overtime, meal and
10 rest period premiums, and sick leave, 8) did not provide Plaintiff and similarly situated employees with
11 compliant meal and rest periods, 9) did not reimburse Plaintiff and similarly situated employees for the
12 use of their personal cell phones for work purposes, such as to communicate with managers, supervisors,
13 and other employees regarding work issues and scheduling, and 10) paid similarly situated female
14 employees less than male employees with similar skill, education, and experience for substantially
15 similar work under similar working conditions. See Exhibit B. The waiting time penalties, unfair
16 competition, and PAGA claims are derivative of these violations. See *id.* Plaintiff and the Class
17 Members seek the same remedies under state law. Under these specific circumstances, the commonality
18 and predominance requirements are satisfied. Regarding the typicality requirement, Plaintiff contends
19 she suffered from the same unlawful policies, treatment, and circumstances as Class Members did, will
20 request the same remedies, and will rely on the same methods of proof to establish liability and
21 damages. See *id.* Thus, the typicality requirement is also satisfied for settlement purposes.

22 **iii. The Adequacy Requirement is Met**

23 The adequacy of representation requirement is met if the named representative and counsel have
24 no interests adverse to those of the putative class members and are committed to vigorously prosecuting
25 the case on behalf of the class. See *Hanlon*, 150 F.3d at 1020; *McGhee v. Bank of America*, 60
26 Cal.App.3d 442, 450-51 (1976). Those standards are met here. Under the proposed Agreement,
27 Plaintiff and the putative Class Members will receive a pro rata share of the settlement based on the
28 number of workweeks they worked for Defendants. See Exhibit A. Finally, any settlement class

1 member who wishes to opt-out of the settlement may do so, and he or she may also dispute the number
2 of workweeks stated in the Notice of Settlement (Exhibit F).

3 There is no conflict of interest between Plaintiff and Class Members. Plaintiff and Plaintiff's
4 counsel have pursued the claims made in the operative Complaint vigorously on behalf of the class.
5 Plaintiff's counsel, with Plaintiff's assistance, thoroughly investigated the claims made in this case by
6 speaking with Plaintiff and reviewing substantial amounts of documents. Plaintiff's counsel thereafter
7 engaged Defendants' counsel in settlement discussions over the course of approximately seventeen (17)
8 months. Moreover, Plaintiff's counsel has experience defending and bringing wage and hour claims.
9 Because Plaintiff's counsel has vigorously pursued Plaintiff's and the Class Members' claims, the
10 adequacy requirement is met. *See generally* Decl. Rodriguez.

11 **c. Conditional Certification of the FLSA Collective Members is Appropriate**

12 "Party plaintiffs are similarly situated, and may proceed in a collective, to the extent they share
13 a similar issue of law or fact material to the disposition of their FLSA claims." *See Campbell v. City of*
14 *Los Angeles*, 903 F.3d 1090, 1117 (9th Cir. 2018). For the reasons enumerated above justifying
15 certifying a settlement class, the Court should also approve the certification of the FLSA collective
16 action claims for Collective Members. While Plaintiff does not believe it is ultimately necessary for
17 Collective Members to "opt in" to the FLSA settlement by cashing their Individual FLSA Payment to
18 effectuate a release of the FLSA claims in this case, Defendants are a nationwide employer and the
19 requirement to do so under the Agreement was a compromise to ensure there was no questions
20 regarding the applicability of the FLSA waiver in jurisdictions other than the Ninth Circuit or
21 California. *See Rangel v. PLS Check Cashers of Cal., Inc.*, 899 F.3d 1106, 1110–11 (9th Cir. 2018)
22 (holding opt-out release of California state law claims was res judicata against FLSA claims "which
23 were direct federal law counterparts to the state law claims settled"); *Amaro v. Anaheim Arena Mgmt.,*
24 *LLC*, 69 Cal.App.5th 521, 539–541 (2021) (affirming release of FLSA claims).

25 **VII. ATTORNEYS FEES AND COSTS, INCENTIVE AWARD TO THE CLASS**
26 **REPRESENTATIVE, AND SETTLEMENT ADMINISTRATOR COSTS TO BE**
27 **REQUESTED IN CONNECTION WITH FINAL APPROVAL**

28 Plaintiff is not requesting any determination with respect to attorney's fees and costs, Incentive
Award, or Settlement Administrator Costs at this time. Rather, should the Court grant preliminary

1 approval, Plaintiff will make the request for these amounts as set out in the Agreement as part of their
2 final approval briefing. Specifically, Plaintiff will request the Court award attorney's fees in the
3 amount of \$86,275 (35% of the Gross Fund Value), costs in an amount not to exceed \$15,000,
4 Settlement Administrator Costs in an amount not to exceed \$15,000, and an Incentive Award for the
5 Class Representative in the amount of \$10,000.

6 Plaintiff believes an award of attorney's fees under the common fund doctrine is appropriate as
7 there is a sufficiently identifiable class of beneficiaries (*e.g.* the settlement class), the benefits received
8 can be accurately traced to the settlement Plaintiff and Class Counsel were able to negotiate on behalf
9 of Class Members and Collective Members, and the fee can be shifted with exactitude to those
10 benefiting as the fee request is a specific, lump-sum percentage of the fund. *See Laffitte v. Robert Half*
11 *Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271
12 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980) ("A lawyer who recovers a
13 common fund for the benefit of persons other than . . . her client is entitled to a reasonable attorney's
14 fee from the fund as a whole."). In this case, the Agreement allocates Thirty-five percent (35%) of the
15 Gross Fund Value (\$86,275) as the maximum potential fee award. *See Exhibit A*, ¶ 5.2. This is well
16 within the range of fee awards percentages approved in common fund cases. *See, e.g., Martin v.*
17 *AmeriPride Servs., Inc.*, 2011 WL 2313604, *8 (S.D. Cal. 2011) (collecting cases and noting fee
18 awards may range between 30%-40% where the Gross Fund Value is less than \$10 million); *Singer v.*
19 *Becton Dickinson & Co.*, 2010 WL 2196104, *8 (S.D. Cal. 2010) (collecting cases wherein the fee
20 awards ranged from 33.33% to 40% of the Gross Fund Value, including *Ingalls v. Hallmark Mktg.*
21 *Corp.*, 08cv4342 VBF (Ex), Doc. No. 77, ¶ 6 (C.D. Cal. Oct. 16, 2009) [awarding 33.33% fee on a \$5.6
22 million wage and hour class action], *Birch v. Office Depot, Inc.*, Case No. 06cv1690 DMS (WMC),
23 Doc. No. 48, ¶ 13 (S.D. Cal. Sept. 28, 2007) [awarding a 40% fee on a \$16 million wage and hour class
24 action], and *Rippee v. Boston Mkt. Corp.*, Case No. 05cv1359 BTM (JMA), Doc. No. 70, at 7-8 (S.D.
25 Cal. Oct. 10, 2006) [awarding a 40% fee on a \$3.75 million wage and hour class action]).

26 Similarly, the amounts allocated for any Incentive Award and Settlement Administrator Costs
27 are also within ranges that have been approved in similar cases. *See Cellphone Termination Fee Cases*,
28 186 Cal.App.4th at 1393 (approving \$10,000 awards to each of the four (4) named plaintiffs); *West v.*

1 *Circle K Stores, Inc.*, 2006 WL 8458679, *2–3, *7–*8 (E.D. Cal. 2006) (awarding \$15,000 to each of
2 the named representatives who spent 100 hours and 80 hours, respectively, prosecuting the case on
3 behalf of class members)⁴; *Dent v. ITC Serv. Grp., Inc.*, 2013 WL 5437331, *4, *7, *9 (D. Nev. 2013)
4 (awarding a \$15,000 representative enhancement out of a \$150,000 settlement for approximately 530
5 class members); *Patel v. Nike Retail Services, Inc.*, 2019 WL 2029061, *1, *4 (N.D. Cal. 2019) (\$5,261
6 for settlement administrator’s fees was not excessive where PAGA group consisted of 40 employees).
7 Any allocated amounts for attorney’s fees and costs, any Incentive Award, and/or Settlement
8 Administrator Costs that are not ultimately awarded by the Court will be distributed to Class Members
9 pro rata. See Exhibit A, ¶¶ 5.2-5.4, 5.10.

10 Plaintiff’s final approval briefing will include information and analysis regarding the
11 appropriateness of the fee percentage sought, a lodestar cross check of the requested fee, a detailed
12 declaration from Plaintiff regarding their time spent on the case as well as any risks and burdens
13 incurred as the Class Representative, an itemized costs spreadsheet, and a declaration from the
14 Settlement Administrator detailing the work performed and Settlement Administrator Costs incurred.
15 See Decl. Rodriguez ¶¶ 20-21. The Notice of Settlement will state the amounts to be requested to
16 provide Class Members the ability to comment thereon, providing evidence of whether the requested
17 amounts are reasonable. See Exhibit F at pg. 2, § II.A; see also *In re Heritage Bond Litig.*, 2005 WL
18 1594403, *21 (C.D. Cal. 2005) (“The absence of objections or disapproval by class members to Class
19 Counsel’s fee request further supports finding the fee request reasonable”).

20 **VIII. CONCLUSION**

21 For all of the foregoing reasons, the Court should preliminarily and conditionally certify the
22 class for settlement purposes; grant preliminary and conditional approval of the proposed settlement;
23 approve the proposed notification procedures, including the Notice of Settlement and proposed
24
25

26 ⁴ In *West*, information necessary to assess enhancement payments relative to average payments received by class members
27 was stated in connection with preliminary approval proceedings. There were 1,752 class members in the vacation subclass
28 and 14,000 class members in the meal period subclass, totaling 15,752 class members in all. Thus, in a \$5,000,000 gross
settlement, the *West* Court approved the \$15,000 enhancements where the average gross award for class members was
\$317.42. Compare *West v. Circle K Stores, Inc.*, 2006 WL 1652598, *3 (E.D. Cal. 2006) with *West v. Circle K Stores, Inc.*,
2006 WL 8458679, *2–3, *7–*8 (E.D. Cal. 2006).

1 deadlines relating thereto; and schedule the final approval hearing. A copy of Plaintiff's proposed
2 order is being filed concurrently herewith.

3
4 **Shimoda & Rodriguez Law, PC**

5 Dated: January 8, 2025

6 By: 

Galen T. Shimoda

Justin P. Rodriguez

Renald Konini

Attorneys for Plaintiff

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Attorneys for Plaintiff VANESSA RUIZ

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC, LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

*Assigned for All Purposes to Hon. Jill H. Talley
Department 23*

CLASS ACTION

**DECLARATION OF JUSTIN P. RODRIGUEZ
IN SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION, COLLECTIVE ACTION AND PAGA
SETTLEMENT**

Reservation No. A-08326-001

Date: January 31, 2025

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: September 11, 2023

FAC Filed: January 12, 2024

Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Vanessa Ruiz (“Plaintiff”) herein. I am making this
4 declaration on behalf of the named Plaintiff, the putative class members, and in support of Plaintiff’s
5 Motion for Preliminary Approval of Class Action, Collective Action, and PAGA Settlement
6 (“Motion”). Pursuant to the Rule 2.99.05 of the Local Rules for the Superior Court of California,
7 County of Sacramento, I have reviewed the Court’s class action and PAGA settlement checklist and
8 believe I have prepared the moving papers in compliance with the checklist as well as the California
9 Rules of Court. A true and correct copy of the Joint Stipulation Regarding Class Action, Collective
10 Action, and PAGA Settlement and Release (“Agreement”) in this matter is filed with this Motion as
11 Exhibit A.

12 2. This case was brought as a wage and hour class action based on Plaintiff’s contention
13 that Defendants Symbotic LLC and Symbotic, Inc. (“Defendants”), failed to pay overtime wages, failed
14 to pay minimum wages, failed to provide meal periods or pay premiums in lieu thereof, failed to
15 provide rest periods or pay premiums in lieu thereof, failed to provide accurate wage statements, failed
16 to timely pay final wages, failed to reimburse expenses, engaged in unfair competition. and violated the
17 California Equal Pay Act (“EPA”). Plaintiff also alleged liability for civil penalties under the Private
18 Attorneys General Act (“PAGA”). These claims were based allegations that Defendants violated
19 California law by 1) failing to pay Plaintiff and similarly situated employees for the time it took them to
20 walk back and forth from the entrance of the building before and after the end of their shift to clock in
21 and out, 2) failing to pay Plaintiff and similarly situated employees for off the clock work for tasks
22 performed after business hours, such as responding to phone calls, emails, and texts, 3) failing to pay
23 Plaintiff and similarly situated employees the correct amount of retroactive pay after their raises, 4)
24 failing to incorporate the value of bonuses into the regular rate of pay in calculating Plaintiff’s and
25 similarly situated employees’ premium wages, including overtime, meal and rest period premiums, and
26 sick leave, 5) failing to pay restrictive stock units (“RSUs”) that were vested to Plaintiff and to
27 similarly situated employees, 6) failing to incorporate the value of the RSUs into the regular rate of pay
28 in calculating Plaintiff’s and similarly situated employees’ premium wages, including overtime, meal

1 and rest period premiums, and sick leave, 7) not providing Plaintiff and similarly situated employees
2 with compliant meal and rest periods, 8) failing to reimburse Plaintiff and similarly situated employees
3 for the use of their personal cell phones for work purposes, such as to communicate with managers,
4 supervisors, and other employees regarding work issues and scheduling, and 9) paying similarly
5 situated female employees less than male employees with similar skill, education, and experience for
6 substantially similar work under similar working conditions. The PAGA, waiting time penalty, wage
7 statement violation, and unfair competition claims also derive from these violations.

8 3. Plaintiff is the only named representative in this matter. We began investigating the
9 claims on May 17, 2023, which included interviewing Plaintiff, reviewing her documents, and seeking
10 out potential witnesses to corroborate the claims. This took an extended period of time due to the
11 complicated nature of EPA claims. From our investigations of Plaintiff's claims and documents, we
12 believed the claims had merit and could be maintained as a class action. We filed the action on or
13 about September 11, 2023. Plaintiff exhausted administrative remedies through the Labor and
14 Workforce Development Agency ("LWDA") prior to amending the Complaint to add a PAGA claim.
15 Plaintiff filed a notice with the LWDA on September 8, 2023, setting forth the facts and theories of
16 liability. A true and correct copy of the notices filed with the LWDA are being filed with this Motion
17 as Exhibit C. A copy of the notice was also sent to Defendants via certified mail and the \$75.00 filing
18 fee was remitted to the LWDA at that time. There was no response by the LWDA regarding its intent
19 to investigate the claims alleged in Plaintiff's notice for more than 65 days and Defendants did not
20 utilize the cure procedures under the statute. As such, Plaintiff became authorized to commence a civil
21 action under the PAGA and filed a First Amended Complaint on January 12, 2024. A copy of the
22 Complaint was uploaded to the LWDA after we received a file stamped copy back from Court.

23 4. During informal discovery for mediation a large number of payroll records and timecard
24 records were produced by Defendants. After reviewing the production and speaking further with
25 Plaintiff, we believed there was sufficient basis to support a claim for unpaid minimum wages and
26 overtime based on rounding. I also reviewed all previously produced documents and interview notes to
27 ascertain any additional information and evidence of the rounding policies and practices. Based on the
28 newly discovered information, we also asserted liability for rounding employees' hours worked to the

1 nearest quarter hour up until approximately November 2023 in connection with mediation. To ensure
2 the operative complaint and notice to the LWDA included allegations consistent with the scope of
3 discovery and claims investigated, the Parties agreed that Plaintiff would file an amended notice with
4 the LWDA and a Second Amended Complaint that included the rounding theory of liability and claims
5 under the Fair Labor Standards Act (“FLSA”) for failure to pay overtime and minimum wages based on
6 rounding and the allegations already present in the First Amended Complaint. Plaintiff filed an
7 amended notice with the LWDA on October 18, 2024, adding the rounding allegations and theory of
8 liability. A true and correct copy of the amended notice filed with the LWDA is included in Exhibit C.
9 A true and correct copy of the proposed Second Amended Complaint, which will become the operative
10 Complaint in this action, if is filed with this Motion as Exhibit H. To date, the LWDA has not provided
11 any response to the amended PAGA notice, authorizing Plaintiff to act as a Private Attorney General on
12 all claims and theories of liability for the claims resolved under the Agreement.

13 5. Currently, there is no date set for a motion to certify the class and there is no trial date.

14 6. Defendants are represented in this matter by Seyfarth Shaw LLP. From the beginning,
15 Defendants have contested the merits of this case, the suitability of the case for class action and/or
16 representative treatment, the manageability of the case at trial, and Plaintiff’s ability to prove a
17 violation in each pay period for each employee among other defenses and contentions they made
18 challenging the propriety of this action. Defendants further contended, even assuming there was a
19 finding supporting the imposition of PAGA penalties, that the Court would likely exercise its discretion
20 to substantially reduce any such penalties owed based on evidence of good faith attempts to comply
21 with California Labor Code obligations by Defendants. Notwithstanding the agreement to settle this
22 matter, Defendants believe the practices Plaintiff is contending are unlawful either do not exist or, to
23 the extent they do exist, fully comply with all state and federal employment laws with respect to
24 Plaintiff and Class Members. Also, Defendants have contended that this matter is not appropriate for
25 class or collective action certification outside of this proposed settlement.

26 7. We have reviewed a substantial number of documents and informal discovery during our
27 investigation of the claims. Based on the expected testimony from Plaintiff and Class Members, a
28 review of Defendants’ policies and procedures and other documents relating to the alleged claims,

1 information on the number of Class Members, Class Members' total workweeks within the Class Period,
2 pay periods within the one (1) year penalty statute of limitations, the number of Class Members who
3 separated employment within three (3) years of this case being filed, and a representative sample of
4 Class Members' time and payroll data, the scope of the potential damages in light of the claims alleged,
5 the uncertainty in the law with regard to certification, the demographic and pay data related to the EPA
6 claims, and the negotiations that have taken place, I am convinced that the proposed settlement is in the
7 best interest of the class. The length and risk of continued litigation and trial, as well as other normal
8 perils of complex litigation that impact the value of the claims, were also considered and weighed in
9 reaching the Agreement. In addition, I carefully considered the prospects of class certification and
10 maintaining class certification through trial notwithstanding the numerous challenges raised by
11 Defendants. I further considered the fact that penalties under the PAGA could be substantially cut at the
12 discretion of the Court even if Plaintiff was successful on proving those claims and there was risk that a
13 Court could find no willfulness in the failure to pay wages at separation or the existence of a good faith
14 dispute, which would eliminate the value of several claims entirely. Overall, I believe it is more
15 beneficial to secure a guaranteed benefit to the class now rather than to proceed with litigation and
16 potentially obtain zero funds for the class due to legal or factual issues in the case.

17 8. My office, including my partner, Galen T. Shimoda, my associate, Renald Konini, our
18 paralegal, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of the claims
19 and potential damages for such claims. The parties engaged in informal discovery and exchange of
20 documents that included, but was not limited to, a 20% representative sampling of employee data,
21 including, but not limited to, time records, paystubs, and payroll summaries, relevant handbooks,
22 bulletins, demographic data and job titles relating to the EPA claim, and memoranda containing
23 Defendants' policies for the entirety of the statute of limitations applicable to the alleged claims.
24 Review of this data included comparing the time records and payroll data with approximately 21 unique
25 pay codes and Defendants' wage and hour policies pay period by pay period, which evolved over the
26 course of the Class Period. From this production we were able to determine information critical to a
27 reliable damages analysis such as the average hourly rate, average daily hours worked, shifts eligible for
28 meal and rest periods and the number of potential shifts that may correspond to liability under our

1 theories of liability, average number of workweeks and pay periods that had potential violations based
2 on the asserted claims, the frequency with which violations occurred in a given week and/or pay period,
3 and the number of former employees. This information allowed my office to assess both liability and
4 damages and create an accurate damages model. Plaintiff assisted in all aspects of this litigation
5 including providing factual information relating to Plaintiff's and Class Members' employment
6 conditions, providing a substantial number of documents, and answering questions regarding
7 Defendants' factual contentions in this matter. This was important because it directly related to our
8 ability to maintain this case as a class action and our ability to obtain a favorable settlement for the class.

9 9. Throughout this litigation our office had numerous communications with Defendants'
10 Counsel discussing our respective positions. The parties engaged in mediation on September 18, 2024,
11 using an experienced mediator, Michael J. Loeb. It was only after approximately seventeen (17) months
12 of extensive, arm's length negotiations that the parties were able to reach a settlement, which only
13 occurred after a full-day mediation. The negotiations were, at all times, contentious, adversarial, and at
14 arms-length, though still professional in nature.

15 10. Based on my office's analysis of the informal discovery outlined above, there were
16 approximately 172 Class Members who worked 8,498 weeks in the Class Period, 76 PAGA Group
17 Members who worked 2,541 pay periods during the PAGA Period, an average base hourly rate of
18 approximately \$26.67, and an average overtime rate of approximately \$40.01. We did not find any
19 prior Labor Commissioner or Court decisions stating Defendants' practices and/or policies were
20 improper. As such, a "subsequent violation" may not be found for penalty calculation purposes, and
21 the penalty exposure analysis herein is based on an "initial violation" valuation being adopted by any
22 fact finder if this matter went to trial. *See Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207-
23 1209 (2008). The following represents the maximum recovery as well as the more realistic range of
24 recovery for each of Plaintiff's claims:

- 25 a) Minimum Wages: This claim is based on allegations that Defendants failed to pay
26 Plaintiff and Class Members at least the minimum wage for all hours worked due to
27 Defendants requiring Plaintiff and similarly situated employees to walk for
28 approximately five (5) minutes to the timekeeping device to clock in prior to their shift

1 and another five (5) minutes after the end of their shift since they had to walk back from
2 the timekeeping device to the entrance/exit doors of the building. As a result, Plaintiff
3 and similarly situated employees spent on average approximately ten (10) minutes per
4 day just to clock in and clock out before and after their shifts. Additionally, at least up
5 until November 2023 Defendants rounded employees' hours worked to the nearest
6 quarter hour. This resulted in unpaid hours worked for Plaintiff and similarly situated
7 employees. Also, Defendants' employees and/or managers would contact Plaintiff on
8 her personal cell phone after she had clocked out to perform certain tasks and respond to
9 emails. The maximum damages for this claim are approximately \$229,446. This amount
10 does not take into account any potential risks with respect to Plaintiff certifying the
11 claim, proving the merits, or proving damages. The maximum damages available were
12 calculated based on the upper range of estimated time Class Members worked off-the-
13 clock per week based on the average unpaid hours worked per shift due to rounding and
14 time spent traveling to clock in and/or out for work, which was 2 hours total. Plaintiff
15 also assumed that this happened every shift for the entire Class Period. Based on the
16 weighted average minimum wage rate of \$13.50 during the Class Period, this equals
17 approximately \$229,446 in unpaid minimum wages ([8,498 workweeks x 2 hours off-
18 the-clock per week] x \$13.5 average minimum wage rate). Because we also assumed
19 that all unpaid time qualified for overtime, only liquidated damages is being claimed to
20 avoid double recovery of substantive wage loss. Defendants heavily disputed this theory
21 of liability. First, Defendants contended that the order in which Class Members were
22 directed to clock in/out resulted in travel time actually being compensated and any time
23 spent walking out of the building after clocking out was not compensable as there were
24 no mandatory searches or restrictions imposed Defendants on Class Members. See
25 *Huerta v. CSI Elec. Contractors*, 15 Cal.5th 908, 929 (2024). Second, Defendants
26 argued they maintained, and strictly enforced, policies against working off-the-clock,
27 accurately recording hours worked, and that overtime was regularly paid, undermining
28 any contention that there was any practice or policy promoting off-the-clock work. This

presented a substantial challenge to both certification and the merits of the claim. The written policy prohibiting off-the-clock work would require Plaintiff to demonstrate, on a class wide basis, that Defendants effectively maintained “a policy to violate the policy” against off-the-clock work and that Defendants knew or should have known the off-the-clock work was occurring despite the policies and payment of overtime. *See Brinker Rest. Corp. v. Superior Ct.*, 53 Cal.4th 1004, 1051-1052 (2012). Finally, the presence of a good faith dispute would eliminate liability for liquidated damages for unpaid minimum wages. *See* Cal. Lab. Code § 1194.2(b); *Ridgeway v. Walmart Inc.*, 946 F.3d 1066, 1089-1090 (9th Cir. 2020). Although more recent California Appellate authority on the legality of rounding has found that doing so is unlawful, there is a split of authority on the legality of rounding. *Compare See’s Candy Shops, Inc. v. Superior Court*, 210 Cal.App.4th 889 (2012) with *Camp v. Home Depot U.S.A., Inc.*, 84 Cal.App.5th 638, 656–660 (2022) and *Woodworth v. Loma Linda University Medical Center*, 93 Cal.App.5th 1038 (2023). The California Supreme Court has taken the matter under review, but has not yet ruled to resolve the split of authority. *See Camp v. Home Depot U.S.A.*, 523 P.3d 391 (Cal. 2023). Given the split of authority on rounding and the legal and factual disputes for the remaining theories of liability, I believe it is likely a good faith dispute would be found and there would be no recovery for this claim;

- b) Unpaid Overtime Wages (Off-the-Clock): The off-the-clock theory of overtime liability is based on the same factual allegations that formed the basis for the minimum wage claims, which are stated above. The maximum damages for this claim are \$680,009.96 ([8,498 workweeks x 2 hours off-the-clock per week] x \$40.01 average overtime rate). This amount does not take into account any potential risks with respect to Plaintiff certifying the claim, proving the merits, or proving damages. Plaintiff has assumed that all unpaid hours qualified as overtime. Because this theory of liability is based on the same facts supporting the minimum wage claim, it is subject to the same risks identified above. The strongest case for liability was the rounding claims, which only amount to

approximately 15 minutes of unpaid hours worked per week on average. Additionally, this only lasted for approximately 75% of the class period as rounding ceased in November 2023. Taking all these factors into account, I believe a more likely range of recovery for this claim is between \$63,750.91 to \$85,001.25, which is based on the 100% liability for rounding and the time period during which the rounding took place;

c) Unpaid Overtime (Regular Rate of Pay Re Bonus): This theory of liability for unpaid overtime is based on allegations that Defendants failed to incorporate the value of all non-discretionary remuneration beyond an employee's base hourly wage, *e.g.* incentive based compensation such as bonuses, when calculating the regular rate of pay for premium purposes such as overtime. The maximum damages for this claim are \$4,003.70. This amount does not take into account any potential risks with respect to Plaintiff certifying the claim, proving the merits, or proving damages. Based on informal discovery, approximately 12.10% of the approximately 3,923.08 total pay periods during the Class Period included overtime with these additional incentive payments earned over the same period. Based on the average incentive payments attributable to each pay period (\$123.28), and the average amount of overtime (9.95) and double time (1.72) worked per affected pay period, the total amount of overtime owed over the course of the Class Period was \$4,003.70. Defendants heavily disputed this claim. For example, Defendants contended that there was no need to separately calculate any overtime owed as a result of the incentive payments because they were discretionary in nature. Defendants contended that the bonus was minimal, it was provided to employees during COVID period and not provided during the PAGA period. As a result, Defendants contended that the bonus did not have to be incorporated into the regular rate of pay. Defendants also contended that even if they were not considered discretionary, the manner in which the bonuses were calculated already accounted for overtime and other premium payments because they were based on a percentage of all earnings, including overtime and other similar premium wages. To the extent the Court agreed with either of these factual contentions, the value of this claim would be entirely

eliminated. *See* 29 C.F.R. § 778.208 (discretionary bonuses need not be included in the regular rate); 29 C.F.R. § 778.210 (where bonus calculated as a percentage of total income that already includes overtime, no separate payment of overtime is required). Taking these risks into account factors into account, I believe a more realistic range of recovery for this theory of liability is between \$0 to \$4,002.76;

d) Unpaid Overtime (Regular Rate of Pay re RSU): This theory of liability for unpaid overtime is based on allegations that Defendants failed to incorporate the value of all non-discretionary remuneration beyond an employee's base hourly wage, *e.g.* incentive based compensation such as restricted stock units ("RSU") when calculating the regular rate of pay for premium purposes such as overtime. The maximum damages for this claim are \$15,190.49. This amount does not take into account any potential risks with respect to Plaintiff certifying the claim, proving the merits, or proving damages. Based on informal discovery, approximately 1.3% of the approximately 3,923.08 total pay periods during the Class Period included overtime with these additional incentive payments earned over the same period. Based on the average incentive payments attributable to each pay period (\$4,328.41), and the average amount of overtime (9.95) and double time (1.72) worked per affected pay period, the total unpaid overtime over the Class Period was approximately \$15,190.49. Defendants heavily disputed this claim. For example, Defendants contended that there was no need to separately calculate any overtime owed as a result of the incentive payments because they were restricted stock units. Defendants contended that the Labor Code as well as the Federal Regulations do not require including compensation from a stock plan into the regular rate of pay because they do not have a set value, and their value can fluctuate and they are a specifically enumerated exclusion from the regular rate of pay. *See* 29 C.F.R. § 778.200(a)(8) (excluding income derived from grants or rights provided by stock options or stock purchase programs from the regular rate of pay). Taking these risks into account factors into account, I believe a more realistic range of recovery for this theory of liability is between \$0 to \$15,190.49;

1 e) Meal Periods: This claim is based on allegations that due to the fast pace of the work
2 and lack of staffing, Plaintiff and similarly situated employees were unable to take all
3 their meal periods and unable to have timely meal and rest periods. Defendants also
4 interrupted Plaintiff and similarly situated employees during many of their meal and rest
5 periods. For example, Plaintiff took many late meal periods after her fifth hour of work
6 because she was busy performing different tasks. Also, Defendants interrupted Plaintiff
7 and similarly situated employees many times to answer questions or perform different
8 tasks during their meal periods. The maximum damages for this claim are \$300,213.03.
9 This amount does not take into account any potential risks with respect to Plaintiff
10 certifying the claim, proving the merits, or proving damages. This amount was
11 calculated based on an average hourly rate of \$26.67, an average of 7 shifts per pay
12 period, and a violation rate of approximately 41% per shift based on Defendants' payroll
13 records, *i.e.* 41% of shifts had either no meal period punch, a late meal period punch, a
14 meal period lasting less than thirty (30) minutes, and/or a shift of more than ten (10)
15 hours without a second meal period. Defendants contended that all the employees took
16 breaks together at the same time as the other employees in the warehouse and that a loud
17 bell would ring to notify all employees of the break times. The bell would also ring
18 minutes prior to the actual breaks so that the employees could finish their tasks or start
19 preparing for the breaks. Defendants also contended that they had a practice to pay
20 automatically for meal period premiums. Defendants' timekeeping system was
21 programed in such a way to record automatically meal period premiums if employees
22 did not record a timely meal period. Moreover, Defendants produced through a second
23 meal period waiver agreement signed by Plaintiff. While Plaintiff can utilize the
24 rebuttable presumption of meal period violations based on the time records under
25 *Donohue v. AMN Servs., LLC*, 11 Cal.5th 58, 78 (2021), Plaintiff would still have the
26 burden to establish a theory of liability amenable to class treatment. Additionally, if
27 Defendants' time keeping policies and records were found to rebut the presumption of
28 meal period violations, this would substantially reduce the scope of Plaintiff's meal

period claims to only those instances where the alleged defective meal period policy would be at issue, *i.e.* interrupted and late meal periods. Without a presumption based on defective time records or a facially unlawful policy it is very difficult to certify meal period violation claims. Thus, the dispute that Defendants provided compliant meal and rest periods to all employees, where all employees took meal and rest periods at the same time, that a bell would ring to notify employees of meal and rest breaks, and that Defendants' timekeeping system automatically recorded meal period premiums for employees that do not record a timely meal period, substantially increases the risks to the claims. As a result, the violation rate would be reduced to approximately 10-20%. Taking these factors into account, I believe a more realistic range of recovery for this claim is between \$135,095.86 to \$195,138.47 (reduction of 35% to 55% based on risk);

- f) Rest Breaks: This claim was based on the same allegations as the meal period claim. Plaintiff contended that Class members were not provided with lawful rest periods approximately 41% of the time. Based on 7 shifts per pay period and an average \$26.67 hourly rate, this equates to a maximum exposure of approximately \$300,213.03. This amount does not take into account any potential risks with respect to Plaintiff certifying the claim, proving the merits, or proving damages. Because this claim is based on the same factual basis as the meal period claims, it is also subject to the same risks as detailed above. However, there is no requirement that an employer keep records of rest periods, so this claim does not benefit from any presumptive violation based on time records under the law like meal period claims do. This presented an even greater risk for Plaintiff's rest period claims than is present for the meal period claims. Taking these factors into account, I believe a more realistic range of recovery for this claim would be between \$45,031.95 to \$105,074.56 (65% to 85% reduction based on risk);
- g) Sick Leave: This claim was based on allegations that Defendants failed to pay Plaintiff and similarly situated employees all sick leave wages due because they failed to incorporate the value of bonuses and RSUs paid to in the same periods as sick leave wages were paid. However, the payment of sick leave and other payments over the same

1 work week that would potentially triggering regular rate of pay claims occurred in less
2 than 1% of all pay periods and resulted in less than approximately \$500. Due to the
3 nominal nature of the sum and volatility for the theories of liability it was based on, we
4 did not attribute value to the unpaid wage aspect of this claim. We did however, utilize
5 the claims value with respect to PAGA penalties based on pay periods affected, as
6 outlined below;

7 h) Reimbursement: This claim was based on Plaintiff's contention that Class Members
8 were required to use their personal cell phones to communicate with managers,
9 supervisors, and other similarly situated employees regarding work issues and
10 scheduling. Moreover, Plaintiff used her personal vehicle to pick up parts from local
11 vendors in the same town or West Sacramento and Sacramento area. Plaintiff picked up
12 these parts sometimes during her shift, after she had clocked out. Defendants contended
13 that employees were not required to use their vehicles for work purposes because they
14 worked inside the warehouse and there was no need for them to drive outside of the
15 warehouse. Plaintiff's position only required that Plaintiff pick up parts after her shift if
16 there was a need. Since the vehicle reimbursement did not apply to Class Members,
17 Plaintiff only included the cell phone reimbursement claim. The cell phone
18 reimbursement claim is based on a monthly cell phone bill of approximately \$100 and
19 15% work usage rate, which equates to approximately \$3.46 owed per week. The
20 maximum exposure for this claim is \$29,416.15. This amount does not take into
21 account any potential risks with respect to Plaintiff certifying the claim, proving the
22 merits, or proving damages. Defendants heavily disputed whether use of personal cell
23 phones was required given that Class Members worked inside the warehouse and had
24 access to phones and computers. Defendants contended that the use of any applications
25 on a personal device or using cell phones to communicate with supervisory employees
26 and/or clients was, at most, a personal choice of convenience by Class Members.
27 Furthermore, it is unlikely that Class Members all had their own standalone cell phone
28 plans as opposed to being billed as additional lines on a pre-existing plan. In my

1 experience there has always been a range of individuals whose cell phone plans are \$30-
2 \$60 per month as additional lines on a pre-existing plan. Thus, it is unlikely that the full
3 amount of damages Plaintiff calculated would be established even if Plaintiff was
4 successful in certifying the class and establishing liability. Based on these risks, I
5 believe a more realistic range of recovery for this claim would be between \$7,354.04 to
6 \$14,708.08 (50% to 75% reduction based on risk);

7 i) Wage Statement Violations: This claim is derivative of Plaintiff's overtime, minimum
8 wage, meal and rest period, and sick leave claims. The maximum exposure for this claim
9 is \$127,050, which is calculated based on an initial violation of \$50 per pay period per
10 employee and assumes a violation in each of the 2,541 pay periods within the one (1)
11 year penalty statute of limitations. This amount does not take into account any potential
12 risks with respect to Plaintiff certifying the claim, proving the merits, or proving
13 damages. Because this claim is derivative of Plaintiff's other claims, the same risks
14 identified above for the minimum wage, overtime, meal period, rest period, and sick
15 leave claims apply here as well, substantially affecting the potential value of this claim.
16 Furthermore, under the recent California Supreme Court case, *Naranjo v. Spectrum Sec.*
17 *Servs., Inc.*, 15 Cal.5th 1056 (2024), employers now have a good faith dispute defense
18 against wage statement claims. Given the factual and legal disputes presented above, I
19 believe it is likely that a Court would find a good faith dispute exists. Thus, I believe it
20 is more realistic that there would be no recovery for this claim;

21 j) Waiting Time Penalties: This claim is derivative of the overtime, minimum wage, meal
22 and rest period, and sick leave claims. The maximum damages for this claim are
23 \$615,372.91. This amount does not take into account any potential risks with respect to
24 Plaintiff certifying the claim, proving the merits, or proving damages. The maximum
25 damages were calculated based on the \$26.67 average hourly rate, 76 former employees
26 within the three (3) year penalty statute of limitations, and an average of 10.12 hours
27 worked per shift. Plaintiff utilized the full 30 days to calculate the total amount due for
28 each formerly employed Class Member. Because it is derivative of Plaintiff's claims

asserted above, it carries all the same risks. Similar to claims for liquidated damages for minimum wages and wage statement violations, waiting time penalties are subject to a good faith dispute defense. *See Diaz v. Grill Concepts Servs., Inc.*, 23 Cal.App.5th 859, 868 (2018). For the same reasons as stated above, it is likely that a good faith dispute would be found and the value associated with this claim would be eliminated entirely;

k) Equal Pay Act Claims: Based on the informal discovery and demographic data, we did not find any meaningful disparity in pay based on gender as alleged in the Complaint. Rather than a difference in pay for similar job titles, there was little to no overlap for similar job positions between female and male comparators. For the overlap that did exist, it appeared that the difference in pay, approximately \$1 per hour, was based on substantially different levels of seniority and tenure, which, over time, resulted in the pay difference through accumulated merit raises. Other complaints regarding pay differences stemmed more so from Class Members feeling undercompensated when filling in for other positions on a temporary basis due to temporary staffing shortages rather than actually having the same position for less pay. As a result, we did not attribute any value to this claim;

l) PAGA: This claim is derivative of the Labor Code violations identified above and would be subject to all the same risks as the underlying claims it is based on. Again, we did not find any prior Labor Commissioner or court decisions that stated Defendants' practices and/or policies were improper, so the exposure analysis is based on an "initial violation" valuation being adopted by any fact finder if this matter went to trial. *See Amaral*, 163 Cal.App.4th at 1207-1209. Based on Class Members' payroll data, the maximum exposure for this claim is \$1,515,563.14, which was calculated per violation as follows:

- *Minimum Wages*: \$254,100 (2,541 pay periods x default \$100 per pay period per Labor Code section 2699(f));
- *Overtime*: \$127,050 (2,541 pay periods x \$50 per pay period per Labor Code section 558);

- *Meal Periods*: \$52,090.50 (1,042 pay periods x \$50 per pay period per Labor Code section 558);
- *Rest Periods*: \$104,181 (1,042 pay periods x default \$100 per pay period per Labor Code section 2699(f));
- *Wage Statements*: \$254,100 (2,541 pay periods x default \$100 per pay period per Labor Code section 2699(f));
- *Waiting Time Penalties*: \$429,141.64 (53 former employees within the penalty statute of limitations. Calculated the same as waiting time penalties pursuant to Labor Code section 256 [\$26.67 average hourly rate x 10.12-hour day x 30 days = \$8,097.01. [53 former employees x \$8,097.01 = \$429,141.64]);
- *Reimbursement*: \$254,100 (2,541 pay periods x default \$100 per pay period per Labor Code section 2699(f));
- *Failure to Maintain Accurate Records*: \$38,000 (\$500 x 76 employees within the penalty statute of limitations per Labor Code section 1174.5);
- *Sick Leave*: \$2,800 (28 pay periods affected x default \$100 per pay period per Labor Code section 2699(f));

These amounts do not take into account any of the risks in proving the merits of the underlying claims that the PAGA damages are based on. The identified risks would likely eliminate several of the claims (*e.g.* minimum wages & waiting time penalties), and/or substantially reduce the number of pay periods at issue due to the inability to prove the claims in every pay period for every employee. In addition to the risks on the merits, I believe the Court may exercise its discretion to reduce PAGA penalties in this case because a majority of the civil penalties sought would be in addition to amounts owed for substantive violations, some of the violations are due to technical non-compliance with the Labor Code, such as derivative wage statement violations, several of the violations under different statutes arise from the same, singular conduct (*e.g.* not paying for off-the-clock work and not providing compliant meal and rest period, not incorporating the value of the bonuses and RSUs into the regular rate of pay for

1 purposes of overtime premiums, meal and rest period premiums and sick leave
2 premiums), Defendants produced wage and hour policies and other documents related to
3 attempts at complying with the California Labor Code that a Court may find
4 demonstrates a good faith attempt at compliance, and there were several instances where
5 the actual substantive loss experienced by PAGA Group Members was substantially less
6 per pay period than the potential maximum penalty that could be imposed. Courts are
7 statutorily authorized to use discretion to reduce penalties and the range of discretion
8 used varies substantially. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203
9 Cal.App.4th 1112, 1135 (2012) (30% reduction); *Fleming v. Covidien Inc.*, 2011 WL
10 7563047, *3–4 (C.D. Cal. 2011) (82% reduction); *Magadia v. Wal-Mart Associates,*
11 *Inc.*, 384 F.Supp.3d 1058, 1104 (N.D. Cal. 2019) (80% reduction); *Hamilton v. Juul*
12 *Labs, Inc.*, 2021 WL 5331451, *9-*10 (N.D. Cal. 2021). The 82% reduction equates to
13 roughly \$9-\$18 worth of civil penalties per pay period per employee depending on the
14 total potential value of the civil penalty (*i.e.* \$50-\$100), which is more in line with actual
15 awards based on my experience and review of awards in other cases. Thus, even if
16 using the maximum values and setting aside risks of proving the claims on the merits,
17 the total exposure may be cut to approximately \$272,801.36 (82% reduction) to
18 \$1,060,894.20 (30% reduction) or lower. It is important to note that this discretionary
19 reduction is completely separate and in addition to any risks on the merits. Given the
20 substantial risks associated with the claims, I believe the amount that might ultimately
21 be awarded under this claim would be significantly lower than the maximum civil
22 penalties available. I believe allocating \$20,000 to the PAGA claims in this case is
23 appropriate, especially in light of amounts that Courts have approved as reasonable
24 valuations in other cases. *See Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010)
25 (approving \$0 allocation to the resolution of PAGA claims based on their being disputed
26 and being part of a class settlement which was evaluated based on the terms of the
27 agreement overall); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, *8 n.2
28 (E.D. Cal. 2022) (collecting cases with PAGA settlement values ranging from .037%-

1 1%); *Jennings v. Open Door Marketing, LLC*, 2018 WL 4773057, *9 (N.D. Cal. 2018)
2 (approving settlement of PAGA claims at 0.6% of total estimated value due to risk of no
3 recovery); *Ruch v. AM Retail Grp., Inc.*, 2016 WL 5462451, *7 (N.D. Cal. 2016)
4 (approving \$10,000 PAGA settlement allocation where total PAGA penalty exposure
5 was approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox*
6 *Commc 'ns California, LLC*, 2017 WL 1496407, *1 (S.D. Cal. 2017) (preliminarily
7 approving \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l,*
8 *LLC*, 2014 WL 12571448, *5 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation
9 when attorneys' fees award alone amounted to \$200,000); *Jack v. Hartford Fire Ins.*
10 *Co.*, 2011 WL 4899942, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in
11 \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 WL 2196104, *2 (S.D.
12 Cal. 2010); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *1, *9 (N.D. Cal. 2009)
13 (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*,
14 2017 WL 714367, *13 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in
15 \$3,950,000 gross settlement amount allocated to California class even though PAGA
16 exposure was calculated at \$53,600,000, or 0.2% of total estimated potential value);
17 *Garcia v. Gordon Trucking, Inc.*, 2012 WL 5364575, *6-*7 (E.D. Cal. 2012) (approving
18 \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*,
19 2012 WL 5941801, *14 (E.D. Cal. 2012) (\$10,000 PAGA allocation from \$2,500,000
20 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D. Cal.
21 2011) (\$10,000 PAGA allocation from \$6,900,000 settlement fund).

22 11. In summary, Plaintiff's gross recovery of \$246,500 under the Agreement equals
23 approximately 6% of the maximum value of the claims in this matter (\$3,816,477.47) and between 17%
24 and 47% of the more realistic range of recovery (\$524,034.16 to \$1,480,009.80). After deducting the
25 proposed allocations for attorneys' fees and costs, any Enhancement Payment, Settlement
26 Administrator Costs, and the PAGA Payment from the Gross Settlement Amount, the net recovery
27 under the Agreement, \$100,225, represents approximately 3% of the maximum value of the claims in
28 this matter. The net recovery also represents between 7% and 19% of the more realistic range of

1 recovery. The average net award is approximately \$582.70, which is the equivalent of approximately
2 \$11.79 per workweek. I believe the Agreement is fair, reasonable, and adequate, representing a
3 reasonable compromise of claims based on the legal and factual disputes in this case. The ability to
4 secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than
5 proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this
6 Agreement. The ability to secure a guaranteed settlement now and ensure Class Members receive some
7 compensation, rather than proceed to further litigation and potentially recover nothing, was a
8 motivating factor in reaching this Agreement.

9 12. In agreeing to represent Plaintiff and take on the case for all Class Members, our office
10 agreed to take this case on a contingency basis, meaning that we would take a percentage of any
11 settlement or judgment should we recover a monetary amount. We took a risk that we would not
12 recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case
13 may be subject to an unfavorable summary judgment ruling. However, we believe it is important to
14 make sure employees are able to find affordable representation in order to ensure that employers are
15 complying with all their legal obligations towards employees and paying employees all their hard-
16 earned wages.

17 13. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law
18 practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I
19 attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the
20 Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two
21 recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the
22 University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris
23 Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at
24 McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my
25 legal research and writing course, a Witkin Award in complex civil litigation, being a member of the
26 Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from
27 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business &*
28 *Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar

Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society and an officer for the Latino Law Students Association from 2009 to 2010.

14. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp. became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have been recognized as a Super Lawyer (Rising Star). I have been a panel speaker and presented a number of seminars covering issues in wage and hour litigation in general and complex class and PAGA litigation in particular. These engagements include the following: (1) *Epic Systems*, PAGA, and the Future of Employment Arbitration in California (Sacramento County Bar Assoc., Sept. 2018); (2) Class Actions and PAGA Claims (Assoc. of Defense Counsel of Northern California & Nevada, Jul. 2020); (3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept. 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a Post-*Viking River Cruises* World (Sacramento County Bar Assoc., Nov. 2022). I was elected to the Sacramento County Bar Association Labor and Employment Law Section's executive committee in 2019 and was the Chair of the executive committee for 2022. I have also been a member of the Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August 2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA claims, and Fair Labor Standards Act ("FLSA") claims. I am actively involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently litigating, including the instant case, includes, but is not limited to, the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080 (San Joaquin Sup. Ct.);

- 1 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 2 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 3 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
- 4 Sup. Ct.);
- 5 • *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup.
- 6 Ct.);
- 7 • *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- 8 • *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-
- 9 00271174 (Sac. Sup. Ct.);
- 10 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
- 11 Ct.);
- 12 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
- 13 Ct.);
- 14 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
- 15 Sup. Ct.);
- 16 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 17 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
- 18 Ct.);
- 19 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 20 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
- 21 00209613 (Sac. Sup. Ct.);
- 22 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 23 • *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-
- 24 00222101 (Sac. Sup. Ct.);
- 25 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
- 26 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- 27 • *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
- 28 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);

- *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
- *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
- *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.);
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);

- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

15. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

16. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of employment law articles for journals and our firm regularly publishes articles on our firm's website. Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar) Employment Review seminars from 2014 to the present. His speaking engagements include the following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6) CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21, 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the

1 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour
2 Panel and AB 1825 Training: Updates on California's New Wage Laws and Manager Compliance
3 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –
4 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento
5 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of
6 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and
7 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
8 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
9 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
10 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
11 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
12 as a Super Lawyer from 2014 to present.

13 17. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
14 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.
15 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
16 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
17 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and
18 Federal Courts, including up to certification, settlement, preliminary and final approval, and
19 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.
20 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel
21 include the following:

- 22 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 23 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 24 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 25 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 26 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 27 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 28 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);

- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
- *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
- *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
- *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
- *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac. Sup. Ct.);
- *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac. Sup. Ct.);

- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.);
- *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);
- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);

- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

18. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action, but did not maintain that status through the end of the case.

19. My associate, Renald Konini, Esq., also worked with me on this case. In May 2011, Mr. Konini graduated from Seton Hall University School of Law. Prior to moving to California, he practiced law in New Jersey. While working for my firm, Mr. Konini has worked on a variety of individual and class action cases, including those involving wage and hour claims, Private Attorney General Act claims, wrongful termination claims, discrimination claims, retaliation claims, and harassment claims. Mr. Konini passed the July 2016 California Bar Examination and started practicing as an associate at my firm from approximately April 2019 to February 2021. He rejoined my firm in September 2022. Mr. Konini has experience drafting written discovery, taking and defending depositions, calculating class-wide damages, interviewing putative class members, drafting motions and briefs on complex class action procedures, negotiating class and individual damages claims, and communicating with opposing counsel regarding these items in navigating the litigation. Mr. Konini has also worked on other class and/or PAGA wage and hour actions that my firm has filed, namely *Bertelli v. Air Products and Chemicals, Inc.*, Case No. 34-2018-00236898 (Sac. Sup. Ct.), *Carr v. Howroyd-Wright Employment Agency, Inc.*, Case No. 34-2018-00228290 (Sac. Sup. Ct.), *Gomez v. Vander Schaaf Dairy, et al.*, Case No. STK-CV-UOE-2020-0003954 (San Joaquin Sup. Ct.), *Haggins v. Kelly Services, Inc.*, Case No. 34-2017-00220473 (Sac. Sup. Ct.), *Hussaini v. Integrated Resources, Inc.*, et al, Case No. 34-2021-00297152 (Sac. Sup. Ct.), *Kee, et al. v. Dr. Jeffrey A. Saladin, Dental Corporation (D/B/A Children's Choice Pediatric Dental Care), et al.*, Case No. 34-2020-00290072 (Sac. Sup. Ct.), *Lear v. Raxium, Inc.*, Case No. 21CV004358 (Alameda Sup. Ct.), *Serrano v. Cool Time, LLC*, Case No. 34-2021-00312356 (Sac. Sup. Ct.), *Grebe v. Mary Ann's Baking Co., Inc.*, Case No. 34-2020-00285254-CU-OE-GDS (Sac. Sup. Ct.), *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No.

20CV01255 (Butte Sup. Ct.), *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.), *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.), *Pek, et al v. Varris Management, Inc.*, Case No. STK-CV-UOE-2020-3954 (San Joaquin Sup. Ct.), *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct). Mr. Konini's practice largely revolves around wage and hour matters, including class and PAGA claims.

20. In connection with any final approval hearing, I will be seeking attorneys' fees and costs, an Incentive Award to the Class Representative, and Settlement Administrator Costs as set forth in the Agreement. I will be requesting attorneys' fees and costs pursuant to the common fund doctrine as I believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977), *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston & Hunt v. Grauly*, 886 F.2d 268, 271 (9th Cir. 1989). The facts and case law supporting the requested amounts will be set forth in the final approval motion, including information for the Court to perform a lodestar cross check of the requested attorney's fees, quantify the amount of time spent by Plaintiff on this case and any further risks and/or burdens incurred as a result of acting as Class Representative, an updated declaration in support of actual litigation costs and itemized cost spreadsheet, and declaration from the Settlement Administrator detailing the work performed and Settlement Administrator Costs incurred. My firm's expected costs through final approval are not expected to exceed \$15,000. Attached as Exhibit E is a true and correct copy of the costs incurred prior to the filing of this Motion and the expected costs incurred through the final approval and fairness hearing. Any difference in the awarded fees and costs, Class Representative's Incentive Award, and Settlement Administrator Costs and the amounts allocated for each under the Agreement will be added back to the Net Settlement Amount and distributed pro rata to Class Members.

21. I have used several class action administrator companies in the wage and hour class actions I have resolved in the past and believe ILYM, Inc. will provide the best service to administer the proposed class settlement. ILYM, Inc. has provided a quote for the estimated maximum cost of administering the class settlement of approximately \$6,950. A true and correct copy of a cost estimate provided by ILYM, Inc. is filed with this Motion as Exhibit D. This is only an estimate, and final pricing may vary depending on the issues, if any, that arise during the administration of the settlement.

1 However, the difference between the actual, lesser costs and \$15,000, if any, will be paid to the
2 Participating Class Members on a pro rata basis.

3 22. A copy of the Agreement and the entire Motion was submitted to the LWDA for review
4 at the same time the Motion was submitted to the Court pursuant to California Labor Code section
5 2699(l)(2). A true and correct copy of documents demonstrating the settlement documents were
6 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
7 Exhibit G.

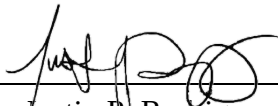
8 23. A true and correct copy of the proposed Notice of Settlement is being filed with this
9 Motion as Exhibit F. The Notice of Settlement will direct Class Members and Collective Members to
10 the Court's public access web portal and provide instructions on how to search for the case to find
11 electronic copies of all filed documents in this case and other pertinent case information found on the
12 Court's public access web portal. I believe utilizing the public access web portal is a superior method
13 for online/electronic notice to Class Members and Collective Members for several reasons. First, the
14 case information and relevant settlement documents will remain available for much longer on the
15 public access web portal than on an administrator's website. Generally, case web pages created by
16 administrators are taken down shortly after any compliance hearing whereas the case information on
17 the public access web portal will remain available for several years after any compliance hearing.
18 Second, there are no added costs to Class Members and Collected Members in utilizing the public
19 access web portal. To the extent a Class Member and Collective Members has the means to access an
20 administrator web page (*e.g.* phone/computer & internet service), they will also be able to access the
21 public access web portal. There is no charge on the public access web portal for searches utilizing case
22 numbers and the Notice of Settlement will provide instructions for searching by case number. Third,
23 utilizing the public access web portal will result in fewer costs associated with settlement
24 administration, resulting in more funds to distribute to Class Members and Collective Members.
25 Fourth, utilizing the public access web portal will give Class Members and Collective Members a
26 greater ability to keep apprised of the case status heading into any final approval hearing(s) and/or
27 compliance hearing(s). Finally, it will also help in effectuating notice of final judgment to Class
28 Members and Collective Members. To the extent final approval is granted, we will file a notice of

1 entry of judgement. For the reasons already stated above, the ease of access and longevity of records
2 on the public access web portal will make it easier for Class Members and Collective Members to
3 obtain and review the notice of judgment well into the future.

4 24. The designated *cy pres* beneficiaries is the State of California's Controller. All
5 uncollected funds from Participating Class Members will escheat to the State of California's Controller,
6 to be held in the name of each expired check payee, pursuant to applicable unclaimed property laws.
7 Only those funds that remain from Participating Class Member's uncashed settlement checks will be
8 sent to the State of California's Controller

9 25. The State of California's Controller is managed by the State of California. It is a state
10 agency and a nonprofit organization. If approved as a *cy pres* beneficiary, the uncashed funds will be
11 sent to the State of California in the name of the individual i to be held in the name of each expired
12 check payee, pursuant to applicable unclaimed property laws. Neither my firm, myself, Mr. Konini, nor
13 Mr. Shimoda have any interest or has ever received any compensation, direct or indirect, for designating
14 the California Unclaimed Property Fund as *cy pres* beneficiary.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct. Executed on January 8, 2025 in Elk Grove, California.

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20 Justin R. Rodriguez
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Attorneys for Plaintiff VANESSA RUIZ

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC, LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

*Assigned for All Purposes to Hon. Jill H. Talley
Department 23*

CLASS ACTION

**DECLARATION OF VANESSA RUIZ IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION, COLLECTIVE ACTION AND PAGA
SETTLEMENT**

Reservation No. A-08326-001

Date: January 31, 2025

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: September 11, 2023

FAC Filed: January 12, 2024

Trial Date: None Set

1 I, Vanessa Ruiz, declare:

2 1. I am a competent adult and I have personal knowledge of the facts set forth in this
3 declaration. I am making this declaration on behalf of myself, as a named plaintiff, and in support of
4 Plaintiff's Motion for Preliminary Approval of Class Action, Collective Action, and PAGA Settlement.

5 2. I worked for Defendants Symbotic, LLC, and Symbotic, Inc. ("Defendants") from
6 approximately June 2016 to March 10, 2023, as a non-exempt employee. I was subject to all of
7 Defendants' policies and practices that have been alleged as unlawful in the Complaint and the notice
8 sent to the Labor and Workforce Development Agency ("LWDA"), including the following: failure to
9 pay overtime wages, failure to pay minimum wages, failure to provide meal periods or pay meal period
10 premiums in lieu thereof, failure to provide rest periods or pay rest period premiums in lieu thereof,
11 wage statement violations, failure to timely pay final wages, failure to reimburse expenses, California
12 Equal Pay Act Violations, unfair competition, failure to maintain accurate records, failure to provide
13 paid sick leave, untimely payment of wages, and violation of Labor Code section 558.

14 3. I have actively participated in the litigation of this case for the benefit of all Class
15 Members. Prior to obtaining an attorney, I contacted several law offices and researched potential
16 attorneys to bring the claims. I wanted to make sure I the law firm chosen to bring the claims had
17 attorneys with experience and skill in bringing those types of claims. I also researched the typical issues
18 raised when litigating the potential claims. I wanted to make sure I could have an informed discussion
19 with an attorney about the claims and have a better idea of what to expect moving forward in litigation
20 and how to help the case proceed. After securing Shimoda & Rodriguez Law, PC, I continued to be
21 actively involved in the case to help ensure a positive outcome. I began working with Shimoda &
22 Rodriguez Law, PC, to investigate the claims on May 17, 2023, discussing the facts of the case, showing
23 and explaining the context behind the documents I had to support the claims, and discussing potential
24 witnesses to corroborate the information I was providing.

25 4. My attorneys explained to me the risks and benefits of bringing a class action and a claim
26 under the Private Attorneys General Act ("PAGA"). I understood that pursuing the case as a class and
27 PAGA action meant that it would take substantially longer than pursuing my claims individually,
28 whether in Court or with the California Labor Commissioner, and that I risked getting nothing in the

1 end, but I believed it was important to make sure that Defendants followed the law for everyone. I
2 undertook a professional and financial risk in pursuing the case as a class and PAGA action because my
3 name would be on a publicly available document showing that I had sued a former employer and, if
4 unsuccessful in bringing the claims, I would be obligated to pay Defendants' costs incurred over the
5 course of this complex litigation. My understanding is that this is a substantial risk because the costs
6 associated with litigation, in general, are very high and this cost is multiplied many times over in
7 complex litigation like class actions.

8 5. During the course of this litigation, I have given detailed accounts of all the facts related
9 to my employment. I provided my attorneys with extensive documentation that I believe supported the
10 claims brought against Defendants. I met with and assisted my attorneys in understanding these
11 documents and providing context for Defendants' payroll process as it applied to me and how I believed
12 it applied to Defendants' other employees within the class. I worked in multiple positions and worked
13 there for a long time, so I was able to discuss the similarities of the wage and hour policies and practices
14 among all Class Members.

15 6. The work I performed for this case included an extensive review of documents and
16 payroll practices to show and explain to my attorneys what was happening and why I thought it was
17 unlawful. For example, I explained to my attorneys my job duties and responsibilities, the type of tasks
18 and work performed in a typical day and any circumstances that would cause relevant differences to my
19 daily work that affected the class claims. We reviewed payroll and personnel file documents to see
20 whether and how any of the documents corroborated the validity of the claims and listed potential
21 witnesses related to any issues raised by the documents. Additionally, I provided my attorneys with
22 paystubs and information regarding policies and practices, related to the wage and hour claims of this
23 case. I also explained how Defendants' timekeeping system worked, issues with the timekeeping system,
24 the different types and layout of jobsites, and the policies of the Defendant and how they affected myself
25 and class members. I helped review and explain to my attorney's payroll policies, timekeeping policies,
26 meal and rest period policies, bonus and incentive policies such as restrictive stock units ('Symbotic
27 RSUs'), pay policies related to California Equal Pay Act, and Defendants' practices implementing such
28 policies. I reviewed the timekeeping system and bonus policies and practices with my attorneys to help

1 assess claims affected by the timekeeping system and bonuses. I believe this was very important as it
2 helped not only the claims of failure to pay minimum wages, failure to pay overtime, and failure to
3 provide meal and rest periods, but also claims related to waiting time penalties and failure to provide
4 accurate wage statements. This addressed all the claims alleged and we continued to discuss and review
5 these items throughout the case as more information was provided by Defendants. The review became
6 even more detailed when reviewing and discussing the payroll data sample and timecards that were
7 produced as part of informal discovery for mediation. I also spent a substantial amount of time working
8 to identify potential witnesses and speaking to others who could be interviewed by my attorneys and
9 provide declarations.

10 7. I participated in the negotiations and settlement discussions in this case, including
11 participating in mediation by phone, speaking with my attorneys to answer questions, provide any
12 additional information needed to assist the negotiations, and discussing the potential terms of the
13 Agreement to evaluate its adequacy. Throughout the course of this litigation I have asked questions
14 when I needed clarification about various aspects of this case to make sure steps were continually taken
15 to advance the interests of Class Members. I have reviewed the final Joint Stipulation of Class Action
16 and PAGA Settlement and Release, discussed the terms with my attorneys, and asked my attorneys any
17 questions I had. I believe the terms of the Settlement and allocations are fair and reasonable given the
18 facts of the case.

19 8. To date, I estimate that I have spent approximately 70-90 hours assisting my attorneys in
20 litigating this case. I expect that the amount of time I spend on this case will increase if preliminary
21 approval is granted because Class Members will likely reach out to me about the Settlement, the Notice
22 of Settlement, and the process for receiving payment.

23 9. I have not received any benefits as a result of filing this lawsuit. However, I believe I
24 have experienced several substantial burdens as a result of filing this lawsuit that other Class Members
25 were not subject to. As noted above, I took on the professional risk of lengthening my unemployment
26 after working for Defendants because future employers were able to see, from publicly available
27 documents, that I sued my former employer. Additionally, I undertook the risk of having to pay
28 Defendants' litigation costs if the Court or jury ruled against us on the claims. I have spent a substantial

1 amount of time in this case, securing a monetary benefit for many individuals who have not had to do
2 anything whatsoever to have the opportunity to receive it. The time I have spent on this case has had to
3 occur during my lunch and/or break times, after hours, and on my days off. Rather than spend this time
4 with friends and family, I have spent this time for the benefit of Class Members. I experienced due to
5 the litigation in this case. Finally, as part of the Settlement, I am the only individual providing a general
6 release of all my individual claims and waiving the protections of California Civil Code section 1542 for
7 unknown claims. No other Class Member is subject to such a broad release. I believe awarding the full
8 Enhancement Payment is warranted given the time I have spent on the case, the benefit secured for Class
9 Members and the LWDA, my general waiver of all claims beyond the more limited release Class
10 Members are subject to, and the risks and burdens I have experienced as a result of this litigation.

11 10. I understand that any Enhancement Payment I may receive is for my participation as a
12 Class Representative and it is not contingent on my support or approval of the Agreement.

13 11. I have no interest in the State of California Controller's office or the Unclaimed Property
14 Fund, whether financial, in their governance, or otherwise.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing is
16 true and correct. Executed on 01/17/2025 in Sacramento, California.

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19  Vanessa Ruiz (Jan 7, 2025 17:25 PST)

20 Vanessa Ruiz
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Galen T. Shimoda (Cal. State Bar No. 226752)
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Attorneys for Plaintiff VANESSA RUIZ

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC, LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

*Assigned for All Purposes to Hon. Jill H. Talley
Department 23*

CLASS ACTION

**EXHIBIT LIST AND EXHIBITS IN SUPPORT
OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION, COLLECTIVE ACTION, AND PAGA
SETTLEMENT**

Reservation No. A-08326-001

Date: January 31, 2025

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: September 11, 2023

FAC Filed: January 12, 2024

Trial Date: None Set

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Joint Stipulation Regarding Class Action, Collective Action, and PAGA Settlement and Release
B	Plaintiff's Operative Complaint
C	Plaintiff's Letters to the LWDA Regarding PAGA Claims
D	ILYM Group, Inc. Bid
E	Plaintiff's Itemized Costs
F	Proposed Notice of Settlement
G	Proof of Submission of Proposed Settlement Agreement to LWDA
H	Plaintiff's Proposed Second Amended Complaint

Dated: January 8, 2025

Shimoda & Rodriguez Law, PC

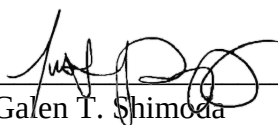
By: 
Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Attorneys for Plaintiff

EXHIBIT A

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Attorneys for SYMBOTIC LLC, and SYMBOTIC, INC.

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

VANESSA RUIZ, individually and on behalf of
all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation ; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: 23CV008326

**JOINT STIPULATION REGARDING CLASS
ACTION, COLLECTIVE ACTION, AND PAGA
SETTLEMENT AND RELEASE**

Filed: September 11, 2023

FAC Filed: January 12, 2024

Trial Date: None Set

1 This Joint Stipulation Regarding Class Action, Collective Action, and PAGA Settlement and
2 Release is made and entered into between the Plaintiff Vanessa Ruiz (“Plaintiff”), on behalf of herself, the
3 Labor and Workforce Development Agency, Class Members, Collective Members, and PAGA Group
4 Members, and Defendants Symbotic LLC and Symbotic Inc. (“Defendants”). This Agreement is subject
5 to the terms and conditions set forth below and the approval of the Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meaning:

8 1.1 “Action” means the above stated lawsuit, *Ruiz v. Symbotic LLC, et al.*, Sacramento County
9 Superior Court, Case No. 23CV008326, filed September 11, 2023.

10 1.2 “Agreement” or “Settlement” or “Settlement Agreement” means this Joint Stipulation
11 Regarding Class Action, Collective Action, and PAGA Settlement and Release.

12 1.3 “Class Counsel” means Galen T. Shimoda, Justin P. Rodriguez, and Renald Konini of
13 Shimoda & Rodriguez Law, PC.

14 1.4 “Class Member(s)” means all non-exempt employees who were employed by Defendants
15 in the State of California at any time during the Class Period. This shall be an opt-out class.

16 1.5 “Class Period” means September 11, 2019, through December 18, 2024, or the Preliminary
17 Approval Date, whichever occurs first, unless otherwise modified by the escalator clause in Section 10.2.

18 1.6 “Collective Member(s)” or “Collective” means all non-exempt employees who have been
19 employed by Defendants in the State of California at any time during the FLSA Period. This shall be an
20 opt-in collective, with Collective Members opting in by signing/cashing/depositing/negotiating a check
21 with release language printed on the back.

22 1.7 “Class Representative” or “Plaintiff” means Plaintiff Vanessa Ruiz.

23 1.8 “Class Representative’s Released Claims” in addition to the Released Class Claims,
24 Released FLSA Claims, and Released PAGA Claims, Plaintiff shall release the Released Parties from all
25 claims for wrongful discharge and retaliation and all claims, known or unknown, in favor of Released
26 Parties’ present and former parent companies, subsidiaries, shareholders, officers, directors, employees,
27 agents, affiliates, servants, registered representatives, attorneys, insurers, successors and assigns, and
28 Plaintiff waives all rights and benefits afforded by section 1542 of the Civil Code. Section 1542 provides:

1 A general release does not extend to claims which the creditor does not know or
2 suspect to exist in his or her favor at the time of executing the release, which if
3 known by him or her must have materially affected his or her settlement with the
debtor.

4 The Class Representative's Released Claims shall not apply to unemployment insurance or workers
5 compensation claims, or claims that otherwise cannot be released by law.

6 1.9 "Complaint" or "Operative Complaint" means the operative Complaint on file in the
7 Action with the Court. In connection with a motion seeking preliminary approval of the Settlement,
8 Plaintiff will request leave to file, and Defendants will not object to the filing of, a Second Amended
9 Complaint substantially in the form attached hereto as Exhibit 1, alleging FLSA claims on the same
10 factual basis as is present in the First Amended Complaint. It is expressly understood that the Second
11 Amended Complaint is to be the operative Complaint for purposes of any release or waiver of claims
12 referring to the Complaint or Operative Complaint in this Agreement.

13 1.10 "Court" means the Sacramento County Superior Court.

14 1.11 "Defendants" means Symbotic LLC and Symbotic, Inc.

15 1.12 "Defendants' Counsel" means Seyfarth Shaw LLP.

16 1.13 "Effective Date" refers to the date upon which both of the following have occurred: (i) final
17 approval of the settlement is granted by the Court and (ii) the Court's Judgment approving the settlement
18 becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court's Judgment, the date the
19 Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a
20 petition for review with the California Supreme Court or other court in California assuming jurisdiction of
21 this matter, or, (ii) if a petition for review is filed, the date of denial of the petition, or the date the Court's
22 Judgment is entered, pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time
23 for filing or noticing any appeal of the Court's Judgment.

24 1.14 "Final Approval Date" means the date a signed order granting final approval of this
25 Agreement is filed with the Court.

26 1.15 "FLSA Period" means September 11, 2020, through December 18, 2024, or the date of
27 Preliminary Approval, whichever occurs first, unless otherwise modified by the escalator clause in
28 Section 10.2.

1 1.16 “FLSA Settlement Fund” means the \$20,000 allocated from the Gross Fund Value and set
2 aside for payment to Collective Members for settlement and release of the Released FLSA Claims. The
3 FLSA Settlement Fund shall not exceed \$20,000.

4 1.17 “Gross Fund Value” is the sum of Two Hundred Forty Six Thousand Five Hundred Dollars
5 (\$246,500).

6 1.18 “Incentive Award” means the amount approved by the Court to be paid to the Class
7 Representative in recognition of the time and effort expended on behalf of, and for the benefit of, Class
8 Members, Collective Members, PAGA Group Members, and the Labor and Workforce Development
9 Agency, which is in addition to any Individual Settlement Payment and/or Individual PAGA Payment
10 that would otherwise be owed to Plaintiff as a Participating Class Member under the Agreement. The
11 Incentive Award shall also be in exchange for releasing the Class Representative’s Released Claims
12 through the Class Period as to all the Released Parties.

13 1.19 “Individual FLSA Payment” means an individual Collective Member’s share of the FLSA
14 Settlement Fund.

15 1.20 “Individual PAGA Payment” means an individual PAGA Group Member’s share of the
16 PAGA Fund.

17 1.21 “Individual Settlement Payment” means an individual Class Member’s share of the Net
18 Settlement Amount.

19 1.22 “LWDA” means the California Labor and Workforce Development Agency.

20 1.23 “Net Settlement Amount” is the portion of the Gross Fund Value available for distribution
21 to Class Members after deductions for any Court approved and/or awarded amounts for a) Settlement
22 Administrator Costs, b) an Incentive Award to the Class Representative, c) the PAGA Fund, d) the FLSA
23 Settlement Fund, and e) Class Counsel’s attorney’s fees and costs.

24 1.24 “Notice of Settlement” means the document substantially in the form attached hereto as
25 Exhibit 2.

26 1.25 “Notice Period” means sixty (60) calendar days from the initial mailing of the Notice of
27 Settlement to Class Members, Collective Members, and PAGA Group Members.

28 1.26 “PAGA” means Private Attorneys General Act.

1 1.27 “PAGA Group Member(s)” means all non-exempt employees who were employed by
2 Defendants in the State of California at any time during the PAGA Period.

3 1.28 “PAGA Fund” means the \$20,000 allocated from the Gross Fund Value towards resolving
4 claims under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

5 1.29 “PAGA Period” means September 8, 2022 to December 18, 2024, or the Preliminary
6 Approval Date, whichever occurs first, unless otherwise modified by the escalator clause in Section 10.2.

7 1.30 “Parties” mean Defendants and Plaintiff.

8 1.31 “Participating Class Member” means any and all Class Members who have not made any
9 timely request to opt-out of the settlement.

10 1.32 “Preliminary Approval Date” means the date a signed order granting preliminary approval
11 of this Agreement is filed with the Court.

12 1.33 “QSF” means a Qualified Settlement Fund set up by the Settlement Administrator for the
13 benefit of the Class Members, Collective Members and/or PAGA Group Members and from which the
14 payments under this Agreement shall be made. Any amounts Defendants have agreed to pay under this
15 Agreement shall remain the property of Defendants until the payments required under the Agreement are
16 made.

17 1.34 “Qualifying Workweeks” any workweeks during the Class Period, FLSA Period, and/or
18 PAGA Period by Class Members, Collective Members, or PAGA Group Members, respectively, will be
19 considered Qualifying Workweeks. Any partial Qualifying Workweeks will be counted as a full Qualifying
20 Workweeks. Although a workweek may be both a workweek in the Class Period, FLSA Period, and the
21 PAGA Period, it shall be counted as 1 unique workweek. The calculation of a Class Member’s, Collective
22 Member’s, and/or PAGA Group Member’s workweeks and a determination as to whether a Class Member,
23 Collective Member, and/or PAGA Group Member was actively employed in California in a particular
24 workweek shall be construed from Defendants’ records.

25 1.35 “Released Class Claims” means (i) all claims that were alleged in the Operative Complaint,
26 and (ii) all claims that reasonably could have been alleged, based on the facts stated in the Operative
27 Complaint, including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3)
28 failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest

1 periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end
2 of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees
3 for business expenses; (8) unfair business practices; (9) violation of the California Equal Pay Act; and, (10)
4 claims for statutory penalties for violation of California Labor Code sections 201, 201.3, 202, 203 204.1,
5 204.2, 210, 226, 226.3, 226.7, 245, 246, 246.5, 248.5, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1197.1,
6 1197.5, and 2802-2804, California Code of Civil Procedure section 1021.5, Civil Code sections 3287, 3289,
7 and California Business and Professions Code section 17200 et seq. or any applicable Wage Order,
8 irrespective of the theory of recovery alleged, during the Class Period. Class Members do not release any
9 other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment
10 and Housing Act, unemployment insurance, disability, social security, worker's compensation, or claims
11 based on facts occurring outside the Class Period.

12 1.36 "Released FLSA Claims" means (i) all wage and hour claims with respect to the Released
13 Parties under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* that are asserted in the
14 Operative Complaint and, (ii) any other claims under the FLSA that reasonably could have been brought
15 based on the facts alleged in the Operative Complaint filed in the Action during the FLSA Period.

16 1.37 "Released PAGA Claims" means (i) all claims for PAGA penalties that were alleged in
17 Plaintiff's notice letter(s) to the LWDA, and (ii) all claims that reasonably could have been alleged during
18 the PAGA Period, based on the facts stated in Plaintiff's notice letter(s) to the LWDA, including claims
19 for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods
20 or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu
21 thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to
22 furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8)
23 unfair business practices; (9) failure to pay sick pay wages; (10) claims for penalties under the Private
24 Attorneys General Act for violation of California Labor Code sections 201, 201.3, 202, 203 204.1, 204.2,
25 210, 226, 226.3, 226.7, 245, 246, 246.5, 248.5, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1197.1, 1197.5,
26 and 2802-2804, 2698, *et seq.* during the PAGA Period.

27 1.38 "Released Parties" means Defendants, and any of their past, present, and future direct or
28 indirect parents, subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, and

1 assigns, as well as each of their past, present, and future officers, directors, employees, partners, attorneys,
2 insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

3 1.39 “Settlement Administrator” means and refers to ILYM Group, Inc., the third-party entity
4 that will administer the Agreement as outlined in Sections 4 and 7, or any other third-party administrator
5 agreed to by the Parties and approved by the Court for the purposes of administering this Agreement. The
6 Parties each represent that they do not have any financial interest in the Settlement Administrator.

7 1.40 “Settlement Administrator Costs” means the fees and expenses reasonably incurred by the
8 Settlement Administrator as a result of the procedures and processes expressly required by this Agreement,
9 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
10 preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees
11 associated with preparing, issuing and mailing any and all notices and other correspondence to Class
12 Members, Collective Members, and/or PAGA Group Members; all costs and fees associated with
13 communicating with Class Members, Collective Members, and/or PAGA Group Members, Class Counsel,
14 and Defendants’ Counsel; all costs and fees associated with computing, processing, reviewing, and issuing
15 payments under the Agreement, and resolving disputes; all costs and fees associated with calculating tax
16 withholdings and payroll taxes, if any, making related payment to federal and state tax authorities, if any,
17 and issuing tax forms relating to payments made under the Agreement; all costs and fees associated with
18 preparing any tax returns and any other filings required by any governmental taxing authority or agency;
19 all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course
20 of administering the settlement; and any other costs and fees incurred and/or charged by the Settlement
21 Administrator in connection with the execution of its duties under this Agreement.

22 **2. DESCRIPTION OF THE LITIGATION**

23 2.1 On or about September 8, 2023, Plaintiff sent notice to the LWDA to exhaust administrative
24 remedies under the PAGA for (1) Failure to Pay Overtime Wages, (2) Failure to Pay Minimum Wages, (3)
25 Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failure to Provide Rest Periods or
26 Pay Premiums in Lieu Thereof, (5) Failure to Provide Accurate Wage statements, (6) Failure to Pay Final
27 Wages, (7) Failure to Pay Reimbursement for Expenses, (8) Violation of Labor Code §§ 558, 558.1
28 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order), (9) Failure

1 to Maintain Accurate Records, (10) Failure to Provide Paid Sick Leave, (11) Untimely Payment of Wages,
2 and (12) Wage Discrimination. The LWDA did not respond to the notice within the statutorily required
3 time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General on all alleged
4 PAGA claims.

5 2.2 On or about September 11, 2023, Plaintiff filed a class action Complaint in Sacramento
6 County Superior Court on behalf of herself and Class Members alleging claims for (1) Failure to Pay
7 Overtime Wages, (2) Failure to Pay Minimum Wages, (3) Failure to Provide Meal Periods or Pay
8 Premiums in Lieu Thereof, (4) Failure to Provide Rest Periods or Pay Premium in Lieu Thereof, (5) Wage
9 Statement Violations, (6) Failure to Pay Final Wages, (7) Failure to Reimburse Expenses. (8) Unfair
10 Competition, and (9) California Equal Pay Act Violations (Labor Code § 1197.5). Plaintiff filed a First
11 Amended Complaint on approximately January 12, 2024, adding a PAGA cause of action based on the
12 violations alleged in the September 8, 2023, notice to the LWDA on behalf of herself and PAGA Group
13 Members. The January 12, 2024, amendment also dismissed, without prejudice, Richard B. Cohen as a
14 named defendant, who is a “Released Part[y]” in this Settlement Agreement.

15 2.3 Through informal discovery, Defendants and Defendants’ Counsel provided Class
16 Counsel with copies of all applicable versions of its policies and procedures, employee handbooks,
17 information on Class Members including, but not limited to, Class Members’ workweeks, dates of
18 employment, total number of Class Members, their rates of pay, and pay periods as well as timecard data
19 and payroll reports for a randomly selected sample of Class Members.

20 2.4 On September 18, 2024, after Class Counsel received the data, the Parties participated in a
21 lengthy mediation with private mediator Michael Loeb. At the conclusion of the mediation, the Parties
22 were able to come to a resolution. At all times, the Parties’ settlement negotiations have been non-collusive,
23 adversarial, and at arm’s length.

24 2.5 On October 18, 2024, Plaintiff sent an amended notice to the LWDA regarding an additional
25 theory of liability for violation of the California Labor Code based on allegations that Defendants rounded
26 employees’ hours worked. This amendment was to conform the scope of the PAGA claims to the
27 investigations and negotiations that took place leading up to mediation and at mediation as a result of the
28 informal discovery productions. The LWDA did not respond to the amended notice within the statutorily

1 required time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General with
2 respect to the additional theory of liability as well.

3 2.6 Discussions between Plaintiff and Class Counsel, between counsel for the Parties, document
4 productions, extensive legal analysis, the provision of information by Defendants to Plaintiff, and the
5 detailed analysis of the records have permitted each side to assess the relative merits of the claims and the
6 defenses to those claims.

7 2.7 In the Action, Plaintiff contends that Defendants violated California law by 1) failing to pay
8 Plaintiff and similarly situated employees for the time it took them to walk back and forth from the entrance
9 of the building before and after the end of their shift to clock in and out, 2) rounding employees hours
10 worked to the nearest quarter hour up until approximately November 2023, 3) failing to pay Plaintiff and
11 similarly situated employees for off the clock work for tasks performed after business hours, such as
12 responding to phone calls, emails, and texts, 4) failing to pay Plaintiff and similarly situated employees the
13 correct amount of retroactive pay after their raises, 5) failing to incorporate the value of bonuses into the
14 regular rate of pay in calculating Plaintiff's and similarly situated employees' premium wages, including
15 overtime, meal and rest period premiums, and sick leave, 6) failing to pay restrictive stock units ("RSUs")
16 that were vested to Plaintiff and to similarly situated employees, 7) failing to incorporate the value of the
17 RSUs into the regular rate of pay in calculating Plaintiff's and similarly situated employees' premium
18 wages, including overtime, meal and rest period premiums, and sick leave, 8) failing to provide Plaintiff
19 and similarly situated employees with compliant meal and rest periods, 9) failing to reimburse Plaintiff and
20 similarly situated employees for the use of their personal cell phones for work purposes, such as to
21 communicate with managers, supervisors, and other employees regarding work issues and scheduling, and
22 10) paying similarly situated female employees less than male employees with similar skill, education, and
23 experience for substantially similar work under similar working conditions. Plaintiff also alleges that these
24 policies and practices resulted in wage statement violations, waiting time penalties, and derivative PAGA
25 penalties. Defendants have denied each of Plaintiff's claims and Defendants have denied that this Action
26 is appropriate for class certification for anything other than settlement purposes. The agreed upon Gross
27 Fund Value was reached after evaluating the Parties' theories of potential exposure for the underlying
28 claims and the class data supporting these claims. The Parties, with the assistance of the mediator, also

1 assessed appropriate discounts to the potential liability based on Defendants' factual and legal contentions
2 and defenses.

3 2.8 The Parties agree that the above-described investigation and evaluation, as well as discovery
4 and the information exchanged to date, are more than sufficient to assess the merits of the respective
5 Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Class Counsel,
6 Defendants, and Defendants' Counsel have concluded that it is desirable that the Action be settled in a
7 manner and upon such terms and conditions set forth herein in order to avoid further expense,
8 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the
9 Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action.
10 Plaintiff, Class Counsel, Defendants, and Defendants' Counsel are of the opinion that the Agreement is a
11 fair, reasonable, and adequate compromise of the claims alleged in light of all known facts and
12 circumstances.

13 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

14 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose of
15 settling the Action. This Agreement and the settlement it evidences are made in compromise of disputed
16 claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final
17 approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a
18 conditional basis. If the Effective Date does not occur, or if the Court's approval of the settlement is
19 reversed or materially modified on appellate review, this Agreement shall be deemed null and void; it shall
20 be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and
21 the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California
22 Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of
23 evidence that may be applicable.

24 3.2 Defendants have denied all claims as to liability, damages, liquidated damages, penalties,
25 interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendants
26 have agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or
27 the Effective Date does not occur, Defendants do not waive, but rather expressly reserve, all rights to
28 challenge all such claims and allegations in the Action upon all procedural and factual grounds, including,

without limitation, the ability to challenge class, collective, or representative treatment on any grounds, as well as to assert any and all other potential defenses or privileges.

4. SCOPE OF THE CLASS

4.1 The scope of the individuals encompassed under the Agreement and subject to all obligations and duties required under the Agreement, shall include all Class Members, Collective Members, and PAGA Group Members, as defined in Sections 1.4, 1.6, and 1.27, respectively.

4.2 Only Participating Class Members, Collective Members, and PAGA Group Members are entitled to recover under this Agreement.

4.3 Any person who believes that he or she is a Class Member, Collective Member, and/or PAGA Group Member and wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name did not appear on the class list provided to the Settlement Administrator prior to mailing, may submit a data request to the Settlement Administrator. The data request must contain all of the following information: (a) the full name and, if applicable, Social Security Number of the individual making the request; (b) the name used by such employee as of the time his or her employment with Defendants ended; (c) the individual's dates of employment with Defendants; and (d) a return address to which a response may be sent. Every data request must be postmarked on or before the conclusion of the Notice Period or otherwise submitted to the Settlement Administrator such that it is received before the conclusion of the Notice Period. Upon receipt of any data requests, the Settlement Administrator shall promptly (in no event more than two business days) transmit the data requests to Defendants' Counsel and request that Defendants review their records.

4.4 If Defendants agree that the person listed in a data request is a Class Member, Collective Member, and/or PAGA Group Member, the Settlement Administrator shall promptly mail a Notice of Settlement to the person who submitted the data request, at the address designated for that purpose in the data request. All provisions of this Agreement relating to the Notice of Settlement shall apply to Notice of Settlements sent in response to data requests, and any person who submits a data request and is sent a Notice of Settlement in response shall be treated by the Settlement Administrator as a Class Member, Collective Member and/or PAGA Group Member, as applicable, for all other purposes.

1 4.5 If Defendants do not agree that the person listed in a data request is a Class Member, a
2 Collective Member, and/or PAGA Group Member, Defendants' Counsel and Class Counsel shall attempt
3 to resolve any such dispute in good faith within seven (7) calendar days of Class Counsel being advised in
4 writing of the data request dispute. Defendants' records shall control unless the individual submitting the
5 data request provides persuasive evidence to doubt the accuracy of those records. Each data request dispute
6 that Defendants' Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement
7 Administrator. The Settlement Administrator must accept and weigh all the evidence provided in a good
8 faith attempt to resolve the dispute. The Settlement Administrator must resolve any dispute submitted to
9 it within seven (7) calendar days after Defendants' Counsel and Class Counsel submit the dispute to the
10 Settlement Administrator. The decision by the Settlement Administrator shall be final as between the
11 parties, subject to Court review.

12 **5. TERMS OF THE SETTLEMENT**

13 The Parties agree as follows:

14 5.1 Gross Fund Value: In consideration and exchange for the releases described in Section 6,
15 Defendants shall pay the Gross Fund Value (\$246,500). The settlement will be on a common fund basis
16 and there will be no claim form or claims process for Class Members or PAGA Group Members. Funding
17 of the Gross Fund Value shall occur within 21 calendar days after the Effective Date to be held in trust in
18 a QSF by the Settlement Administrator. The Gross Fund Value includes payments to Class Members,
19 Collective Members, Group PAGA Members, all attorneys' fees, costs and litigation expenses related to
20 the Action incurred to date, as well as all such fees and costs incurred in documenting the Agreement,
21 administering the Agreement (including Settlement Administrator Costs), and obtaining final approval of
22 the Agreement, any Incentive Award, and the PAGA Fund. Any funds necessary to satisfy Defendants'
23 tax obligations (e.g. employer FICA, FUTA and SDI contributions on wage payments) on any payments
24 distributed to Class Members and/or Collective Members will be paid in addition to the Gross Fund Value
25 and funded at the same time as the Gross Fund Value.

26 5.2 Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of 35%
27 of the Gross Fund Value, which shall be paid from the Gross Fund Value. Defendants have agreed to not
28 oppose Class Counsel's application for attorneys' fees so long as it does not exceed the 35% threshold.

1 Class Counsel will also be entitled to reimbursement for advanced litigation expenses not to exceed
2 \$15,000, which shall be paid from the Gross Fund Value. Defendants have agreed to not oppose Class
3 Counsel's request for reimbursement for advanced litigation expenses so long as they do not exceed the
4 \$15,000 threshold. The Settlement Administrator will issue Class Counsel an IRS Form 1099 for the
5 attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than the
6 requested attorney's fees and/or costs, the portion of the requested amounts not awarded to Class Counsel
7 shall be added to the Net Settlement Amount to be distributed to Participating Class Members on a pro rata
8 basis.

9 5.3 Settlement Administrator Costs: The Settlement Administrator Costs shall be paid from the
10 Gross Fund Value and shall not exceed \$15,000. The difference between any actual costs and the allocated
11 \$15,000 shall be added to the Net Settlement Amount to be distributed to Participating Class Members on
12 a pro rata basis.

13 5.4 Incentive Award: Class Counsel, on behalf of Plaintiff, shall apply to the Court for an
14 Incentive Award to the Class Representative in an amount not to exceed \$10,000 to compensate for the
15 risks, time, and expense of her involvement in the Action and securing the benefits of this Agreement for
16 Class Members. The Incentive Award is in addition to the Individual Settlement Payment Plaintiff would
17 otherwise be due under the Agreement as a Class Member, Collective Member, and/or PAGA Group
18 Member. Defendants have agreed to not oppose Class Counsel's request for an Incentive Award to Plaintiff
19 so long as it does not exceed the amount stated herein. The Incentive Award will be designated as a non-
20 wage payment and reported on an IRS Form 1099-MISC. In the event that the Court awards less than the
21 amount requested, then any portion of the requested amount not awarded shall be added to the Net
22 Settlement Amount to be distributed to Participating Class Members on a pro rata basis.

23 5.5 PAGA Fund: Twenty Thousand Dollars (\$20,000) of the Gross Fund Value shall be
24 allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Fund will be
25 paid to the LWDA and Twenty-Five percent (25%) will be paid to PAGA Group Members on a pro rata
26 basis as described below in Section 5.8. Any amount not approved by the Court for the allocated PAGA
27 Fund shall be added to the Net Settlement Amount to be distributed to Participating Class Members on a
28 pro rata basis.

1 5.6 FLSA Settlement Fund: Twenty Thousand Dollars (\$20,000) of the Gross Fund Value shall
2 be allocated towards resolving claims under the FLSA. Any amount not approved by the Court for the
3 allocated FLSA Settlement Fund shall be added to the Net Settlement Amount to be distributed to
4 Participating Class Members on a pro rata basis.

5 5.7 Payments Associated with Class Members or Collective Members for Which No Release Is
6 Obtained: The payment allocation from the Net Settlement Amount for any Class Member that opted out
7 shall be returned to Defendants as there will have been no release of the Released Class Claims as to those
8 individuals. The payment allocation from the FLSA Settlement Fund for any Collective Member that did
9 not cash their respective Individual FLSA Payment by the deadline to do so shall be returned to Defendants
10 as there will have been no release of the Released FLSA Claims as to those individuals. PAGA Group
11 Members will received their Individual PAGA Payment regardless of whether they opt out of being a Class
12 Member or fail to cash either Individual FLSA Payment as PAGA Group members will not have the
13 opportunity to opt out of the Released PAGA Claims and are bound by the Released PAGA claims
14 regardless of whether they cash and/or otherwise negotiate their Individual PAGA Payment.

15 5.8 Treatment of Expired Checks: All settlement checks mailed out will expire after one
16 hundred eighty (180) days. The sum value of all expired checks will be tallied by the Settlement
17 Administrator. All such uncollected funds will escheat to the State of California's Controller, to be held in
18 the name of each expired check payee, pursuant to applicable unclaimed property laws. The Parties agree
19 that this disposition results in no "unpaid residue" under California Civil Procedure Code section 384.

20 5.9 No Additional Benefits Contributions: All Payments paid to Participating Class Members,
21 Collective Members, and PAGA Group Members shall be deemed to be income solely in the year in
22 which such amounts were actually received. It is expressly understood and agreed that the receipt of such
23 payments will not entitle any Participating Class Members, Collective Members or PAGA Group
24 Members to any new or additional compensation or benefits under any company bonus or other
25 compensation or benefit plan or agreement in place during the period covered by the Agreement, nor will
26 it entitle any Participating Class Members, Collective Members, or PAGA Group Members to any
27 increased retirement, benefits or matching benefits, or deferred compensation benefits, including, but not
28 limited to, commission plans, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans,

vacation plans, sick leave plans, PTO plans, equity grants (including but not limited to RSU grants) and any other benefit plan. It is the intent of this Agreement that the payments provided for in this Agreement are the sole payments to be made by Defendants to the Participating Class Members, Collective Members, and PAGA Group Members in connection with this Agreement (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Agreement).

5.10 Pro Rata Distribution Formula: Payment to Class Members, Collective Members, and PAGA Group Members will be determined by dividing their total Qualified Workweeks within their respective claim periods by the total Qualified Workweeks by all Class Members, Collective Members, and/or PAGA Group Members within the same respective claim period. That fraction will then be multiplied by applicable Net Settlement Amount, 25% portion of the PAGA Fund, and/or FLSA Settlement Fund allocated for that group.

5.11 Tax Allocation: The Parties recognize that the Individual Settlement Payments to be paid to Participating Class Members, Collective Members, and/or PAGA Group Members reflect a settlement of a dispute over claimed penalties and wages. The Settlement Administrator shall calculate the employer's share of payroll taxes on the amounts paid to Participating Class Members and Collective Members as wages as well as calculating all required withholdings and deductions from said wage payments. The characterization of payments to Participating Class Members, Collective Members, and PAGA Group Members are as follows:

5.11.1 Twenty Five Percent (25%) of each Individual Settlement Payment and each Individual FLSA Payment shall be allocated for payment of disputed wages and shall be subject to required employer taxes. Participating Class Members and Collective Members who cashed their Individual FLSA Payment shall receive an IRS Form W-2 for reporting of this portion of their payments.

5.11.2 Seventy Five Percent (75%) of each Individual Settlement Payment and each Individual FLSA Payment shall be allocated for disputed statutory penalties and interest, and no amount shall be deducted for any taxes. This portion of the Individual Settlement Payment consists of other income, not wages, for which the Participating Class Members and Collective Members who cashed their

Individual FSLA Payment shall receive IRS Forms 1099-MISC and 1099-INT and this payment shall be divided equally among the 1099-MISC and 1099-INT designations.

5.11.3 The entire (100%) of each PAGA Group Member's share of the 25% portion of the PAGA Fund shall be allocated for payment of disputed civil penalties, and no amount shall be deducted for any taxes. This portion of the Individual PAGA Payment consists of other income, not wages, for which the PAGA Group Members shall receive an IRS Form 1099-MISC.

5.11.4 Participating Class Members, Collective Members, and PAGA Group Members shall be solely responsible for the reporting and payment of their share of any federal, state and/or municipal income or other taxes on payments made pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendants' Counsel free and harmless from any claims resulting from treatment of such payments as non-taxable, including the treatment of such payments as not subject to withholding or deduction for payroll and employment taxes. No opinion regarding the tax consequences of this Settlement to any individual Class Member, Collective Member, or PAGA Group Member is being given, or will be given, by Defendants, counsel for Defendants, any other Releasee, or Class Counsel. Class Members, Collective Members, and PAGA Group Members must consult their own tax advisors regarding the tax consequences of this Settlement, including but not limited to any payments provided or tax reporting obligations. Defendants, the Releasees, counsel for Defendants, and Class Counsel shall have no liability or responsibility whatsoever for any tax consequences resulting from payments made pursuant to the Settlement. No party has made any representation to any of the other Parties as to the taxability of any payments pursuant to this Agreement.

5.12 No Additional Contribution by Defendants: Defendants' monetary obligation under this Agreement is limited to the Gross Fund Value and any employer side payroll taxes owed on amounts characterized as wages under this Agreement. All other costs and expenses arising out of or in connection with the performance of this Agreement shall be paid from the Gross Fund Value, unless expressly provided otherwise herein. However, in the event this agreement is deemed null and void as described in Section 3 because the Court, in its independent determination, finds that the Agreement does not meet the standards for settlement approval, then Defendants and Plaintiff shall be equally responsible for the costs of the

Settlement Administrator incurred between the date the Agreement was executed and the date of such event.

5.13 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement only, certification of the class as defined in Section 1.4 and 4.1 is appropriate and the requisites for establishing class certification have been met and are met.

5.14 Adequacy of Class Counsel and Class Representative: The Parties agree that, for purposes of settlement only, Class Counsel and Plaintiff are adequate representatives for Class Members and PAGA Group Members.

6. RELEASE

6.1 Class Release: Upon the Effective Date, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed to fully, finally and forever release the Released Parties from all Released Class Claims. In addition, on the Effective Date, all Participating Class Members and their successors in interest will be permanently enjoined and forever barred from prosecuting any of the Released Class Claims against any of the Released Parties.

6.2 FLSA Release: All Collective Members who opt-in by cashing their respective Individual FLSA Payment will be deemed to fully, finally and forever release the Released FLSA Claims as to all Released Parties. Collective Members who opt-in by cashing their respective Individual FLSA Payment, and their successors in interest, will be permanently enjoined and forever barred from prosecuting any of Released FLSA Claims against the Released Parties.

6.3 PAGA Release: Upon the Effective Date, all PAGA Group Members will be deemed to fully, finally and forever released the Released PAGA Claims as to all Released Parties. In addition, on the Effective Date, all PAGA Group Members and their successors in interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA Claims against any of the Released Parties. It is understood that PAGA Group Members will not have the opportunity to opt out of the Released PAGA Claims. Further, the PAGA Group Members are bound by the Released PAGA Claims regardless of whether they cash and/or otherwise negotiate their Individual PAGA Payment.

6.4 Release by Plaintiff: Upon the Effective Date, Plaintiff will be deemed to fully, finally and forever release the Released Class Claims, Released PAGA Claims, and Class Representative's Released Claims as to all Released Parties. In addition, on the Effective Date, Plaintiff and any successors in interest will be permanently enjoined and forever barred from prosecuting any of the Released Class Claims, Released PAGA Claims, and Class Representative's Released Claims against any of the Released Parties.

7. SETTLEMENT ADMINISTRATION

7.1 Duties of Settlement Administrator: The Settlement Administrator shall be responsible for:

- 1) receiving Class Member, Collective Members, and PAGA Group Members contact information and confirming addresses are valid; 2) calculating estimated Individual Settlement Payments and any and all taxes associated with the Individual Settlement Payments, including employer taxes; 3) taking appropriate steps to trace and locate any individual Class Members, Collective Members and PAGA Group Members whose address or contact information as provided to the Settlement Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class Member and Collective Members; 4) providing notification to the appropriate state and federal officials of this Agreement as required under the law; 5) receiving, independently reviewing, and resolving any challenges (in consultation with Class Counsel and Defendants' Counsel) from Class Members, Collective Members, or PAGA Group Members, including any associated documentation, regarding their Qualified Workweek calculations; 6) receiving and serving on Class Counsel, Defendants' Counsel, and the Court, copies of any written objections, and/or any opt out statements; 7) establishing a toll free telephone line and responding to inquiries and requests for information or assistance from Class Members, Collective Members, and/or PAGA Group Members; 8) maintaining a QSF; 9) determining and paying the final amounts due to be paid under the Agreement after resolution of all challenges, disputes, opt-outs, awarded attorneys' fees and costs, Settlement Administrator Costs, PAGA Fund, taxes, any Incentive Awards, and for funds that cannot be distributed due to the inability to locate Class Members, Collective Members, or PAGA Group Members; 10) determining the validity of any disputes or late opt-outs by previously unidentified Class Members, Collective Members, or PAGA Group Members; 11) sending any uncashed Individual Class Payments and Individual PAGA Payments to the State of California's Controller to be held in the name of each expired check payee, pursuant to applicable unclaimed property laws; 12) reporting to Class Counsel and Defendants' Counsel

1 regarding the statistics of the administration, including (a) the number of initial Notice of Settlements
2 mailed; (b) the number of forwarded Notice of Settlements; (c) the number of re-mailed Notice of
3 Settlements; (d) the number of total undeliverable Notice of Settlements; (e) the number of address traces
4 performed for undeliverable Notice of Settlements; (f) the number of Notice of Settlements undeliverable
5 from traced addresses; (g) the number of total objections received; (h) the number of opt-out requests
6 received; (i) the number of disputes received; (j) the number of disputes resolved; 13) providing a
7 declaration to the Court regarding the final statistics of the administration and compliance with all payment
8 obligations under the Agreement; 14) completing all necessary tax reporting on the QSF and payments to
9 Participating Class Members, Collective Members, and PAGA Group Members; and 15) carrying out other
10 related tasks as necessary to effectuate the terms of this Agreement and any Order of the Court. All disputes
11 relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the
12 Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this
13 Agreement, until all payments and obligations contemplated by the Agreement have been fully executed.

14 7.2 Notice to Class Members, Collective Members and PAGA Group Members: Defendants
15 represent and warrant that Class Members, Collective Members, and PAGA Group Members are able to
16 read and write in English such that no translation of the Notice of Settlement into another language is
17 necessary. The Notice of Settlement will provide Class Members, Collective Members, and PAGA Group
18 Members with a summary of the terms and conditions of the Agreement, how to participate in the
19 settlement, how to object to the Agreement, how to dispute the individual's Qualifying Workweeks, and
20 how to opt-out from the Agreement. The Notice of Settlement will also inform Class Members, Collective
21 members, and PAGA Group Members of the Gross Fund Value, Net Settlement Amount, proposed
22 attorneys' fees and costs allocations, any proposed Incentive Awards, proposed Settlement Administrator
23 Cost allocations, proposed PAGA Fund allocations, the scope of the class, the scope of the collective, the
24 nature and extent of the released claims, dates set for a fairness hearing and hearing on Class Counsels'
25 motion for attorneys' fees and costs. The Notice of Settlement shall include information regarding the
26 estimated Individual Settlement Payment, Individual FLSA Payment, and Individual PAGA Payment that
27 the individual receiving notice may be entitled to under the Agreement. The Notice of Settlement will
28 provide information on how to access electronic copies online of the Notice of Settlement, any motions for

1 approval of the Agreement, any motions for approval of attorneys' fees and costs, and any other documents
2 as the Court directs.

3 7.3 Class Member and Collective Member Data and Mailing: No later than fourteen (14)
4 calendar days after the Preliminary Approval Date, Defendants shall provide the Settlement Administrator
5 with the first and last name, last known mailing address, last known telephone number, Social Security
6 Number, start and end date (if any) of employment of each Class Member, Collective Member, and PAGA
7 Group Member, and any other information the Settlement Administrator needs to effectuate notice to Class
8 Members and PAGA Group Members as outlined herein. The Settlement Administrator shall review the
9 data to determine the number of Qualifying Workweeks for each Class Member, Collective Member, and
10 PaGA Group Member. No later than fourteen (14) calendar days after receipt of such address information,
11 the Settlement Administrator will perform a national change of address ("NCOA") search, update the
12 addresses per the results of the NCOA search, and then mail the Notice of Settlement, substantially in the
13 form attached as Exhibit 2, to each Class Member, Collective Member and PAGA Group Member by first-
14 class mail, postage prepaid. The Settlement Administrator shall maintain all information received from
15 Defendants confidential to itself, and Defendants' Counsel. However, Class Counsel shall be able to
16 review the breakdown of Qualified Workweeks and estimated payments for Class Members, Collective
17 Members, and PAGA Group Members prior to mailing for quality assurance provided the personal
18 identifying information is redacted and/or omitted.

19 7.4 Returned and/or Re-mailed Notice of Settlements: In the event that a Notice of Settlement
20 is returned to the Settlement Administrator as undeliverable on or before the conclusion of the Notice
21 Period, the Notice of Settlement shall be sent to the forwarding address affixed thereto within five (5)
22 calendar days. If no forwarding address is provided, then the Settlement Administrator shall promptly
23 attempt to determine a correct address using a skip-trace, computer or other search using the name, address
24 and/or Social Security number of the individual involved, and shall then perform a single re-mailing within
25 five (5) calendar days to any more recent address found as a result of the search. Following each search
26 that does not result in a corrected address, for those Class Members and Collective Members who appear
27 to be current employees of Defendants at the time of the Preliminary Approval Date, the Settlement
28 Administrator shall contact Defendants' Counsel for assistance and Defendants shall cooperate in good

1 faith with the Settlement Administrator's reasonable efforts to obtain valid mailing addresses for Class
2 Members and Collective Members to the extent they are active employees of Defendants. In the event the
3 Notice of Settlement is forwarded to a new address and/or re-mailed to a Class Member and Collective
4 Member, the deadline for the Class Member and Collective Member to submit any request to opt-out, a
5 dispute, or an objection shall be the end of the Notice Period or 10 days from the date of the re-
6 mailing/forwarding to a new address, whichever is later. In the event the procedures in this Section are
7 followed and the Class Member does not timely and properly request to opt-out, the Class Member and
8 Collective Member shall be bound by all terms of the Agreement, including the releases contained in
9 Section 6.

10 7.5 Responses to Notice of Settlement:

11 7.5.1 *Opt-Outs:* The Notice of Settlement shall provide that Class Members and
12 Collective Members who wish to exclude themselves from the Agreement must submit a request to opt-
13 out as provided in this Section. The request to opt-out must (a) state the Class Member's and Collective
14 Member's full name and date of birth; (b) a statement that he or she does not want to be a Class Member
15 or Collective Member, does not want to participate in the settlement, and/or wants to be excluded from the
16 settlement; (c) identify the case name and number (*i.e. Vanessa Ruiz v. Symbotic LLC, et al.*, Case No.
17 23CV008326); (d) be signed; and (e) be post-marked no later than the conclusion of the Notice Period or
18 the re-mailing timeline stated in Section 7.4. The Class Member and Collective Member must personally
19 sign the request to opt-out. No request to opt-out may be made on behalf of a group of Class Members or
20 Collective Members. The date of the postmark on the return-mailing envelope shall be the exclusive means
21 used to determine whether a request to opt-out has been timely submitted. Any Class Member or Collective
22 Member who requests to opt-out of the Agreement will not be entitled to any portion of the Net Settlement
23 Amount nor will they have any right to object, appeal or comment thereon. The name of any Class Member
24 or Collective Member who submits a valid and timely opt out request will be specifically identified in any
25 proposed order granting final approval. Class Members and Collective Members who fail to submit a valid
26 and timely request to opt-out shall be bound by all terms of the Agreement and any order or final judgment
27 thereon. Regardless of whether a PAGA Group Member opts out of being a Class Member or Collective
28

Member, they will still receive their share of the PAGA Fund as PAGA Group Members cannot opt out of this Agreement as it relates to the PAGA Fund or PAGA Release Claims.

7.5.2 *Objection Procedures:* Any Class Member or Collective Member who does not opt-out, but who wishes to object to this Agreement or otherwise to be heard concerning this Agreement, may submit a written objection to the Settlement Administrator, who will promptly provide copies of the objection to Class Counsel and Defendants' Counsel. The Notice of Settlement shall make clear that the Court can only approve or deny the Agreement, not change the terms of the Agreement. The written objection should (a) state the Class Member's or Collective Member's full name and date of birth; (b) provide evidence that the individual is, in fact, a Class Member; (c) state the reasons for the objection(s), including any supporting documentation; (d) identify the case name and number (*i.e. Vanessa Ruiz v. Symbolic LLC, et al.*, Case No. 23CV008326); (e) be signed; and (f) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. Additionally, or in the alternative to sending a written objection to the Settlement Administrator, any Class Member or Collective Member may appear at the final approval hearing to state their objection.

7.5.3 *Dispute Procedures:* Any Class Member or Collective Member who disputes the number of Qualifying Workweeks on the Notice of Settlement shall contact the Settlement Administrator. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Settlement Administrator shall promptly (in no event more than two business days) forward all such disputes to Defendants' Counsel and request that Defendants review the dispute. Defendants' records shall presumptively control unless the Class Member or Collective Member can produce documentation evidencing other periods of employment worked. If Defendants agree with submitted information, the Class Member or the Collective Member shall be credited or subtracted Qualifying Workweeks in accordance with their submitted dispute and that final number of Qualified Workweeks shall govern the calculation of that Class Member's or Collective Member's Individual Settlement Payment. If Defendants disagree with the submitted information, Defendants' Counsel will promptly advise Class Counsel of the dispute, which includes turning over any documentation submitted by the Class Member as part of the dispute. Defendants' Counsel and Class

Counsel shall attempt in good faith to resolve any such dispute within five (5) calendar days of Class Counsel being advised of the dispute. Each dispute that Defendants' Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator, subject to Court review.

7.5.4 Deficient Opt-Outs, Objections, or Disputes: In the event that a deficient opt-out, objection, or dispute is received on or before the conclusion of the Notice Period, the Settlement Administrator shall mail a letter to the Class Member and Collective Member within five (5) calendar days informing them of the deficiency. If a deficiency letter is mailed to a Class Member or Collective Member, the deadline for the Class Member or Collective Member to cure the deficiency shall be the end of the Notice Period or 10 calendar days from the date of the deficiency letter, whichever is later.

7.6 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1 to 7.5.4 shall constitute due and sufficient notice to Class Members and Collective Members of the Action and the Agreement and shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class Counsel or Defendants' Counsel to provide notice of the proposed Agreement.

7.7 Settlement Administrator Declaration Regarding Notice Period: Within fourteen (14) calendar days after the conclusion of the Notice Period, the Settlement Administrator shall provide Class Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the statistics and responses of settlement administration to date and all the Settlement Administrators' obligations under Sections 5.8 to 5.9.3 and 7.1 to 7.5.4.

7.8 Settlement Administrator Payments to Participating Class Members, Collective Members, Class Counsel and Plaintiff: Within seven (7) calendar days after the Effective Date and the Court's determination of the amount of attorneys' fees and costs payable to Class Counsel, the Incentive Award payable to Plaintiff, the PAGA Fund, and Settlement Administrator Costs, the Settlement Administrator shall calculate the final Net Settlement Amount, the final payments for Participating Class Members, Collective Members and/or PAGA Group Members, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel. Defendants shall wire the Gross Fund Value and applicable taxes necessary to fund the Settlement as described in Section 5.1 to the Settlement Administrator within twenty-one (21) calendar days after the Effective Date to be to be held in trust in a QSF. Within fourteen (14) calendar days after Defendants fund the settlement, the Settlement

1 Administrator shall deliver payment of Class Counsels' attorney's fees and costs, the Incentive Award
2 payable to Plaintiff, the 75% portion of the PAGA Fund payable to the LWDA, Settlement Administrator
3 Costs, and payment to Participating Class Members, Collective Members and/or PAGA Group Members
4 as required under this Agreement and approved by Court.

5 7.8.1 The Settlement Administrator shall wire the Court-approved attorneys' fees and
6 costs to Class Counsel unless another method is requested by Class Counsel. Class Counsel shall provide
7 the Settlement Administrator with the pertinent taxpayer identification number and payment instructions
8 after the Final Approval Date.

9 7.8.2 The Settlement Administrator shall send a check by mail for the Court-approved
10 Incentive Award to the Class Representative, care of Class Counsel unless another method is requested by
11 Class Counsel.

12 7.8.3 The Settlement Administrator shall remit and report the applicable portions of the
13 payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this
14 Agreement. Defendants agree to reasonably cooperate with the Settlement Administrator to the extent
15 necessary to determine the amount of the payroll tax payment required.

16 7.9 Settlement Check Expiration and Uncashed Checks: The Settlement Administrator shall
17 issue payments to Participating Class Members, Collective Members and PAGA Group Members in the
18 form of two (2) checks, which shall become null and void if not deposited within one hundred eighty (180)
19 calendar days of issuance. The first check will be for the Individual Settlement Payment and/or Individual
20 PAGA Payment. The second check will be for the Individual FLSA Payment. After one hundred eighty
21 (180) calendar days of issuance, the checks shall be voided and funds from all uncashed checks shall be
22 transmitted in accordance with Section 5.7 and 5.8. The Settlement Administrator shall deliver these funds
23 within fourteen (14) calendar days after the check cashing deadline.

24 7.10 Settlement Administrator Declaration Regarding Compliance and Settlement
25 Administration: Within twenty-one (21) calendar days after the last day for Participating Class Members,
26 Collective Members and PAGA Group Members to cash their settlement checks, the Settlement
27 Administrator shall provide Class Counsel and Defendants' Counsel with a signed declaration under
28 penalty of perjury providing a complete and detailed report regarding the settlement administration

documenting that all payments under the Agreement have been made, that the Court's final approval order has been complied with, and that all the obligations of the Settlement Administrator have been completed.

8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE

8.1 The schedule may be modified depending on whether and when the Court grants necessary approvals, orders notice to Class Members, Collective Members, and PAGA Group Members, and sets further hearings. The schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures carrying out the Agreement is as follows:

Last day for Defendants to provide Settlement Administrator with Class Member, Collective Members, and PAGA Group Members information	Within 14 calendar days after the Preliminary Approval Date
Last day for Settlement Administrator to complete NCOA search, update Class Member, Collective Members, and PAGA Group Members mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members 'and Collective Members' information from Defendants
Last day for Class Members and Collective Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Payments for Participating Class Members, Collective Members and/or PAGA Group Members, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date

Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Incentive Award, PAGA Fund, Settlement Administrator Costs, payment to Participating Class Members, Collective Members, and payment to PAGA Group Members	Within 14 calendar days after Defendants have funded the settlement
Last day for Participating Class Members, Collective Members, and PAGA Group Members to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members, Collective Members, and PAGA Group Members
Last day for Settlement Administrator to deliver value of uncashed settlement checks to the State of California's Controller	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

9. DUTIES OF THE PARTIES

9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final approval. Within one week of signing this Agreement Class Counsel shall provide a draft of the Preliminary Approval Motion to Defendants' Counsel. Defendants' Counsel will provide comments and/or proposed revisions within two weeks after receipt of the draft Preliminary Approval Motion from Class Counsel. With regard to the final approval documents, a similar one-week maximum review and response time shall be observed by the Parties. The Parties will request that the Court's preliminary approval of this

Agreement be embodied in an Order Granting Preliminary Approval of Class Action and PAGA Settlement.

9.1.1 Plaintiff's motion shall seek an order: 1) Preliminarily approving the Agreement; 2) Approving as to form and content the proposed Notice of Settlement; 3) Directing the mailing of the Notice of Settlement by first class mail to Class Members, Collective Members, and PAGA Group Members; 4) Preliminarily appointing Plaintiff and Class Counsel as representatives of Class Members; 5) Preliminarily approving settlement administration services to be provided by the Settlement Administrator; 6) Preliminarily approving the proposed Incentive Award to Plaintiff; 7) Preliminarily approving the application for payment of reasonable attorneys' fees and reimbursement of litigation-related expenses to Class Counsel; and 8) Scheduling a fairness hearing on the question of whether the proposed Agreement should be finally approved as fair, reasonable and adequate as to the Class Members and Collective Members.

9.1.2 Defendants shall not oppose Plaintiff's motion for approval of the proposed Agreement.

9.1.3 The Parties shall cooperate with each other and the Settlement Administrator during the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and appropriate to assure effective communication to individual Class Members and Collective Members of information about their rights and obligations under this Agreement.

9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the Agreement, a declaration by the Settlement Administrator of due diligence and proof of mailing of the Notice of Settlement required to be mailed to Class Members and Collective Members by this Agreement, and of the delivery results of the Settlement Administrator's mailings including tracing and re-mailing efforts. The Settlement Administrator declaration shall identify, by name, any Class Member and Collective Member who submitted a timely and valid request to opt out during the Notice Period.

9.2.1 Class Counsel and Defendants shall work in good faith to draft a mutually agreeable Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment. The

Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment shall include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair, reasonable and adequate, and directing that its terms and provisions be carried out; 2) Approving the payment of an Incentive Award to the Class Representative; 3) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4) Approving the Settlement Administrator Costs; and 5) Providing that the Court will retain jurisdiction to oversee administration and enforcement of the terms of the Agreement and the Court's orders.

9.2.2 Following entry of the Court's order granting final approval of the Agreement, the Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the following: 1) Should an appeal be taken from the final approval of the Agreement or motion to set aside the judgement be filed, all parties will support the final approval order on appeal or otherwise; 2) Class Counsel will assist the Settlement Administrator as needed or requested in the process of identifying and locating Participating Class Members, Collective Members, and PAGA Group Members entitled to payments under the Agreement and assuring delivery of such payments; 3) Class Counsel and Defendants' Counsel will cooperate with each other and assist the Settlement Administrator as needed or requested in completing the distribution of any expired checks to the State of California's Controller; 4) Class Counsel, in conjunction with the Settlement Administrator, will certify to the Court completion of all payments required to be made by this Agreement.

9.3 Final Judgment: If the Court approves this Agreement at the final approval and fairness hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class, Collective Action and PAGA Settlement and Final Judgment.

9.4 Notice to LWDA: Plaintiff will provide notice to the Labor and Workforce Development Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

10. MISCELLANEOUS TERMS

10.1 Defendant's Right to Withdraw Based on Opt-Outs: If, prior to the Final Approval Date, 5% or more of the Class Members, or Class Members representing more than 10% of the total workweeks, have submitted proper and timely requests to opt-out in accordance with the provisions of the Agreement, Defendants may rescind the Agreement and all actions taken in its furtherance will be thereby null and

void. Defendants must exercise this right of rescission, in writing, to Class Counsel, within seven (7) calendar days after the Settlement Administrator notifies the Parties of the total number of opt-outs. If the option to rescind is exercised, then any Settlement Administrator Costs incurred to date shall be paid by Defendants.

10.2 Defendants estimate that there are approximately 8,498 Workweeks during the Class Period. If the Workweek number increases by more than 15% of the estimate stated herein (so that there are 9,773 or more Weeks Worked) by the end of the Class Period, then Defendants shall have the option to either (1) Increase the Gross Settlement Amount by \$25.22 (\$246,500 divided by 9,773) for each additional Workweek above 9,773; or (2) have the Class Period, FLSA Period, and PAGA Period end on the date before the Weeks Worked meet or exceed the 9,773 threshold. The Parties agree that in no event shall Defendants be permitted to end the Class Period before September 18, 2024 (the day of mediation). If Defendants elect to shorten the Class, Collective, and PAGA Period, then Defendants must give written notice to Plaintiff counsel by email no later than one week after the third-party administrator provides the final workweek count, and the Parties shall amend the Settlement Agreement and Notice to reflect the modified period. If the Preliminary Approval motion has already been filed, the Parties shall submit a stipulation, all applicable documents, and a revised Order to reflect the new Class Period, Collective Period, PAGA Period, and Workweek information. Although a workweek may be a workweek in the Class Periods, FLSA Period, and/or the PAGA Period, it shall be counted 1 unique workweek.

10.3 Amendment of Pleadings: In connection with preliminary approval Plaintiff will request to file an amended complaint, alleging FLSA claims (on the same factual basis as the existing complaint) and the Complaint to include the additional theory of liability articulated through mediation (i.e. liability based on rounding). Defendants agree not to oppose this request, and Defendants shall have five (5) business days to review the amended complaint prior to its filing.

10.4 Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR

1 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
2 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
3 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
4 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
5 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
6 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
7 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
8 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
9 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
10 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX
11 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
12 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
13 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
14 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
15 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
16 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY
17 THIS AGREEMENT.

18 10.5 No Prior Assignments: The Parties represent, covenant, and warrant that they have not
19 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
20 any person or entity any portion of any liability, claim, demand, action, cause of action or right released
21 and discharged in this Agreement.

22 10.6 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by
23 signing this Agreement Defendants are waiving any rights to appeal from the Court's approval of the
24 settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement
25 Plaintiff is waiving any right or ability to opt out of this Agreement during the Notice Period or otherwise.
26 Plaintiff and Class Counsel agree that neither the request for attorney's fees and costs nor the request for
27 an Incentive Award are material terms of the Settlement and an award of less than the requested amount to
28

1 the Class Representative or Class Counsel will give rise to a basis on which to abrogate the Settlement
2 Agreement.

3 10.7 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set
4 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this
5 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

6 10.8 Judgment and Retention of Jurisdiction to Enforce: Upon the Effective Date, judgment will
7 be entered according to this Agreement. The Parties stipulate and agree that the Sacramento County
8 Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil
9 Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of the
10 Agreement after default by the other party may recover reasonable attorney's fees and costs related thereto.
11 Further, the Parties intend this Agreement to be enforceable, notwithstanding the confidentiality provisions
12 of California Evidence Code Sections 1119, *et seq.* Other than in the context of a proceeding to enforce
13 this Agreement or in proceedings related to seeking its preliminary and/or final approval, this Agreement
14 shall remain confidential and shall not be admitted into evidence. The Parties also agree the litigation will
15 be stayed for all purposes upon signing, including with respect to California Code of Civil Procedure
16 section 583.310, except such proceedings necessary to implement and complete the settlement, pending
17 the Final Approval Hearing to be conducted by the Court.

18 10.9 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
19 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to, execution
20 of such other documents and the taking of such other action as may reasonably be necessary to fulfill the
21 terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts
22 contemplated by this Agreement and any other efforts that may become necessary by Court order, or
23 otherwise, to effectuate this Agreement and the terms set forth herein.

24 10.10 No Admission of Liability: Neither the acceptance nor the performance by Defendants of
25 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to
26 be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the
27 Complaint, the representative character of the Action, the validity of any of the claims that were or could
28 have been asserted by Plaintiff and/or Class Members in the Action, or of any liability or guilt of

1 Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by
2 Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members,
3 or any other person, and Defendants specifically disclaim any liability, culpability, negligence, or
4 wrongdoing toward Plaintiff, the Class Members, or any other person. Each of the Parties has entered into
5 this Stipulation with the intention to avoid further disputes and litigation.

6 10.11 Non-Disparagement: Plaintiff promises not to do or say anything, verbally or in writing,
7 directly or indirectly, including on any social media, that disparages Defendants.

8 10.12 Notices: Unless otherwise specifically provided herein, all notices, demands, or other
9 communications given hereunder shall be in writing and shall be deemed to have been duly given as of the
10 third business day after mailing by United States certified mail, return receipt requested, addressed as
11 follows:

12 To Plaintiff and the Class:

13 Galen T. Shimoda, Justin P. Rodriguez and Renald Konini
14 Shimoda & Rodriguez Law, PC
15 9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624

16 To Defendants:

17 Michael Kopp
18 Lilah J. Wylde
19 Seyfarth Shaw LLP
20 400 Capitol Mall, Suite 2300
Sacramento, CA 95814-2300
Telephone: (916) 498-7001
Facsimile: (916) 288-6333

21 10.13 Confidentiality: Class Representative and her counsel shall not publicize the settlement on
22 their websites, in advertising/marketing materials or on social media, other than filing documents with the
23 Court. The Parties and their counsel agree that they will not issue any press releases or initiate any contact
24 with the media about the fact, amount, or terms of the settlement. If counsel for any party receives an
25 inquiry about the settlement from the media, counsel may respond only after the motion for approval of the
26 settlement has been filed and only by confirming the accurate terms of the settlement. Nothing in this
27 provision shall prevent Defendants from making any required disclosure.

1 10.14 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of
2 this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that
3 this Agreement shall not be construed in favor of or against any party by reason of the extent to which any
4 party or its counsel participated in the drafting of this Agreement.

5 10.15 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys
6 acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover
7 any amounts for fees, costs, or disbursements from the Releasees or the Gross Fund Value except as
8 expressly provided in this Agreement.

9 10.16 No Modifications: This Agreement may be amended or modified only by a written
10 instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be
11 discharged except by performance in accordance with its terms.

12 10.17 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
13 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and
14 to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
15 to effectuate its terms and to execute any other documents required to effectuate the terms of this
16 Agreement.

17 10.18 Class Member Signatories: Because the Action has not yet been certified, and the Class
18 Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member
19 sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement
20 may be executed on behalf of all Class Members by the Class Representative.

21 10.19 Counterparts: This Agreement shall become effective upon its execution by all of the
22 undersigned. Plaintiff, Class Counsel, Defendants and Defendants' Counsel may execute this Agreement
23 in counterparts, and execution of counterparts shall have the same force and effect as if each had signed
24 the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force
25 and effect of originals.

26 10.20 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been
27 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and the
28 rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance with,

1 and governed by, the substantive laws of the State of California without giving effect to that State's choice
2 of law principles.

3 10.21 Headings and Captions: Section titles or captions contained in the Agreement are inserted
4 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of
5 this Agreement, or any provision thereof.

6 10.22 No Retaliation or Discouragement: The Parties agree they will take no action that could be
7 construed as retaliation against any Class Members for participating or seeking to participate in this class
8 action settlement. The Parties will not discourage any class member from participating or seeking to
9 participate in this class action settlement. This is a material term of the Agreement and non-breaching
10 Parties will seek court intervention if this provision is breached.

11 10.23 Integrated Agreement: This Agreement sets forth the entire understanding between the
12 Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof.
13 Each party acknowledges that there is no representation, inducement, promise or agreement which has been
14 made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which
15 is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the
16 terms of this Agreement are fully understood and voluntarily accepted by the Parties.

17 10.24 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to the
18 benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

19 10.25 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the
20 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with
21 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

22 10.26 Waiver of Compliance: No waiver of any condition or covenant contained in this
23 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply
24 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

25 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
26 attorneys, as of the day and year herein set forth.
27
28

For Plaintiff:

Date: 01/08/2025



Vanessa Ruiz

For Defendants:

Date: _____

By:
For Symbotic LLC

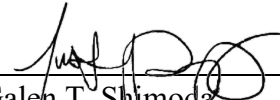
Date: _____

By:
For Symbotic, Inc.

APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

Dated: 01/08/2025

By: 

Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Attorney for Plaintiff

APPROVED AS TO FORM

SEYFARTH SHAW LLP

Dated: _____

By: _____
Michael Kopp
Attorney for Defendants

1 **For Plaintiff:**

2 Date: _____

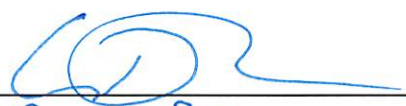
Vanessa Ruiz

4 **For Defendants:**

5 Date: January 8, 2025

6 
By: Corey Dufresne
For Symbolic LLC

8 Date: January 8, 2025

9 
By: Corey Dufresne
For Symbolic, Inc.

11 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

14 Dated: _____

13 By: _____
Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Attorney for Plaintiff

17 APPROVED AS TO FORM

SEYFARTH SHAW LLP

19 Dated: January 8, 2025

20 
By: _____
Michael Kopp
Attorney for Defendants

Exhibit 1

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
Shimoda & Rodriguez Law, PC
9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

Attorneys for Plaintiff VANESSA RUIZ

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

CLASS ACTION AND COLLECTIVE ACTION

**SECOND AMENDED COMPLAINT FOR
DAMAGES:**

- 1. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 510, 1194)**
- 2. Failure to Pay Overtime Wages Under FLSA**
- 3. Failure to Pay Minimum Wages (Cal. Lab. Code §§ 1194, 1194.2, 1197)**
- 4. Failure to Pay Minimum Wages Under FLSA**
- 5. Meal Period Violations**
- 6. Rest Period Violations**
- 7. Wage Statement Violations**
- 8. Waiting Time Penalties**
- 9. Failure to Reimburse Expenses**
- 10. Unfair Competition**
- 11. California Equal Pay Act Violations (Cal. Lab. Code § 1197.5)**
- 12. Private Attorneys General Act**

DEMAND FOR JURY TRIAL

Plaintiff VANESSA RUIZ ("Plaintiff"), on behalf of herself and all other similarly situated employees, hereby files this Second Amended Complaint against Defendants SYMBOTIC LLC, a Delaware Limited Liability Company; SYMBOTIC, INC., a Delaware Corporation; and DOES 1 to

1 100, inclusive (hereinafter all collectively referred to as “Defendants”). On information and belief,
2 Plaintiff allege the following:

3 **INTRODUCTION**

4 1. This is a class action and a Private Attorneys General Act (“PAGA”) lawsuit brought by
5 Plaintiff for failure to provide overtime wages, failure to provide minimum wages, meal and rest period
6 violations, wage statement violations, waiting time penalties, failure to reimburse expenses, untimely
7 payment of wages, unfair competition, and California Equal Pay Act violations. Plaintiffs also brings
8 this case as a collective action under the Fair Labor Standards Act (“FLSA”) for violations of federal
9 overtime and minim wage protections as outlined herein.

10 **JURISDICTION AND VENUE**

11 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
12 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
13 Labor Code, California Business and Professions Code, and Wage Orders.

14 3. Venue in Sacramento County is proper pursuant to Civil Procedure Code §§ 395(a),
15 395.2, and/or 395.5, in that Defendants are foreign entities and have not designated any county in
16 California as being where they maintain their principal offices.

17 4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
18 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
19 of herself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
20 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
21 (“LWDA”) on approximately September 8, 2023. Plaintiff provided facts and legal bases for his claims
22 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
23 of action. Plaintiff also submitted the \$75.00 filing fee. The September 8, 2023, notice was also sent via
24 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
25 Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
26 pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of herself
27 and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),
28 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).

1 Aggrieved Employees include, but are not limited to the following: all individuals who have worked, or
2 continue to work, for Defendants in California as non-exempt employee at any time from September 8,
3 2022 to the present.

4 **PARTIES**

5 5. VANESSA RUIZ is an individual over the age of eighteen (18) and is a resident of
6 the State of California.

7 6. On information and belief, Plaintiff alleges, SYMBOTIC LLC, is now and/or at all
8 times mentioned in this Complaint was a Delaware Limited Liability Company and the owner and
9 operator of an industry, business and/or facility doing business in the State of California.

10 7. On information and belief, Plaintiff alleges, SYMBOTIC, INC. is now and/or at all
11 times mentioned in this Complaint was a Delaware Corporation and the owner and operator of an
12 industry, business and/or facility doing business in the State of California.

13 8. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
14 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
15 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
16 names and capacities of these DOE Defendants when they are ascertained.

17 9. At all times mentioned herein, each Defendant was the agent or employee of each of the
18 other Defendants and was acting within the course and scope of such agency or employment. The
19 Defendants are jointly and severally liable to Plaintiff.

20 10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
21 were members of and/or engaged in a joint employment, joint venture, partnership and common
22 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
23 joint venture, partnership and common enterprise.

24 11. Defendants, and each of them, now and/or at all times mentioned in this Complaint
25 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

26 12. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
27 wrongs, complaints, injuries and/or damages alleged in this Complaint.

28 **CLASS ALLEGATIONS**

1 13. Plaintiff brings the First through Ninth Causes of Action on behalf of herself and all
2 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
3 The class which Plaintiff seeks to represent is composed of, and defined, as follows:

4 All individuals who have worked, or continue to work, for Defendants in
5 California as a non-exempt employee at any time from September 11,
6 2019, to the present.

7 14. This action has been brought and may be properly maintained as a class action,
8 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
9 defined community of interests in the litigation and the proposed class is easily ascertainable.

10 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
11 is impracticable under the circumstances of this case. While the exact number of class
12 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
13 Defendants have employed as many as fifty (50) individuals falling within the above
14 stated class definition throughout the State of California during the applicable statute of
15 limitations, who were subjected to the policies and practices outlined in this Complaint.
16 As such, joinder of all members of the putative class is not practicable.

17 (b) Common Questions Predominate: Common questions of law and fact exist as to all
18 members of the putative class and predominate over questions that affect only individual
19 members of the class. These common questions of law and fact include, without
20 limitation, the following:

- 21 (1) Whether Defendants maintained accurate payroll records;
- 22 (2) Whether, as a result of Defendants' policies and practices, Plaintiff and putative
23 class members were not paid all overtime wages owed;
- 24 (3) Whether Defendants paid Plaintiff and putative class members for all hours
25 worked;
- 26 (4) Whether Defendants failed to correctly calculate the regular rate of pay for
27 premium wage purposes such as overtime, double time, meal and rest period
28 premiums, and sick leave wages;

- 1 (5) Whether Defendants failed to pay meal and rest period premiums for meal and
2 rest period violations;
- 3 (6) Whether Defendants failed to reimburse Plaintiff and putative class members for
4 the use of personal cell phone, internet, and personal cars for work purposes;
- 5 (7) Whether as a result of Defendants' policies and practices Plaintiff's and putative
6 class members received all wages, due and owing, at the time of their termination
7 or separation; and
- 8 (8) Whether Defendants provided Plaintiff's and putative class members with wage
9 statements that complied with Labor Code section 226.

10 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
11 class. The putative class also sustained damages arising out of Defendants' common
12 course of conduct in violation of the law as complained of herein. Plaintiff and all
13 members of the putative class were non-exempt employees who were not paid all
14 minimum wages owed, overtime wages owed, meal and rest period premiums, as a result
15 of Defendants' policies and practices resulting in inaccurate wage statements that did not
16 itemize the accurate minimum wages owed, overtime wages owed, meal and rest period
17 premiums, and sick leave wages. Additionally, Defendants issued Plaintiff and all
18 members of the putative class wage statements that did not comply with Labor Code
19 section 226. As a result, Plaintiff and each member of the putative class will have
20 suffered the same type of harm and seek the same type of recovery based on the same
21 legal theories.

22 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
23 putative class. For all relevant times, Plaintiff resided in California and worked for
24 Defendants in California. Moreover, Plaintiff is an adequate representatives of the
25 putative class as Plaintiff has no interests that are adverse to those of putative class
26 members. Additionally, Plaintiff has retained counsel who has substantial experience in
27 complex civil litigation and wage and hour matters.
28

1 (e) Superiority: A class action is superior to other available means for the fair and efficient
2 adjudication of the controversy since individual joinder of all members of the putative
3 class is impracticable. Class action treatment will permit a larger number of similarly
4 situated persons to prosecute their common claims in a single forum simultaneously,
5 efficiently, and without the unnecessary duplication of effort and expense that numerous
6 individual actions would engender. Further, as damages suffered by each individual
7 member of the class may be relatively small, the expenses and burden of the individual
8 litigation would make it difficult or impossible for individual members of the class to
9 redress the wrongs done to them, and an important public interest will be served by
10 addressing the matter as a class action. The cost to the court system of adjudication of
11 such individualized litigation would be substantial. Individualized litigation would also
12 present the potential for inconsistent or contradictory judgments.

13 15. Plaintiff is unaware of any difficulties that are likely to be encountered in the
14 management of this action that would preclude its maintenance as a class action.

15 **COLLECTIVE ACTION ALLEGATIONS**

16 16. Plaintiff brings the Second and Fourth Causes of Action for violation of the FLSA as a
17 collective action pursuant to 29 U.S.C. section 216(b) on behalf of all non-exempt hourly employees
18 who have been employed by Defendants anywhere in California from September 11, 2020, through the
19 present (hereinafter referred to as “Collective Members”).

20 17. Plaintiff and the Collective Members are similarly situated in that they were subject to
21 substantially similar compensation and requirements, and were subject to Defendants’ common practice,
22 policy, or plan of failing to pay all minimum and overtime wages to the Collective Members.

23 18. The Second and Fourth Causes of Action may be brought and maintained as an “opt-in”
24 collective action pursuant to 29 U.S.C. § 216(b), since the claims of Plaintiff are similar to the claims of
25 the Collective Members.

26 19. The names and addresses of the Collective Members are available from Defendants and
27 notice should be provided to the Collective Members via first class mail to their last known address they
28 provided to Defendants as soon as possible.

GENERAL ALLEGATIONS

20. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 19 as though fully set forth herein.

21. Plaintiff was employed with Defendants from June 2016 to around March 10, 2023, as a non-exempt employee. Plaintiff was paid \$24.36 per hour. Defendant also paid Plaintiff and similarly situated employees various types of bonuses and incentive payments during their employment. Defendants also issued restricted stock units (“Symbotic RSUs”) as part of an incentive compensation plan to Plaintiff and similarly situated employees. Defendants provide support for robotic-based supply chain automation for different companies or warehouses. Defendants provide technical support for the robotics that assist with shipping distribution. At first, Plaintiff worked as an Inventory Specialist. Plaintiff’s job duties and tasks that she performed include but were not limited to looking for misplaced inventory and reporting the misplaced inventory. Later, Plaintiff worked as a Parts Specialist. Her job duties and/or responsibilities included but were not limited to performing audits of all the technicians’ work orders to make sure parts were entered accurately into the system, looking for discrepancies and tracking down and/or correcting discrepancies, providing warnings or write ups to technicians for making multiple discrepancies in relation to part orders, providing technicians with list of things that needed to be fixed, running weekly and monthly inventory reports, running purchase reports, speaking to vendors about materials needed at lower pricing or cost, performing parts cycle counts, counting all the stock of the parts in the stock room, providing discrepancy reports to Defendants, training technicians in current software that Defendants use for their day to day operations, performing shipping and receiving of parts, creating part numbers for new parts, doing clerical work, sending invoices, communicating with clerical employees to pay for parts, filing paperwork, reaching out to vendors regarding parts, picking up parts from vendors, and organizing company outings such as company events.

22. Plaintiff and similarly situated employees worked over eight (8) hours per day and forty (40) hours per week. Plaintiff and similarly situated employees worked in a fast-paced working environment and were busy most of the time. Plaintiff and similarly situated employees clocked in and out using a fingerprint operated timekeeping system. The timekeeping device was located in the middle

1 of the warehouse distribution center where P Plaintiff and similarly situated employees worked. It
2 would take approximately five (5) minutes for Plaintiff and similarly situated employees to walk from
3 the entrance of the building to Defendant's timekeeping device. Plaintiff and similarly situated
4 employees would walk for approximately five (5) minutes to the timekeeping device to clock in prior to
5 their shift and another five (5) minutes after the end of their shift since they had to walk back from the
6 timekeeping device to the entrance/exit doors of the building. As a result, Plaintiff and similarly situated
7 employees spent on average approximately ten (10) minutes per day just to clock in and clock out before
8 and after her shift. Additionally, Defendants rounded Plaintiff's and similarly situated employees' hours
9 worked to the nearest quarter hour, even though Defendants had the ability to track Plaintiff's and
10 similarly situated employees' time. Defendants failed to pay Plaintiff and similarly situated employees
11 for all actual hours worked as a result of rounding including overtime and minimum wages under both
12 state and federal law.

13 23. Furthermore, Defendants' employees and/or managers would contact Plaintiff on her
14 personal cell phone after she had clocked out to perform certain tasks, respond to emails. Furthermore,
15 technicians would contact Plaintiff after her work hours with questions and different issues. Vendors and
16 shipping companies would call Plaintiff after work hours to obtain information regarding different
17 orders and shipments. Defendants were aware of such occurrences. Plaintiff estimates that she spent
18 approximately twenty (20) minutes per week performing such tasks off the clock that she was not paid
19 for. Plaintiff is informed and believes that other similarly situated employees worked off the clock and
20 were not paid for this time.

21 24. Additionally, Defendants paid Plaintiff and similarly situated employees retroactive pay
22 when they received a raise. However, sometimes, the retroactive pay was not calculated accurately to
23 reflect the correct amount of wages. For example, Defendants paid Plaintiff retroactively for the pay
24 period of January 2, 2022, to January 15, 2022. The retroactive pay amount was \$6.16. However,
25 accounting for a raise of \$0.77 per hour, Defendants should have paid Plaintiff \$58.32. Thus, the
26 retroactive payment amount was short \$52.16.

27 25. Furthermore, Plaintiff and similarly situated employees worked overtime because of the
28 high volume of cases and the high demand of the job. Defendants did not pay Plaintiff overtime for

work performed off the clock. Plaintiff is informed and believes that Defendants did not pay overtime to similarly situated employees for off the clock work. Defendants paid Plaintiff and similarly situated employees a bonus for some time during Plaintiff's employment period. For one particular type of bonus, the amount was approximately between \$100 to \$150 per pay period and paid if they had good attendance and did not miss days from work. However, Defendants failed to incorporate the value of the bonus into the regular rate of pay in calculating Plaintiff's and similarly situated employees' premium wages, including overtime, meal and rest period premiums, and sick leave. Additionally, Defendants also issued restricted stock units ("Symbotic RSUs") as part of an incentive compensation plan to Plaintiff and similarly situated employees. A portion of Plaintiff's Symbotic RSUs vested while Plaintiff worked for Defendants. For example, a payroll statement issued by Defendants on January 6, 2023, shows an amount of \$2,650.68 as earnings of RSUs corresponding to pay period of December 18, 2022, to December 31, 2023. Another payroll statement issued on January 9, 2023, shows an amount of \$2,660.84 as earnings of RSUs corresponding to pay period December 29, 2022, to January 4, 2023. However, Defendants never paid Plaintiff these RSUs, even though they had vested and were earned as wages by Plaintiff. Defendants did not even include these RSUs in Plaintiff's last paycheck. Plaintiff is informed and believes that Defendants failed to pay the RSUs on time to other similarly situated employees. Additionally, Defendants failed to incorporate the value of the Symbotic RSUs into the regular rate of pay in calculating Plaintiff's and similarly situated employees' premium wages, including overtime, meal and rest period premiums, and sick leave.

26. Defendants did not inform Plaintiff and similarly situated employees that they were entitled to a thirty (30) minute meal for every five (5) hours of work and a ten (10) minute break for every four (4) hours of work or a fraction thereof. Due to the fast pace of the work and lack of staffing, Plaintiff and similarly situated employees failed to take all their meal periods and to take timely meal and rest periods. Defendants also interrupted Plaintiff and similarly situated employees during some of their meal and rest periods. For example, Plaintiff took many late meal periods after her fifth hour of work because she was busy performing different tasks. Also, Defendants interrupted Plaintiff and similarly situated employees many times to answer questions or perform different tasks during their meal periods. Plaintiff also took rest breaks after her fourth hour of work due to the nature of her work

1 and the tasks that needed to be done. Plaintiff is informed and believes that similarly situated employees
2 were also interrupted during their rest breaks and took late rest breaks due to manager's demands and
3 requests during rest periods.

4 27. Defendants also did not have a policy to reimburse Plaintiff and similarly situated
5 employees on use of their personal cell phones for work purposes. Plaintiff and similarly situated
6 employees used their personal cell phones to communicate with managers, supervisors, and other
7 Similarly situated employees regarding work issues and scheduling. For example, Plaintiff's manager
8 would email and/or message/text her and other similarly situated employees via Microsoft Teams App.
9 Plaintiff and similarly situated employees asked Defendants to be reimbursed for their personal cell
10 phone use for work purposes. However, Defendants informed Plaintiff and similarly situated employees
11 that they will not get reimbursed because they are hourly employees. Also, Defendants did not pay
12 Plaintiff and similarly situated employees for internet use when they worked from home during the
13 COVID period. Moreover, Plaintiff used her personal vehicle to pick up parts from local vendors in the
14 same town or West Sacramento and Sacramento area. Plaintiff picked up these parts sometimes during
15 her shift, sometimes after her shift, after she had clocked out. Defendants did not pay Plaintiff for the
16 time that she spent picking up parts after clocking out. Furthermore, Defendants did not reimburse
17 Plaintiff for the mileage that she drove to pick up parts for Defendants.

18 28. As a result of Defendants' failure to pay Plaintiff and similarly situated employees all
19 minimum wages, overtime wages, and meal and rest period premiums owed, sick leave owed, earned
20 RSUs, the wage statements Defendants issued were inaccurate. The paystubs that Defendants issued did
21 not accurately itemize all hours worked, the accurate rates of pay, minimum and overtime wages earned,
22 the number of meal and rest period premiums owed, and the accurate gross and net wages earned.

23 29. As of this date of this letter, Defendants have not paid Plaintiff and similarly situated
24 employees all the minimum wages, overtime wages, meal and rest period premiums, sick leave wages,
25 earned RSUs owed to them.

26 30. Additionally, Plaintiff was systematically paid lower wages than male employees with
27 similar skill, education, and experience for substantially similar work under similar working conditions.
28 Plaintiff is informed and believes that other similarly situated employees were paid less than other male

employees. At the time of her separation from employment, there were only three females working for Defendant out of the Woodland, California location out of about thirty-six (36) employees. Plaintiff and only two other women, one who was a human resources employee, and another who worked remotely, were the only females, out of about thirty-six (36) employees working for Defendants at the Woodland, California location. Throughout her employment, Plaintiff was paid less than other male employees performing substantially similar work. For example, Defendants gave Plaintiff raises of about 2-2.5% whereas male employees received raises of 3-7%. Also, Plaintiff's hourly rate was \$24.36, whereas male employees' hourly rate was between \$25-\$27 per hour for technicians and \$26-\$32 for maintenance technicians.

31. Plaintiff received lower wages than male employees since the beginning of her employment. At first, Plaintiff was paid \$14-\$15 per hour when she was an Inventory Specialist. The Inventory Specialist's duties included but were not limited to pulling out cases and boxes to make sure that they were placed in the right location, if not, then moving the box to the right location. At some point after Plaintiff started her new position as a Parts Specialists, Defendants hired two females as inventory specialists. Plaintiff is informed and believes that the two female employees were making about \$22 per hour. Plaintiff is informed and believes that those two female employees were also upset that Defendants paid them wages that were lower than other male employees who performed substantially similar work. However, after the two female employees left employment, Defendant hired two (2) males. Plaintiff is informed and believes that the two males were paid about \$25-\$26 per hour.

32. Plaintiff has complained to Defendants regarding her receiving lower wages than male counterparts or employees. However, Defendants informed Plaintiff that the wage difference is due to Plaintiff's attendance, since Plaintiff has missed some time during her Family Medical Leave Act ("FMLA") leave. However, the same wage disparity continued between Plaintiff and other male employees who perform substantially similar work. Plaintiff is informed and believes that other similarly situated employees experienced the same wage disparity with male employees as Plaintiff did.

33. Defendants have different positions at the Woodland location. The positions include site manager, maintenance manager, shift lead, automation manager, technicians, and system operator. All the positions were filled by men. Plaintiff worked closely with the maintenance manager and if Plaintiff

1 was out of the office, the maintenance manager would cover for Plaintiff and perform most of the work
2 that Plaintiff performed on a daily basis. The maintenance manager's duties included but were not
3 limited to overseeing the part's specialist and the technicians. If there was anything wrong with the
4 software system, the maintenance manager would tell Plaintiff and the technicians what he needed.
5 Then, Plaintiff would order the parts that were needed. Technician's job duties included but were not
6 limited to maintaining the robots, ask the part's specialist to order certain parts that were needed.

7 34. However, for about one year, Plaintiff performed the same job duties and tasks as the
8 maintenance manager because the maintenance manager left, and Defendants did not replace him for
9 about one year. As a result, Plaintiff managed technicians, informed technicians what needed to be
10 fixed, performed maintenance manager's daily tasks, informed technicians about discrepancies with
11 work orders and parts requests, check discrepancies with parts that technicians would use and not
12 account for in the system, input parts in inventory in order to re-stock, give warnings to technicians for
13 not complying with procedures, reach out to vendors to figure out if can buy material at a lower cost,
14 manage deadlines during peak season of September to January by increasing the number of re-ordering
15 parts to make sure that parts were sufficient in the inventory. Plaintiff even trained the new maintenance
16 manager that Defendants hired by showing to him different procedures, training him in the software that
17 Defendants used to find parts in the inventory, trained him how to run reports on parts, how to navigate
18 the system, and other daily tasks important in the running of the operations and maintenance.

19 35. Plaintiff found it easy to perform maintenance manager's duties and tasks because they
20 were substantially the same as her work as a part's specialist. However, Plaintiff is informed and
21 believes that the maintenance manager was paid about \$80,000 per year and the technicians were paid
22 about \$25-\$27 per hour. Furthermore, there was minimal training for an employee to become a
23 technician. Technicians' work involved making sure that the system kept running, if something went
24 wrong, they had to clear the HMI screen and restart the system. Technicians were known as fault
25 chasers. The training lasted one week, and no special certificates, education, or diplomas were required.
26 To become a maintenance technician, required a little more training and Defendants trained technicians
27 how to work on robots. Plaintiff is informed and believes that maintenance technicians were paid
28

1 between \$26-\$32 per hour. Lastly, Plaintiff is informed and believes that Defendants hired a male to
2 replace Plaintiff and paid him about \$3 more per hour than Plaintiff.

3 **CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**
5 **FAILURE TO PAY OVERTIME WAGES**
6 **(Cal. Lab. Code §§ 510, 1194)**
7 **(As to all Defendants)**

8 36. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 35 as though fully
9 set forth herein.

10 37. During the period Plaintiff was employed by Defendants, Defendants were required to
11 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
12 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
13 hours worked in excess of twelve (12) hours per day. *See, e.g.*, IWC Wage Order No. 4, section (3)(A);
14 Cal. Lab. Code §§ 510, 1194.

15 38. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
16 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
17 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
18 worked at their regular rate of pay.

19 39. Plaintiff and similarly situated employees were not exempt from overtime protections
20 employees under the California Wage Orders and Labor Code.

21 40. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
22 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
23 the extent pertinent as if set forth here in full.

24 **SECOND CAUSE OF ACTION**
25 **FAILURE TO PAY OVERTIME WAGES UNDER FLSA**
26 **(On behalf of the Collective Members As to all Defendants)**

27 41. Plaintiff incorporates by reference and re-allege paragraphs 1 through 40 as though fully
28 set forth herein.

42. Defendants are an "employer" as defined under the FLSA of Plaintiffs and the Collective
Members. The FLSA defines an "employer" as "any person acting directly or indirectly in the interest

1 of an employer in relation to an employee.” 29 U.S.C. § 203(d). An individual who exercises “control
2 over the nature and structure of the employment relationship,” or “economic control” over the
3 relationship is an employer under FLSA. *See Lambert v. Ackerley*, 180 F.3d 997, 1011-12 (9th Cir.
4 1999) (en banc).

5 43. Plaintiff is informed and believes, and on that basis alleges, that Defendants are engaged
6 in interstate commerce as they engage in business in multiple states and they engage with businesses
7 located in other states. Plaintiff is informed and believes, and on that basis alleges, that Defendants’
8 business earns over \$500,000 per year.

9 44. Attached hereto as Exhibit A is the consent to join form signed by Plaintiff in this action
10 pursuant to 29 U.S.C. §§ 216(b) and 256. It is likely that other individuals will sign consent forms and
11 join as plaintiffs on this claim in the future.

12 45. Defendants held a significant ownership interest with operational control of significant
13 aspects of the company’s day-to-day functions; Defendants had the power to hire and fire Plaintiff and
14 the Collective Members and set wage rates for them; Defendants also had the responsibility to maintain
15 Plaintiff’s and the Collective Members’ employment records. Defendants also paid Plaintiff for fewer
16 hours than they actually worked and failed to pay overtime wages for hours in excess of forty (40) per
17 week in an effort to circumvent the FLSA’s overtime requirements.

18 46. Defendants willfully failed to pay overtime to Plaintiff and the Collective Members.
19 They knew of the existence of both state and federal wage and hour laws regarding overtime, but failed
20 to do any investigation whether they were in compliance. They had knowledge that Plaintiff and the
21 Collective Members were working uncompensated hours through rounding, off the clock work, and
22 weren’t paid the accurate regular rate of pay for overtime due to not calculating the value of the bonuses
23 and RSUs in the regular rate of pay. Despite this knowledge, Defendants refused to pay Plaintiffs and
24 the Collective Members for all actual hours worked at the legally required rates.

25 47. For the three (3) years preceding the filing of this lawsuit, Defendants were required to
26 compensate Plaintiff and the Collective Members overtime wages at a rate of no less than one and one-
27 half (1½) times the regular rate of pay for all time worked in excess of forty (40) hours per week. *See* 29
28 U.S.C. § 207.

48. As a proximate result of Defendants' conduct, Plaintiffs and the Collective Members have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

THIRD CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Cal. Lab. Code §§ 1194, 1194.2, 1197)
(As to all Defendants)

49. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 48 as though fully set forth herein.

50. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff and similarly situated employees with at least California's applicable minimum for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 4, section 4(A); Cal. Lab. Code § 1194.

51. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

52. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES UNDER FLSA
(On behalf of the Collective Members As to all Defendants)

53. Plaintiffs incorporates by reference and re-allege paragraphs 1 through 52 as though fully set forth herein.

54. Defendants are an “employer” as defined under the FLSA of Plaintiff and the Collective Members. The FLSA defines an “employer” as “any person acting directly or indirectly in the interest of an employer in relation to an employee.” 29 U.S.C. § 203(d). An individual who exercises “control over the nature and structure of the employment relationship,” or “economic control” over the relationship is an employer under FLSA. *See Lambert v. Ackerley*, 180 F.3d 997, 1011-12 (9th Cir. 1999) (en banc).

1 55. Plaintiff is informed and believes, and on that basis alleges, that Defendants are engaged
2 in interstate commerce as they engage in business in multiple states and they engage with businesses
3 located in other states. Plaintiff is informed and believes, and on that basis alleges, Defendants'
4 business earns over \$500,000 per year.

5 56. Attached hereto as Exhibit A are the consent to join form signed by Plaintiff in this action
6 pursuant to 29 U.S.C. §§ 216(b) and 256. It is likely that other individuals will sign consent forms and
7 join as plaintiffs on this claim in the future.

8 57. Defendants held a significant ownership interest with operational control of significant
9 aspects of the company's day-to-day functions; Defendants had the power to hire and fire Plaintiff and
10 the Collective Members and set wage rates for them; Defendants also had the responsibility to maintain
11 Plaintiff's and the Collective Members' employment records. Defendants also paid Plaintiff for fewer
12 hours than she actually worked and failed to pay minimum wages for all hours worked in an effort to
13 circumvent the FLSA's minimum wage requirements.

14 58. Defendants willfully failed to pay overtime to Plaintiffs and the Collective Members.
15 They knew of the existence of both state and federal wage and hour laws regarding minimum wages, but
16 failed to do any investigation whether they were in compliance. They had knowledge that Plaintiff and
17 the Collective Members were working uncompensated hours through the rounding and working of the
18 clock policies' that Defendants instituted and that they were not getting paid for all hours worked
19 notwithstanding those policies and practices. Despite this knowledge, Defendants refused to pay
20 Plaintiff and the Collective Members for all actual hours worked at the legally required rates.

21 59. For the three (3) years preceding the filing of this Complaint, Defendants were required
22 to compensate Plaintiff and the Collective Members minimum wages at the applicable Federal rate for
23 all time worked that was unpaid per week. *See* 29 U.S.C. § 206.

24 60. As a proximate result of Defendants' conduct, Plaintiffs and the Collective Members
25 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
26 the extent pertinent as if set forth here in full.
27
28

FIFTH CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

61. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 60 as though fully set forth herein.

62. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

63. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

64. California Labor Code section 512 and Wage Order No. 4 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

65. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated employees to take their first meal period before the completion of their fifth hour of work and failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

66. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

67. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SIXTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

68. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 67 as though fully set forth herein.

69. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

70. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

71. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly situated employees to take paid rest periods of at least ten (10) minutes for each work period that they worked more than four (4) hours or a major fraction thereof.

72. Defendants further failed to pay Plaintiff and similarly situated employees the applicable rest period premiums for any such missed rest periods.

73. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SEVENTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

74. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 73 as though fully set forth herein.

75. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and

1 *the last four digits of his or her social security number or an employee*
2 *identification number other than a social security number, (8) the name*
3 *and address of the legal entity that is the employer and, if the employer is*
4 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
5 *name and address of the legal entity that secured the services of the*
6 *employer, and (9) all applicable hourly rates in effect during the pay*
7 *period and the corresponding number of hours worked at each hourly rate*
8 *by the employee. The deductions made from payment of wages shall be*
9 *recorded in ink or other indelible form, properly dated, showing the*
10 *month, day, and year, and a copy of the statement and the record of the*
11 *deductions shall be kept on file by the employer for at least three years at*
12 *the place of employment or at a central location within the State of*
13 *California.*

8 76. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
9 itemized statement or failed to provide an accurate and complete itemized statement showing the
10 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
11 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
12 and double time hours worked and corresponding rates of pay, and gross and net wages earned. The
13 paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours
14 worked due to Defendants' clocking in policy, the location of the timekeeping device, as well as
15 Defendants' meal and rest period policy and practices that interrupted Plaintiff and similarly situated
16 employees during their meal and rest breaks, that resulted in off-the-clock work. Plaintiff and
17 similarly situated employees were not able to promptly and easily determine their total hours worked
18 from their paystubs alone. Additionally, Plaintiff and similarly situated employees suffered
19 confusion over whether they received all wages owed and were prevented from effectively
20 challenging information on their wage statements.

21 77. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
22 employees have been damaged as stated in the section below entitled "DAMAGES," which is
23 incorporated here to the extent pertinent as if set forth here in full.

24 **EIGHTH CAUSE OF ACTION**
25 **WAITING TIME PENALTIES**
26 **(As to all Defendants)**

27 78. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 77 as though fully
28 set forth herein.

1 79. An employer must pay an employee who is terminated all unpaid wages immediately
2 upon termination. *See* Cal. Lab. Code § 201.

3 80. An employer must pay an employee who resigns all unpaid wages within seventy-two
4 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

5 81. Plaintiff and similarly situated employees did not receive all wages, including minimum
6 and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or
7 within the required time after their separation from employment.

8 82. An employer who willfully fails to pay an employee wages in accordance with California
9 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
10 days. *See* Cal. Lab. Code § 203.

11 83. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
12 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
13 and similarly situated employees had to walk about five (5) minutes from the entrance of the building to
14 the timekeeping device to clock in and Plaintiff and similarly situated employees were not paid for this
15 time. Defendants also knew that Plaintiff and similarly situated employees used their cell phones,
16 internet, and cars for work purposes because Defendants communicated with them via Microsoft Teams
17 App to give instructions or request tasks done. Furthermore, Defendants knew that Plaintiff and
18 similarly situated employees had vested RSUs, but Defendants failed to calculate the value of the earned
19 RSUs into the regular rate of pay for purposes of overtime premiums, meal and rest period premiums,
20 and sick leave pay. However, Defendants did not pay at the time of Plaintiff's termination the correct
21 amount of wages owed for overtime premiums, meal and rest period premiums and sick leave pay, as
22 well as the earned RSUs. Further, Defendants knew that Plaintiff and similarly situated employees were
23 not provided with compliant meal and rest periods because Defendants interrupted Plaintiff and
24 similarly situated employees during their meal and rest periods or caused them not to take timely meal
25 and rest periods. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the
26 time of separation, yet Defendants still refused to pay the remaining wages owed.

84. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

NINTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(As to all Defendants)

85. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 84 as though fully set forth herein.

86. California Labor Code section 2802(a) states that “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, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

87. Defendants required Plaintiff and similarly situated employees to use their personal cell phones to maintain communication regarding the status of their work, and various other work-related communications that needed to be made during the day while Plaintiff and similarly situated employees were stationed all over the warehouses. Defendants required Plaintiff and similarly situated employees to use Microsoft Team App to communicate with each other. Defendants also emailed or texted Plaintiff and similarly situated employees after work hours or on weekends to communicate regarding work issues and Plaintiff took calls from different shipping companies and vendors on her private cell phone. Plaintiff also used her car to pick up parts for Defendants and was not reimbursed for the miles that she drove to pick up parts. Plaintiff and similarly situated employees requested Defendants to reimburse them for such use. However, Defendants did not reimburse Plaintiff and similarly situated employees for such use.

88. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

TENTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to all Defendants)

89. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 88 as though fully set forth herein.

90. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See* California Business and Professions (“B&P”) Code § 17200.

91. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, and meal and rest period premiums, paid sick leave, reimbursed for business expenses, during their employment or any time thereafter. Moreover, through Defendants’ conduct Plaintiff and similarly situated employees were denied statutory protections regarding meal and rest periods.

92. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (Business and Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

93. As a direct and legal result of the Defendants’ conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of California Labor Code sections 226.7, 245 *et seq.*, 510, 512, and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

ELEVENTH CAUSE OF ACTION
VIOLATION OF CALIFORNIA’S EQUAL PAY ACT
(Cal. Lab. Code § 1197.5)
(As to all Defendants)

94. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 93 as though fully set forth herein.

95. Labor Code section 1197.5, states that, “[a]n employer shall not pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions...”

96. Labor Code section 1197.5, subdivision (c) further states that, “[a]ny employer who violates [this section] is liable to the employee affected in the amount of the wages, and interest thereon, of which the employee is deprived by reason of the violation, and an additional equal amount as liquidated damages.”

97. Here, Plaintiff and similarly situated employees systematically paid lower wages than male employees with similar skill, education, and experience for substantially similar work under similar working conditions.

98. Plaintiff, therefore, suffered damages proximately caused by Defendants, and each of their agent's acts as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

TWELFTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

99. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 98 as though fully set forth herein.

100. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)
- Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)
- Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

- Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)
- Violation of Labor Code § 1197.5 (Wage Discrimination)

101. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

102. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

103. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;

1 3. As to the Second Cause of Action:

- 2 a. All wages earned and owing;
- 3 b. Attorney's fees, costs, and interest pursuant to 29. U.S.C. § 216;
- 4 c. Liquidated damages pursuant to 29 U.S.C. § 216;

5 4. As to the Third Cause of Action:

- 6 a. Wages in an amount to be proven at trial;
- 7 b. Interest for the wages due pursuant to California Labor Code section 1194;
- 8 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
- 9 Code section 1194;
- 10 d. Liquidated damages pursuant to California Labor Code section 1194.2;

11 5. As to the Fourth Cause of Action:

- 12 a. All wages earned and owing;
- 13 b. Attorney's fees, costs, and interest pursuant to 29. U.S.C. § 216;
- 14 c. Liquidated damages pursuant to 29 U.S.C. § 216;

15 6. As to the Fifth Cause of Action:

- 16 a. Wages in an amount to be proven at trial;
- 17 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 18 section 1021.5;

19 7. As to the Sixth Cause of Action:

- 20 a. Wages in an amount to be proven at trial;
- 21 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 22 section 1021.5;

23 8. As to the Seventh Cause of Action:

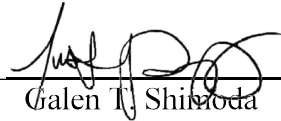
- 24 a. Penalties as provided for in Labor Code section 226, including the greater of all
- 25 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
- 26 violation occurred and one hundred dollars (\$100.00) per employee for each
- 27 violation in the subsequent pay periods, but not to exceed four thousand dollars
- 28 (\$4,000.00);

- 1 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
2 226(e);
- 3 9. As to the Ninth Cause of Action:
- 4 a. An amount to be proven at trial;
- 5 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
- 6 10. As to the Eleventh Cause of Action (Cal. Labor Code § 1197.5):
- 7 a. For wages that Plaintiff was deprived of due to Equal Pay Act violations and any
8 interest thereon, according to proof;
- 9 b. For liquidated damages in an equal amount, according to proof;
- 10 c. For reasonable attorney's fees and costs pursuant to Labor Code section 1197.5
11 (h);
- 12 11. As to the Twelfth Cause of Action:
- 13 a. For civil penalties as provided in the Labor Code for each enumerated violation;
- 14 b. For those Labor Code sections where there is no civil penalty provided for their
15 violation, the default penalty provided in Labor Code section 2699(f): for any
16 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
17 period; For any subsequent violation, two hundred dollars (\$200) for each
18 aggrieved employee per pay period;
- 19 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 20 d. For any other remedies as allowed by law and/or deemed appropriate by the
21 Court;
- 22 12. For such other and further relief as this Court may deem just and proper,
23 including, but not limited to:
- 24 a. Wages as proved at trial;
- 25 b. Injunctive and Declaratory relief;
- 26 c. Attorney's fees and costs as provided for by law; and
- 27 d. Interest.
- 28

1
2
3 Dated: January 7, 2025

Shimoda & Rodriguez Law, PC

4
5 By:



Galen T. Shimoda

Justin P. Rodriguez

Renald Konini

Attorneys for Plaintiff

Exhibit 2

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SACRAMENTO

VANESSA RUIZ, individually and on behalf of
all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC LLC, a Delaware Limited Liability
Company; SYMBOTIC, INC., a Delaware
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. **23CV008326**

**NOTICE OF PROPOSED CLASS ACTION,
COLLECTIVE ACTION, AND PAGA
SETTLEMENT, AND HEARING DATE FOR
FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: All non-exempt employees who were employed by Defendants in the State of California at any time between September 11, 2019, through [REDACTED] (the “Class Members”); All non-exempt employees who were employed by Defendants in the State of California at any time between September 11, 2020, through [REDACTED] (the “Collective Members”); All non-exempt employees who were employed by Defendants in the State of California at any time between September 8, 2022, through [REDACTED] (the “PAGA Group Members”).

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS, COLLECTIVE, AND PAGA LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER AND/OR A COLLECTIVE MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the Sacramento County Superior Court (“Court”) granting Plaintiff’s motion for preliminary approval of a Joint Stipulation Regarding Class Action, Collective Action, and PAGA Settlement and Release (“Agreement” or “Settlement”) as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Vanessa Ruiz (“Plaintiff” or “Class Representative”), and Defendants Symbotic LLC, and Symbotic, Inc. (“Defendants”). The terms of the Settlement are outlined herein. You are receiving this notice because Defendants’ records indicate you fall within the definition of “Class Member,” “Collective Member,” and/or PAGA Group Member. Defendants’ records also indicate that you worked [REDACTED] weeks during the applicable Class Period, [REDACTED] weeks during the applicable FLSA Period, and [REDACTED] weeks during the applicable PAGA Period (as defined below). As a result, your estimated Individual Settlement Payment is \$[REDACTED], your estimated Individual FLSA Payment is \$[REDACTED], and your estimated Individual PAGA Payment is [REDACTED]. Accordingly, the total amount you may be able to receive under the Settlement is \$[REDACTED]. Your actual share of the settlement proceeds will vary depending on the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court’s order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On September 11, 2023, Plaintiff filed a Complaint against Defendants in the Sacramento County Superior Court of California alleging wage and hour claims on behalf of herself and similarly situated employees. The term “Action” means this putative class, collective, and PAGA action pending in Sacramento County Superior Court, Case No. 23CV008326. The Class Period is September 11, 2019, through [REDACTED], the FLSA Period is September 11, 2020, through [REDACTED], and the PAGA Period is September 8, 2022, through [REDACTED].

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself, Class Members, Collective Members, and PAGA Group Members. Plaintiff alleged that Defendants violated California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods or pay premiums in lieu thereof,

4) failing to provide rest periods or pay premiums in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to pay final wages, 7) failing to pay reimbursement for expenses, 8) failing to maintain accurate records, 9) failing to provide paid sick leave, 10) untimely payment of wages, and 11) violating the Equal Pay Act. Plaintiff also alleged that these actions resulted in liability under California's Unfair Competition laws, under the Fair Labor Standards Act ("FLSA"), and claims for civil penalties under the Private Attorney's General Act ("PAGA"). Defendants have denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information during the course of the litigation. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a settlement covering the class, collective, and PAGA claims asserted in the Action. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, Collective Members, and PAGA Group Members as defined above. If you are a Class Member or Collective Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. This notice is to advise Class Members and Collective Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, PAGA Group Members cannot opt out of this Agreement as it relates to the PAGA Fund, their Individual PAGA Payment, or the Released PAGA Claims regardless of whether they opt-out of being a Class Member or opt-in to being a Collective Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Two Hundred Forty-Six Thousand Five Hundred Dollars (\$246,500) ("Gross Fund Value"). Deducted from this Gross Fund Value will be sums approved by the Court for attorney's fees not to exceed 35% of the Gross Fund Value, attorney's costs not to exceed \$15,000, Settlement Administrator Costs estimated not to exceed \$15,000, an Incentive Award of \$10,000 to the Class Representative, \$20,000 for resolving claims under the FLSA ("FLSA Settlement Fund") and payment to Collective Members, and \$20,000 for alleged PAGA penalties (the "PAGA Fund") and payment to PAGA Group Members, which will result in a "Net Settlement Amount" for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Fund Value. As explained further below, payments to each Class Member, Collective Member, and/or PAGA Group Member will depend on the number of weeks worked by each individual within the Class Period, FLSA Period, and/ PAGA Period. Of the \$20,000 allocated to resolving the PAGA claims, 75% of the PAGA Fund will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Fund will be divided among PAGA Group Members.

B. Payment Allocations Between Class Members, Collective Members, and PAGA Group Members

The number of weeks you worked during the Class Period, FLSA Period, and/or PAGA Period and your estimated share of the Net Settlement Amount, FLSA Settlement Fund, and/or PAGA Fund is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Class Members, Collective Members, and/or PAGA Group Members after the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. Payment to Class Members, Collective Members, and PAGA Group Members will be determined by dividing their total workweeks within their respective claim periods by the total workweeks by all Class Members, Collective Members, and/or PAGA Group Members within the same respective claim period. That fraction will then be multiplied by applicable Net Settlement Amount, 25% portion of the PAGA Fund, and/or FLSA Settlement Fund allocated for that group to determine the Individual Settlement Payment, Individual FLSA Payment, and/or Individual PAGA Payment owed for the individual from that group.

Defendants will make settlement payments through the Settlement Administrator. Each Participating Class Member (*i.e.* a Class Member who does not opt-out) will be paid their Individual Settlement Award to resolve the Released Class Claims. To become a Collective Member, a Participating Class Member must cash the check containing their Individual FLSA Payment, which will be sent to the Participating Class Member at the same time the Individual Settlement Payment is sent. The Individual FLSA Payment will include FLSA release language printed on the back of the check and, by cashing the Individual FLSA Payment, Participating Class Members will have opted-in to also being a Collective Member. However, whether an individual opts-out of being a Class Member or opts-in to being a Collective Member, that will have no effect on their allocation from the PAGA Fund. PAGA Group Members will

receive their Individual PAGA Payment regardless of whether they opt-out of being a Class Member or opt-in to being a Collective Member.

All payments under the Settlement will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that 75% of Individual Settlement Payments and Individual FLSA Payments will be characterized as disputed interest, statutory penalties, and other non-wage damages for which an IRS Forms 1099-MISC and 1099-INT will issue and 25% of the of Individual Settlement Payments and Individual FLSA Payments will be characterized as disputed wages for which IRS Forms W-2 will issue. Individual PAGA Payments will be characterized as 100% for civil penalties for which an IRS Forms 1099-MISC will be issued.

Receipt of any payments under the Agreement will not entitle any Class Member, Collective Member, and/or PAGA Group Member to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes

The amount payable will be calculated by the Settlement Administrator based on Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants' records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by a Class Member, Collective Member, and/or PAGA Group Member. If an individual disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member, Collective Member and/or PAGA Group Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [REDACTED]. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

The Agreement contains the following releases:

Released Class Claims: (i) all claims that were alleged in the Operative Complaint, and (ii) all claims that reasonably could have been alleged, based on the facts stated in the Operative Complaint, including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; (9) violation of the California Equal Pay Act; and, (10) claims for statutory penalties for violation of California Labor Code sections 201, 201.3, 202, 203 204.1, 204.2, 210, 226, 226.3, 226.7, 245, 246, 246.5, 248.5, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1197.1, 1197.5, and 2802-2804, California Code of Civil Procedure section 1021.5, Civil Code sections 3287, 3289, and California Business and Professions Code section 17200 et seq. or any applicable Wage Order, irrespective of the theory of recovery alleged, during the Class Period. Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, worker's compensation, or claims based on facts occurring outside the Class Period.

Released FLSA Claims: (i) all wage and hour claims with respect to the Released Parties under the Fair Labor Standards Act, 29 U.S.C. section 201, et seq. that are asserted in the Operative Complaint and, (ii) any other claims under the FLSA that reasonably could have been brought based on the facts alleged in the Operative Complaint filed in the Action during the FLSA Period.

Released PAGA Claims: (i) all claims for PAGA penalties that were alleged in Plaintiff's notice letter(s) to the LWDA, and (ii) all claims that reasonably could have been alleged during the PAGA Period, based on the facts stated in Plaintiff's notice letter(s) to the LWDA, including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; (9) failure to pay sick pay wages; (10) claims for penalties under the Private Attorneys General Act for violation of California Labor Code sections 201, 201.3, 202, 203 204.1, 204.2, 210, 226, 226.3, 226.7, 245, 246, 246.5, 248.5, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1197.1, 1197.5, and 2802-2804, 2698, et seq. during the PAGA Period.

The releases will apply to all “Released Parties” which is defined as Defendants, and any of their past, present, and future direct or indirect parents, subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, and assigns, as well as each of their past, present, and future officers, directors, employees, partners, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

Class Members, Collective Members and/or PAGA Group Members can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member and Collective Member

If you wish to be a Participating Class Member and believe your workweek information is accurate, you do not need to take any further action to receive your Individual Settlement Payment. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. To also become a Collective Member, you only need to cash the Individual FLSA Payment check, which will be sent with your Individual Settlement Payment. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects employees from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement

The Court will exclude you from being a Class Member or Collective Member if you request this by [REDACTED]. If you do not wish to be bound by the Settlement as a Class Member you may request to be excluded (*i.e.*, “opt out”) by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or want to be excluded from this Settlement; (c) identify the case name and number (*i.e.* *Ruiz v. Symbotic LLC, et al.*, 23CV008326); (d) be signed; and (e) be post-marked no later than [REDACTED]. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by [REDACTED], your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement relating to Class Members. If you fail to cash the Individual FLSA Payment by the check cashing deadline, you will not be a Collective Member, forfeit your Individual FLSA Payment, and not be bound by the Released FLSA Claims. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member or Collective Member and not receive their share of the Net Settlement Amount of FLSA Settlement Fund. PAGA Group Members cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by submitting an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. You may submit a written objection, which should (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (*i.e.* *Ruiz v. Symbotic LLC, et al.*, 23CV008326); (e) be signed; and (f) be post-marked no later than [REDACTED]. Written objections must be sent to the Settlement Administrator at the address identified in Section III.B.

Additionally, or in the alternative to sending a written objection to the Settlement Administrator, you may appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. A notice of entry of entry of judgment will be filed with the Court and available online at (<https://prod-portal-sacramento-ca.journaltech.com/public-portal/?q=Home>). The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement, Collective Members, and PAGA Group Members, will release Defendants and the Released Parties from the Released Class Claims, Released FLSA Claims, and Released PAGA Claims described above. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 23, 720 9th Street Sacramento, California 95814, on [REDACTED] at [REDACTED] to determine whether the Agreement should be finally approved as fair, reasonable and adequate. For Sacramento if Dept 23 - To join by Zoom: <https://saccourt-ca-gov.zoomgov.com/my/sscdept23>. To join by phone: (833) 568-8864 / ID 16108301121. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representative's Incentive Award. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents required by the Court at <https://prod-portal-sacramento-ca.journaltech.com/public-portal/?q=Home>. You can also contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Michael Kopp
Lilah J. Wylde
Seyfarth Shaw LLP
400 Capitol Mall, Suite 2300
Sacramento, CA 95814-2300
Telephone: (916) 498-7001
Facsimile: (916) 288-6333
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [REDACTED]

BY ORDER OF THE COURT

EXHIBIT B

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
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Attorneys for Plaintiff VANESSA RUIZ

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

- 1. Failure to Pay Overtime Wages**
- 2. Failure to Pay Minimum Wages**
- 3. Meal Period Violations**
- 4. Rest Period Violations**
- 5. Wage Statement Violations**
- 6. Waiting Time Penalties**
- 7. Failure to Reimburse Expenses**
- 8. Unfair Competition**
- 9. California Equal Pay Act Violations (Labor Code § 1197.5)**
- 10. Private Attorneys General Act**

DEMAND FOR JURY TRIAL

Plaintiff VANESSA RUIZ ("Plaintiff"), on behalf of herself and all other similarly situated employees, hereby files this First Amended Complaint against Defendants SYMBOTIC LLC, a Delaware Limited Liability Company; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as "Defendants"). On information and belief, Plaintiff allege the following:

1 **INTRODUCTION**

2 1. This is a class action and a Private Attorneys General Act (“PAGA”) lawsuit brought by
3 Plaintiff for failure to provide overtime wages, failure to provide minimum wages, meal and rest period
4 violations, wage statement violations, waiting time penalties, failure to reimburse expenses, untimely
5 payment of wages, unfair competition, and California Equal Pay Act violations.

6 **JURISDICTION AND VENUE**

7 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
8 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
9 Labor Code, California Business and Professions Code, and Wage Orders.

10 3. Venue in Sacramento County is proper pursuant to Civil Procedure Code §§ 395(a),
11 395.2, and/or 395.5, in that Defendants are foreign entities and have not designated any county in
12 California as being where they maintain their principal offices.

13 4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
14 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
15 of herself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
16 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
17 (“LWDA”) on approximately September 8, 2023. Plaintiff provided facts and legal bases for his claims
18 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
19 of action. Plaintiff also submitted the \$75.00 filing fee. The September 8, 2023, notice was also sent via
20 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
21 Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
22 pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of herself
23 and all similarly situated employees, *i.e.* Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),
24 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).
25 Aggrieved Employees include, but is not limited to the following: all individuals who have worked, or
26 continue to work, for Defendants in California as non-exempt employee at any time from September 8,
27 2022 to the present.
28

1 **PARTIES**

2 5. VANESSA RUIZ is an individual over the age of eighteen (18) and is a resident of
3 the State of California.

4 6. On information and belief, Plaintiff alleges, SYMBOTIC LLC, is now and/or at all
5 times mentioned in this Complaint was a Delaware Limited Liability Company and the owner and
6 operator of an industry, business and/or facility doing business in the State of California.

7 7. On information and belief, Plaintiff alleges, SYMBOTIC, INC. is now and/or at all
8 times mentioned in this Complaint was a Delaware Corporation and the owner and operator of an
9 industry, business and/or facility doing business in the State of California.

10 8. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
11 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
12 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
13 names and capacities of these DOE Defendants when they are ascertained.

14 9. At all times mentioned herein, each Defendant was the agent or employee of each of the
15 other Defendants and was acting within the course and scope of such agency or employment. The
16 Defendants are jointly and severally liable to Plaintiff.

17 10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
18 were members of and/or engaged in a joint employment, joint venture, partnership and common
19 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
20 joint venture, partnership and common enterprise.

21 11. Defendants, and each of them, now and/or at all times mentioned in this Complaint
22 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

23 12. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
24 wrongs, complaints, injuries and/or damages alleged in this Complaint.

25 **CLASS ALLEGATIONS**

26 13. Plaintiff brings the First through Ninth Causes of Action on behalf of herself and all
27 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
28 The class which Plaintiff seeks to represent is composed of, and defined, as follows:

1 All individuals who have worked, or continue to work, for Defendants in
2 California as a non-exempt employee at any time from September 11,
2019, to the present.

3 14. This action has been brought and may be properly maintained as a class action,
4 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
5 defined community of interests in the litigation and the proposed class is easily ascertainable.

6 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
7 is impracticable under the circumstances of this case. While the exact number of class
8 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
9 Defendants have employed as many as fifty (50) individuals falling within the above
10 stated class definition throughout the State of California during the applicable statute of
11 limitations, who were subjected to the policies and practices outlined in this Complaint.
12 As such, joinder of all members of the putative class is not practicable.

13 (b) Common Questions Predominate: Common questions of law and fact exist as to all
14 members of the putative class and predominate over questions that affect only individual
15 members of the class. These common questions of law and fact include, without
16 limitation, the following:

- 17 (1) Whether Defendants maintained accurate payroll records;
- 18 (2) Whether, as a result of Defendants' policies and practices, Plaintiff and putative
19 class members were not paid all overtime wages owed;
- 20 (3) Whether Defendants paid Plaintiff and putative class members for all hours
21 worked;
- 22 (4) Whether Defendants failed to correctly calculate the regular rate of pay for
23 premium wage purposes such as overtime, double time, meal and rest period
24 premiums, and sick leave wages;
- 25 (5) Whether Defendants failed to pay meal and rest period premiums for meal and
26 rest period violations;
- 27 (6) Whether Defendants failed to reimburse Plaintiff and putative class members for
28 the use of personal cell phone, internet, and personal cars for work purposes;

(7) Whether as a result of Defendants' policies and practices Plaintiff's and putative class members received all wages, due and owing, at the time of their termination or separation; and

(8) Whether Defendants provided Plaintiff's and putative class members with wage statements that complied with Labor Code section 226.

(c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative class. The putative class also sustained damages arising out of Defendants' common course of conduct in violation of the law as complained of herein. Plaintiff and all members of the putative class were non-exempt employees who were not paid all minimum wages owed, overtime wages owed, meal and rest period premiums, as a result of Defendants' policies and practices resulting in inaccurate wage statements that did not itemize the accurate minimum wages owed, overtime wages owed, meal and rest period premiums, and sick leave wages. Additionally, Defendants issued Plaintiff and all members of the putative class wage statements that did not comply with Labor Code section 226. As a result, Plaintiff and each member of the putative class will have suffered the same type of harm and seek the same type of recovery based on the same legal theories.

(d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the putative class. For all relevant times, Plaintiff resided in California and worked for Defendants in California. Moreover, Plaintiff is an adequate representatives of the putative class as Plaintiff has no interests that are adverse to those of putative class members. Additionally, Plaintiff has retained counsel who has substantial experience in complex civil litigation and wage and hour matters.

(e) Superiority: A class action is superior to other available means for the fair and efficient adjudication of the controversy since individual joinder of all members of the putative class is impracticable. Class action treatment will permit a larger number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous

individual actions would engender. Further, as damages suffered by each individual member of the class may be relatively small, the expenses and burden of the individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, and an important public interest will be served by addressing the matter as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

15. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

GENERAL ALLEGATIONS

16. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 15 as though fully set forth herein.

17. Plaintiff was employed with Defendants from June 2016 to around March 10, 2023, as a non-exempt employee. Plaintiff was paid \$24.36 per hour. Defendant also paid Plaintiff and similarly situated employees various types of bonuses and incentive payments during their employment. Defendants also issued restricted stock units (“Symbotic RSUs”) as part of an incentive compensation plan to Plaintiff and similarly situated employees. Defendants provide support for robotic-based supply chain automation for different companies or warehouses. Defendants provide technical support for the robotics that assist with shipping distribution. At first, Plaintiff worked as an Inventory Specialist. Plaintiff’s job duties and tasks that she performed include but were not limited to looking for misplaced inventory and reporting the misplaced inventory. Later, Plaintiff worked as a Parts Specialist. Her job duties and/or responsibilities included but were not limited to performing audits of all the technicians’ work orders to make sure parts were entered accurately into the system, looking for discrepancies and tracking down and/or correcting discrepancies, providing warnings or write ups to technicians for making multiple discrepancies in relation to part orders, providing technicians with list of things that needed to be fixed, running weekly and monthly inventory reports, running purchase reports, speaking to vendors about materials needed at lower pricing or cost, performing parts cycle counts, counting all the stock of the parts in the stock room, providing discrepancy reports to Defendants, training

1 technicians in current software that Defendants use for their day to day operations, performing shipping
2 and receiving of parts, creating part numbers for new parts, doing clerical work, sending invoices,
3 communicating with clerical employees to pay for parts, filing paperwork, reaching out to vendors
4 regarding parts, picking up parts from vendors, and organizing company outings such as company
5 events.

6 18. Plaintiff and similarly situated employees worked over eight (8) hours per day and forty
7 (40) hours per week. Plaintiff and similarly situated employees worked in a fast-paced working
8 environment and were busy most of the time. Plaintiff and Aggrieve Employees clocked in and out
9 using a fingerprint operated timekeeping system. The timekeeping device was located in the middle of
10 the warehouse distribution center where Plaintiff and similarly situated employees worked. It would
11 take approximately five (5) minutes for Plaintiff and similarly situated employees to walk from the
12 entrance of the building to Defendant's timekeeping device. Plaintiff and similarly situated employees
13 would walk for approximately five (5) minutes to the timekeeping device to clock in prior to their shift
14 and another five (5) minutes after the end of their shift since they had to walk back from the timekeeping
15 device to the entrance/exit doors of the building. As a result, Plaintiff and similarly situated employees
16 spent on average approximately ten (10) minutes per day just to clock in and clock out before and after
17 her shift.

18 19. Furthermore, Defendants' employees and/or managers would contact Plaintiff on her
19 personal cell phone after she had clocked out to perform certain tasks, respond to emails. Furthermore,
20 technicians would contact Plaintiff after her work hours with questions and different issues. Vendors and
21 shipping companies would call Plaintiff after work hours to obtain information regarding different
22 orders and shipments. Defendants were aware of such occurrences. Plaintiff estimates that she spent
23 approximately twenty (20) minutes per week performing such tasks off the clock that she was not paid
24 for. Plaintiff is informed and believes that other Similarly situated employees worked off the clock and
25 were not paid for.

26 20. Additionally, Defendants paid Plaintiff and similarly situated employees retroactive pay
27 when they received a raise. However, sometimes, the retroactive pay was not calculated accurately to
28 reflect the correct amount of wages. For example, Defendants paid Plaintiff retroactively for the pay

1 period of January 2, 2022, to January 15, 2022. The retroactive pay amount was \$6.16. However,
2 accounting for a raise of \$0.77 per hour, Defendants should have paid Plaintiff \$58.32. Thus, the
3 retroactive payment amount was short \$52.16.

4 21. Furthermore, Plaintiff and similarly situated employees worked overtime because of the
5 high volume of cases and the high demand of the job. Defendants did not pay Plaintiff overtime for
6 work performed off the clock. Plaintiff is informed and believes that Defendants did not pay overtime to
7 similarly situated employees for off the clock work. Defendants paid Plaintiff and similarly situated
8 employees a bonus for some time during Plaintiff's employment period. For one particular type of
9 bonus, the amount was approximately between \$100 to \$150 per pay period and paid if they had good
10 attendance and did not miss days from work. However, Defendants failed to incorporate the value of the
11 bonus into the regular rate of pay in calculating Plaintiff's and similarly situated employees' premium
12 wages, including overtime, meal and rest period premiums, and sick leave. Additionally, Defendants
13 also issued restricted stock units ("Symbotic RSUs") as part of an incentive compensation plan to
14 Plaintiff and Similarly situated employees. A portion of Plaintiff's Symbotic RSUs vested while
15 Plaintiff worked for Defendants. For example, a payroll statement issued by Defendants on January 6,
16 2023, shows an amount of \$2,650.68 as earnings of RSUs corresponding to pay period of December 18,
17 2022, to December 31, 2023. Another payroll statement issued on January 9, 2023, shows an amount of
18 \$2,660.84 as earnings of RSUs corresponding to pay period December 29, 2002, to January 4, 2023.
19 However, Defendants never paid Plaintiff these RSUs, even though they had vested and were earned as
20 wages by Plaintiff. Defendants did not even include these RSUs in Plaintiff's last paycheck. Plaintiff is
21 informed and believes that Defendants failed to pay the RSUs on time to other similarly situated
22 employees. Additionally, Defendants failed to incorporate the value of the Symbotic RSUs into the
23 regular rate of pay in calculating Plaintiff's and similarly situated employees' premium wages, including
24 overtime, meal and rest period premiums, and sick leave.

25 22. Defendants did not inform Plaintiff and similarly situated employees that they were
26 entitled to a thirty (30) minute meal for every five (5) hours of work and a ten (10) minute break for
27 every four (4) hours of work or a fraction thereof. Due to the fact pace of the work and lack of staffing,
28 Plaintiff and similarly situated employees failed to take all their meal periods and to take timely meal

1 and rest periods. Defendants also interrupted Plaintiff and similarly situated employees during some of
2 their meal and rest periods. For example, Plaintiff took many late meal periods after her fifth hour of
3 work because she was busy performing different tasks. Also, Defendants interrupted Plaintiff and
4 similarly situated employees many times to answer questions or perform different tasks during their
5 meal periods. Plaintiff also took rest breaks after her fourth hour of work due to the nature of her work
6 and the tasks that needed to be done. Plaintiff is informed and believes that similarly situated employees
7 were also interrupted during their rest breaks and took late rest breaks due to manager's demands and
8 requests during rest periods.

9 23. Defendants also did not have a policy to reimburse Plaintiff and similarly situated
10 employees on use of their personal cell phones for work purposes. Plaintiff and similarly situated
11 employees used their personal cell phones to communicate with managers, supervisors, and other
12 Similarly situated employees regarding work issues and scheduling. For example, Plaintiff's manager
13 would email and/or message/text her and other similarly situated employees via Microsoft Teams App.
14 Plaintiff and similarly situated employees asked Defendants to be reimbursed for their personal cell
15 phone use for work purposes. However, Defendants informed Plaintiff and similarly situated employees
16 that they will not get reimbursed because they are hourly employees. Also, Defendants did not pay
17 Plaintiff and similarly situated employees for internet use when they worked from home during the
18 COVID period. Moreover, Plaintiff used her personal vehicle to pick up parts from local vendors in the
19 same town or West Sacramento and Sacramento area. Plaintiff picked up these parts sometimes during
20 her shift, sometimes after her shift, after she had clocked out. Defendants did not pay Plaintiff for the
21 time that she spent picking up parts after clocking out. Furthermore, Defendants did not reimburse
22 Plaintiff for the mileage that she drove to pick up parts for Defendants.

23 24. As a result of Defendants' failure to pay Plaintiff and similarly situated employees all
24 minimum wages, overtime wages, and meal and rest period premiums owed, sick leave owed, earned
25 RSUs, the wage statements Defendants issued were inaccurate. The paystubs that Defendants issued did
26 not accurately itemize all hours worked, the accurate rates of pay, minimum and overtime wages earned,
27 the number of meal and rest period premiums owed, and the accurate gross and net wages earned.
28

1 25. As of this date of this letter, Defendants have not paid Plaintiff and similarly situated
2 employees all the minimum wages, overtime wages, meal and rest period premiums, sick leave wages,
3 earned RSUs owed to them.

4 26. Additionally, Plaintiff was systematically paid lower wages than male employees with
5 similar skill, education, and experience for substantially similar work under similar working conditions.
6 Plaintiff is informed and believes that other similarly situated employees were paid less than other male
7 employees. At the time of her separation from employment, there were only three females working for
8 Defendant out of the Woodland, California location out of about thirty-six (36) employees. Plaintiff and
9 only two other women, one who was a human resources employee, and another who worked remotely,
10 were the only females, out of about thirty-six (36) employees working for Defendants at the Woodland,
11 California location. Throughout her employment, Plaintiff was paid less than other male employees
12 performing substantially similar work. For example, Defendants gave Plaintiff raises of about 2-2.5%
13 whereas male employees received raises of 3-7%. Also, Plaintiff's hourly rate was \$24.36, whereas
14 male employees' hourly rate was between \$25-\$27 per hour for technicians and \$26-\$32 for
15 maintenance technicians.

16 27. Plaintiff received lower wages than male employees since the beginning of her
17 employment. At first, Plaintiff was paid \$14-\$15 per hour when she was an Inventory Specialist. The
18 Inventory Specialist's duties included but were not limited to pulling out cases and boxes to make sure
19 that they were placed in the right location, if not, then moving the box to the right location. At some
20 point after Plaintiff started her new position as a Parts Specialists, Defendants hired two females as
21 inventory specialists. Plaintiff is informed and believes that the two female employees were making
22 about \$22 per hour. Plaintiff is informed and believes that those two female employees were also upset
23 that Defendants paid them wages that were lower than other male employees who performed
24 substantially similar work. However, after the two female employees left employment, Defendant hired
25 two (2) males. Plaintiff is informed and believes that the two males were paid about \$25-\$26 per hour.

26 28. Plaintiff has complained to Defendants regarding her receiving lower wages than male
27 counterparts or employees. However, Defendants informed Plaintiff that the wage difference is due to
28 Plaintiff's attendance, since Plaintiff has missed some time during her Family Medical Leave Act

1 (“FMLA”) leave. However, the same wage disparity continued between Plaintiff and other male
2 employees who perform substantially similar work. Plaintiff is informed and believes that other
3 similarly situated employees experienced the same wage disparity with male employees as Plaintiff did.

4 29. Defendants have different positions at the Woodland location. The positions include site
5 manager, maintenance manager, shift lead, automation manager, technicians, and system operator. All
6 the positions were filled by men. Plaintiff worked closely with the maintenance manager and if Plaintiff
7 was out of the office, the maintenance manager would cover for Plaintiff and perform most of the work
8 that Plaintiff performed on a daily basis. The maintenance manager’s duties included but were not
9 limited to overseeing the part’s specialist and the technicians. If there was anything wrong with the
10 software system, the maintenance manager would tell Plaintiff and the technicians what he needed.
11 Then, Plaintiff would order the parts that were needed. Technician’s job duties included but were not
12 limited to maintaining the robots, ask the part’s specialist to order certain parts that were needed.

13 30. However, for about one year, Plaintiff performed the same job duties and tasks as the
14 maintenance manager because the maintenance manager left, and Defendants did not replace him for
15 about one year. As a result, Plaintiff managed technicians, informed technicians what needed to be
16 fixed, performed maintenance manager’s daily tasks, informed technicians about discrepancies with
17 work orders and parts requests, check discrepancies with parts that technicians would use and not
18 account for in the system, input parts in inventory in order to re-stock, give warnings to technicians for
19 not complying with procedures, reach out to vendors to figure out if can buy material at a lower cost,
20 manage deadlines during peak season of September to January by increasing the number of re-ordering
21 parts to make sure that parts were sufficient in the inventory. Plaintiff even trained the new maintenance
22 manager that Defendants hired by showing to him different procedures, training him in the software that
23 Defendants used to find parts in the inventory, trained him how to run reports on parts, how to navigate
24 the system, and other daily tasks important in the running of the operations and maintenance.

25 31. Plaintiff found it easy to perform maintenance manager’s duties and tasks because they
26 were substantially the same as her work as a part’s specialist. However, Plaintiff is informed and
27 believes that the maintenance manager was paid about \$80,000 per year and the technicians were paid
28 about \$25-\$27 per hour. Furthermore, there was minimal training for an employee to become a

1 technician. Technicians' work involved making sure that the system kept running, if something went
2 wrong, they had to clear the HMI screen and restart the system. Technicians were known as fault
3 chasers. The training lasted one week, and no special certificates, education, or diplomas were required.
4 To become a maintenance technician, required a little more training and Defendants trained technicians
5 how to work on robots. Plaintiff is informed and believes that maintenance technicians were paid
6 between \$26-\$32 per hour. Lastly, Plaintiff is informed and believes that Defendants hired a male to
7 replace Plaintiff and paid him about \$3 more per hour than Plaintiff.

8 **CAUSES OF ACTION**

9 **FIRST CAUSE OF ACTION**
10 **FAILURE TO PAY OVERTIME WAGES**
11 **(As to all Defendants)**

12 32. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 31 as though fully
13 set forth herein.

14 33. During the period Plaintiff was employed by Defendants, Defendants were required to
15 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
16 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
17 hours worked in excess of twelve (12) hours per day. *See, e.g.,* IWC Wage Order No. 4, section (3)(A);
18 Cal. Lab. Code §§ 510, 1194.

19 34. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
20 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
21 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
22 worked at their regular rate of pay.

23 35. Plaintiff and similarly situated employees were not exempt from overtime protections
24 employees under the California Wage Orders and Labor Code.

25 36. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
26 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
27 the extent pertinent as if set forth here in full.
28

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(As to all Defendants)

37. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 36 as though fully set forth herein.

38. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff and similarly situated employees with at least California's applicable minimum for every hour worked. See MW-Order 2019; IWC Wage Order, No. 4, section 4(A); Cal. Lab. Code § 1194.

39. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their obligation to pay the minimum wage for each hour worked but failed to do so.

40. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

41. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 40 as though fully set forth herein.

42. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

43. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

44. California Labor Code section 512 and Wage Order No. 4 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

45. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated employees to take their first meal period before the completion of their fifth hour of work and failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

46. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

47. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

48. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 47 as though fully set forth herein.

49. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

50. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

51. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly situated employees to take paid rest periods of at least ten (10) minutes for each work period that they worked more than four (4) hours or a major fraction thereof.

52. Defendants further failed to pay Plaintiff and similarly situated employees the applicable rest period premiums for any such missed rest periods.

53. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FIFTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

54. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 53 as though fully set forth herein.

55. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

56. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an itemized statement or failed to provide an accurate and complete itemized statement showing the requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime and double time hours worked and corresponding rates of pay, and gross and net wages earned. The paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours worked due to Defendants' clocking in policy, the location of the timekeeping device, as well as

1 Defendants' meal and rest period policy and practices that interrupted Plaintiff and similarly situated
2 employees during their meal and rest breaks, that resulted in off-the-clock work. Plaintiff and
3 similarly situated employees were not able to promptly and easily determine their total hours worked
4 from their paystubs alone. Additionally, Plaintiff and similarly situated employees suffered
5 confusion over whether they received all wages owed and were prevented from effectively
6 challenging information on their wage statements.

7 57. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
8 employees have been damaged as stated in the section below entitled "DAMAGES," which is
9 incorporated here to the extent pertinent as if set forth here in full.

10 **SIXTH CAUSE OF ACTION**
11 **WAITING TIME PENALTIES**
(As to all Defendants)

12 58. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 57 as though fully
13 set forth herein.

14 59. An employer must pay an employee who is terminated all unpaid wages immediately
15 upon termination. *See* Cal. Lab. Code § 201.

16 60. An employer must pay an employee who resigns all unpaid wages within seventy-two
17 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

18 61. Plaintiff and similarly situated employees did not receive all wages, including minimum
19 and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or
20 within the required time after their separation from employment.

21 62. An employer who willfully fails to pay an employee wages in accordance with California
22 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
23 days. *See* Cal. Lab. Code § 203.

24 63. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
25 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
26 and similarly situated employees had to walk about five (5) minutes from the entrance of the building to
27 the timekeeping device to clock in and Plaintiff and similarly situated employees were not paid for this
28 time. Defendants also knew that Plaintiff and similarly situated employees used their cell phones,

1 internet, and cars for work purposes because Defendants communicated with them via Microsoft Teams
2 App to give instructions or request tasks done. Furthermore, Defendants knew that Plaintiff and
3 similarly situated employees had vested RSUs, but Defendants failed to calculate the value of the earned
4 RSUs into the regular rate of pay for purposes of overtime premiums, meal and rest period premiums,
5 and sick leave pay. However, Defendants did not pay at the time of Plaintiff's termination the correct
6 amount of wages owed for overtime premiums, meal and rest period premiums and sick leave pay, as
7 well as the earned RSUs. Further, Defendants knew that Plaintiff and similarly situated employees were
8 not provided with compliant meal and rest periods because Defendants interrupted Plaintiff and
9 similarly situated employees during their meal and rest periods or caused them not to take timely meal
10 and rest periods. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the
11 time of separation, yet Defendants still refused to pay the remaining wages owed.

12 64. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
13 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
14 thirty (30) days for Defendants' failure to pay all wages due.

15 **SEVENTH CAUSE OF ACTION**
16 **FAILURE TO REIMBURSE EXPENSES**
17 **(As to all Defendants)**

18 65. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 64 as though fully
19 set forth herein.

20 66. California Labor Code section 2802(a) states that "An employer shall indemnify his or
21 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
22 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
23 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
24 unlawful."

25 67. Defendants required Plaintiff and similarly situated employees to use their personal cell
26 phones to maintain communication regarding the status of their work, and various other work-related
27 communications that needed to be made during the day while Plaintiff and similarly situated employees
28 were stationed all over the warehouses. Defendants required Plaintiff and similarly situated employees
to use Microsoft Team App to communicate with each other. Defendants also emailed or texted

1 Plaintiff and similarly situated employees after work hours or on weekends to communicate regarding
2 work issues and Plaintiff took calls from different shipping companies and vendors on her private cell
3 phone. Plaintiff also used her car to pick up parts for Defendants and was not reimbursed for the miles
4 that she drove to pick up parts. Plaintiff and similarly situated employees requested Defendants to
5 reimburse them for such use. However, Defendants did not reimburse Plaintiff and similarly situated
6 employees for such use.

7 68. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
8 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
9 the extent pertinent as if set forth here in full.

10 **EIGHTH CAUSE OF ACTION**
11 **UNFAIR COMPETITION**
(As to SYMBOTIC LLC, SYMBOTIC, INC., and DOES 1 to 100)

12 69. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 68 as though fully
13 set forth herein.

14 70. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act
15 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
16 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
17 California Business and Professions ("B&P") Code § 17200.

18 71. Plaintiff and similarly situated employees were not paid all wages owed, including
19 minimum and overtime wages, and meal and rest period premiums, paid sick leave, reimbursed for
20 business expenses, during their employment or any time thereafter. Moreover, through Defendants
21 conduct Plaintiff and similarly situated employees were denied statutory protections regarding meal and
22 rest periods.

23 72. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
24 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to
25 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

26 73. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the
27 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
28 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code

1 sections 17203, 17208, violations of California Labor Code sections 226.7, 245 et seq, 510, 512, and
2 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing
3 of this Action.

4 **NINTH CAUSE OF ACTION**
5 **VIOLATION OF CALIFORNIA'S EQUAL PAY ACT**
6 **(As to all Defendants)**

7 74. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 73 as though fully
8 set forth herein.

9 75. Labor Code section 1197.5, states that, “[a]n employer shall not pay any of its employees
10 at wage rates less than the rates paid to employees of the opposite sex for substantially similar work,
11 when viewed as a composite of skill, effort, and responsibility, and performed under similar working
12 conditions...”

13 76. Labor Code section 1197.5, subdivision (c) further states that, “[a]ny employer who
14 violates [this section] is liable to the employee affected in the amount of the wages, and interest thereon,
15 of which the employee is deprived by reason of the violation, and an additional equal amount as
16 liquidated damages.”

17 77. Here, Plaintiff and similarly situated employees systematically paid lower wages than
18 male employees with similar skill, education, and experience for substantially similar work under
19 similar working conditions.

20 78. Plaintiff, therefore, suffered damages proximately caused by Defendants, and each of
21 their agent’s acts as stated in the section below entitled “DAMAGES,” which is incorporated here to the
22 extent pertinent as if set forth here in full.

23 **TENTH CAUSE OF ACTION**
24 **PRIVATE ATTORNEYS GENERAL ACT**
25 **(As to all Defendants)**

26 79. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 78 as though
27 fully set forth herein.

28 80. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the

1 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
2 current and former employees:

- 3 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime
4 Wages)
- 5 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay
6 Minimum Wages)
- 7 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B)
8 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 9 • Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest
10 Periods or Pay Premiums in Lieu Thereof)
- 11 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- 12 • Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- 13 • Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- 14 • Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of
15 Work in Any Industrial Welfare Commission Order)
- 16 • Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)
- 17 • Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- 18 • Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)
- 19 • Violation of Labor Code § 1197.5 (Wage Discrimination)

20 81. Plaintiff seeks civil penalties against Defendants as provided in the California Labor
21 Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section
22 2699(f)(2).

23 82. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code
24 sections 2699(a) and 2699.3.

25 83. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
26 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here
27 to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
5. As to the Fourth Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
6. As to the Fifth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);

- b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);

7. As to the Seventh Cause of Action:

- a. An amount to be proven at trial;
- b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

8. As to the Ninth Cause of Action (Cal. Labor Code § 1197.5):

- a. For wages that Plaintiff was deprived of due to Equal Pay Act violations and any interest thereon, according to proof;
- b. For liquidated damages in an equal amount, according to proof;
- c. For reasonable attorney's fees and costs pursuant to Labor Code section 1197.5 (h);

9. As to the Tenth Cause of Action:

- a. For civil penalties as provided in the Labor Code for each enumerated violation;
- b. For those Labor Code sections where there is no civil penalty provided for their violation, the default penalty provided in Labor Code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;
- c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

///

- 1 10. For such other and further relief as this Court may deem just and proper,
2 including, but not limited to:
3 a. Wages as proved at trial;
4 b. Injunctive and Declaratory relief;
5 c. Attorney's fees and costs as provided for by law; and
6 d. Interest.

7
8 Dated: December 11, 2023

Shimoda & Rodriguez Law, PC

9
10 By: _____

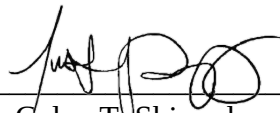

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EXHIBIT C



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September 8, 2023

For Online Filing:

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

Re: *Vanessa Ruiz v. Symbotic LLC, et al.*

Dear Labor Commissioner,

As counsel for Vanessa Ruiz (“Plaintiff”), I am writing to provide you and the following “employers” notice pursuant to California Labor Code section 2699.3:

Symbotic, LLC
200 Research Drive
Wilmington, MA 01887

Symbotic, Inc.
200 Research Drive
Wilmington, MA 01887

Richard B. Cohen
200 Research Drive
Wilmington, MA 01887

We are setting forth the “facts and theories” to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against Symbotic, LLC, Symbotic, Inc., and Richard B. Cohen (“Defendants”). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but is not limited to the following: all individuals who have worked, or continue to work, for Defendants in California at any time between one year prior to the filing of this notice to the present date. Plaintiff is clearly entitled to bring a Private Attorneys General Act (“PAGA”) claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).



A. FACTS

Plaintiff was employed with Defendants from June 2016 to around March 10, 2023, as a non-exempt employee. Plaintiff was paid \$24.36 per hour. Defendant also paid Plaintiff and Aggrieved Employees various types of bonuses and incentive payments during their employment. Defendants also issued restricted stock units (“Symbotic RSUs”) as part of an incentive compensation plan to Plaintiff and Aggrieved Employees. Defendants provide support for robotic-based supply chain automation for different companies or warehouses. Defendants provide technical support for the robotics that assist with shipping distribution.

At first, Plaintiff worked as an Inventory Specialist. Plaintiff’s job duties and tasks that she performed include but were not limited to looking for misplaced inventory and reporting the misplaced inventory. Later, Plaintiff worked as a Parts Specialist. Her job duties and/or responsibilities included but were not limited to performing audits of all the technicians’ work orders to make sure parts were entered accurately into the system, looking for discrepancies and tracking down and/or correct discrepancies, providing warnings or write ups to technicians for making multiple discrepancies in relation to part orders, providing technicians with list of things that needed to be fixed, running weekly and monthly inventory reports, running purchase reports, speaking to vendors about materials needed at lower pricing or cost, performing parts cycle counts, count all the stock of the parts in the stock room, provide discrepancy reports to Defendants, training technicians in current software that Defendants used for their day to day operations, performing shipping and receiving of parts, creating part numbers for new parts, doing clerical work, sending invoices, communicating with clerical employees to pay for parts, filing paperwork, reaching out to vendors regarding parts, picking up parts from vendors, and organizing company outings such as company events.

Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week. Plaintiff and Aggrieved Employees worked in a fast-paced working environment and were busy most of the time. Plaintiff and Aggrieve Employees clocked in and out using a fingerprint operated timekeeping system. The timekeeping device was located in the middle of the warehouse distribution center where Plaintiff and Aggrieved Employees worked. It would take approximately five (5) minutes for Plaintiff and Aggrieved Employees to walk from the entrance of the building to Defendant’s timekeeping device. Plaintiff and Aggrieved Employees would walk for approximately five (5) minutes to the timekeeping device to clock in prior to their shift and another five (5) minutes after the end of their shift since they had to walk back from the timekeeping device to the entrance/exit doors of the building. As a result, Plaintiff and Aggrieved Employees spent on average approximately ten (10) minutes per day just to clock in and clock out before and after her shift.

Furthermore, Defendants’ employees and/or managers would contact Plaintiff on her personal cell phone after she had clocked out to perform certain tasks, respond to emails. Furthermore, technicians would contact Plaintiff after her work hours with questions and



different issues. Vendors and shipping companies would call Plaintiff after work hours to obtain information regarding different orders and shipments. Defendants were aware of such occurrences. Plaintiff estimates that she spent approximately twenty (20) minutes per week performing such tasks off the clock that she was not paid for. Plaintiff is informed and believes that other Aggrieved Employees worked off the clock and were not paid for.

Additionally, Defendants paid Plaintiff and Aggrieved Employees retroactive pay when they received a raise. However, the retroactive pay was not calculated accurately to reflect the correct amount of wages. For example, Defendants paid Plaintiff retroactively for the pay period of January 2, 2022, to January 15, 2022. The retroactive pay amount was \$6.16. However, accounting for a raise of \$0.77 per hour, Defendants should have paid Plaintiff \$58.32. Thus, the retroactive payment amount was short \$52.16. Plaintiff is informed and believes that Aggrieved Employees were subject to such inaccurate wage calculations.

Furthermore, Plaintiff and Aggrieved Employees worked overtime because of the high volume of cases and the high demand of the job. Defendants did not pay Plaintiff overtime for work performed off the clock. Plaintiff is informed and believes that Defendants did not pay Aggrieved Employees overtime for work that occurred off the clock. Defendants paid Plaintiff and Aggrieved Employees a bonus for some time during Plaintiff's employment period. For one particular type of bonus, the amount was approximately between \$100 to \$150 per pay period and paid if they had good attendance and did not miss days from work. However, Defendants failed to incorporate the value of the attendance bonus into the regular rate of pay in calculating Plaintiff's and Aggrieved Employees' premium wages, including overtime, meal and rest period premiums, and sick leave. Additionally, Defendants also issued restricted stock units ("Symbotic RSUs") as part of an incentive compensation plan to Plaintiff and Aggrieved Employees. A portion of Plaintiff's Symbotic RSUs vested while Plaintiff worked for Defendants. For example, a payroll statement issued by Defendants on January 6, 2023, shows an amount of \$2,650.68 as earnings of RSUs corresponding to pay period of December 18, 2022, to December 31, 2023. Another payroll statement issued on January 9, 2023, shows an amount of \$2,660.84 as earnings of RSUs corresponding to pay period December 29, 2022, to January 4, 2023. However, Defendants never paid Plaintiff these RSUs, even though they had vested and were earned as wages by Plaintiff. Defendants did not even include these RSUs in Plaintiff's last paycheck. Plaintiff is informed and believes that Defendants failed to pay the RSUs on time to other similarly situated employees. Additionally, Defendants failed to incorporate the value of the Symbotic RSUs into the regular rate of pay in calculating Plaintiff's and Aggrieved Employees' premium wages, including overtime, meal and rest period premiums, and sick leave.

Defendants did not inform Plaintiff and Aggrieved Employees that they were entitled to a thirty (30) minute meal for every five (5) hours of work and a ten (10) minute break for every four (4) hours of work or a fraction thereof. Due to the fast pace of the work and lack of staffing, Plaintiff and Aggrieved Employees failed to take all their meal periods and to take timely meal and rest periods. Defendants also interrupted Plaintiff and Aggrieved Employees



during some of their meal and rest periods. For example, Plaintiff took many late meal periods after her fifth hour of work because she was busy performing different tasks. Also, Defendants interrupted Plaintiff and Aggrieved Employees many times to answer questions or perform different tasks during their meal periods. Plaintiff also took rest breaks after her fourth hour of work due to the nature of her work and the tasks that needed to be done. Plaintiff is informed and believes that Aggrieved Employees were also interrupted during their rest breaks and took late rest breaks due to manager's demands and requests during rest periods.

Defendants also did not have a policy to reimburse Plaintiff and Aggrieved Employees on use of their personal cell phones for work purposes. Plaintiff and Aggrieved Employees used their personal cell phones to communicate with managers, supervisors, and other Aggrieved Employees regarding work issues and scheduling. For example, Plaintiff's manager would email and/or message/text her and other Aggrieved Employees via Microsoft Teams App. Plaintiff and Aggrieved Employees asked Defendants to be reimbursed for their personal cell phone use for work purposes. However, Defendants informed Plaintiff and Aggrieved Employees that they will not get reimbursed because they are hourly employees. Also, Defendants did not pay Plaintiff and Aggrieved Employees for internet use when they worked from home during the COVID period. Moreover, Plaintiff used her personal vehicle to pick up parts from local vendors in the same town or West Sacramento and Sacramento area. Plaintiff picked up these parts sometimes during her shift, sometimes after her shift, after she had clocked out. Defendants did not pay Plaintiff for the time that she spent picking up parts after clocking out. Furthermore, Defendants did not reimburse Plaintiff for the mileage that she drove in order to pick up parts for Defendants.

As a result of Defendants' failure to pay Plaintiff and Aggrieved Employees all minimum wages, overtime wages, and meal and rest period premiums owed, sick leave owed, earned RSUs, the wage statements Defendants issued were inaccurate. The paystubs that Defendants issued did not accurately itemize all hours worked, the accurate rates of pay, minimum and overtime wages earned, the number of meal and rest period premiums owed, and the accurate gross and net wages earned.

As of this date of this letter, Defendants have not paid Plaintiff and Aggrieved Employees all the minimum wages, overtime wages, meal and rest period premiums, sick leave wages, earned RSUs owed to them.

Symbotic LLC identified Richard B. Cohen, as its manager or member, as of April 13, 2023, in its filing with the California Secretary of State. Plaintiff is informed and believes that Mr. Cohen was responsible for creating and electing to implement the payroll and compensation policies and practices identified herein and/or that Mr. Cohen was aware of such policies and practices and ratified them. Plaintiff is informed and believes that Richard B. Cohen holds similar positions and duties for Symbotic, Inc.



Additionally, Plaintiff was systematically paid lower wages than male employees with similar skill, education, and experience for substantially similar work under similar working conditions. Plaintiff is informed and believes that other similarly situated employees were paid less than other male employees. At the time of her separation from employment, there were only three females working for Defendant out of the Woodland, California location out of about thirty-six (36) employees. Plaintiff and only two other women, one who was human resources employee, and another who worked remotely, were the only females, out of about thirty-six (36) employees working for Defendants at the Woodland, California location. Throughout her employment, Plaintiff was paid less than other male employees performing substantially similar work. For example, Defendants gave Plaintiff raises of about 2-2.5% whereas male employees received raises of 3-7%. Also, Plaintiff's hourly rate was \$24.36, whereas male employees' hourly rate was between \$25-\$27 per hour for technicians and \$26-\$32 for maintenance technicians.

Plaintiff received lower wages than male employees since the beginning of her employment. At first, Plaintiff was paid \$14-\$15 per hour when she was an Inventory Specialist. The Inventory Specialist's duties included but were not limited to pulling out cases and boxes to make sure that they were placed in the right location, if not, then moving the box to the right location. At some point after Plaintiff started her new position as a Parts Specialists, Defendants hired two females as inventory specialists. Plaintiff is informed and believes that the two female employees were making about \$22 per hour. Plaintiff is informed and believes that those two female employees were also upset that Defendants paid them wages that were lower than other male employees who performed substantially similar work. However, after the two female employees left employment, Defendant hired two (2) males. Plaintiff is informed and believes that the two males were paid about \$25-\$26 per hour.

Plaintiff has complained to Defendants regarding her receiving lower wages than male counterparts or employees. However, Defendants informed Plaintiff that the wage difference is due to Plaintiff's attendance since Plaintiff has missed some time during her Family Medical Leave Act ("FMLA") leave. However, the same wage disparity continued between Plaintiff and other male employees who perform substantially similar work. Plaintiff is informed and believes that other similarly situated employees experienced the same wage disparity with male employees as Plaintiff did.

Defendant's job positions at Plaintiff's worksite included site manager, maintenance manager, shift lead, automation manager, technicians, and system operator. All the positions were filled by men. Plaintiff worked closely with the maintenance manager and if Plaintiff was out of the office, the maintenance manager would cover for Plaintiff and perform most of the work that Plaintiff performed daily. The maintenance manager's duties included but were not limited to overseeing the part's specialist and the technicians. If there was anything wrong with the software system, the maintenance manager would tell Plaintiff and the technicians what he needed. Then, Plaintiff would order the parts that were needed. Technician's job duties included



but were not limited to maintaining the robots, ask the part's specialist to order certain parts that were needed.

However, for about one year, Plaintiff performed the same job duties and tasks as the maintenance manager because the maintenance manager left, and Defendants did not replace him for about one year. As a result, Plaintiff managed technicians, informed technicians what needed to be fixed, performed maintenance manager's daily tasks, informed technicians about discrepancies with work orders and parts requests, check discrepancies with parts that technicians would use and not account for in the system, input parts in inventory in order to re-stock, give warnings to technicians for not complying with procedures, reach out to vendors to figure out if can buy material at a lower cost, manage deadlines during peak season of September to January by increasing the number of re-ordering parts to make sure that parts were sufficient in the inventory. Plaintiff even trained the new maintenance manager that Defendants hired by showing to him different procedures, training him in the software that Defendants used to find parts in the inventory, trained him how to run reports on parts, how to navigate the system, and other daily tasks important in the running of the operations and maintenance.

Plaintiff found it easy to perform maintenance manager's duties and tasks because they were substantially the same as her work as a part's specialist. However, Plaintiff is informed and believes that the maintenance manager was paid about \$80,000 per year and the technicians were paid about \$25-\$27 per hour. Furthermore, there was minimal training for an employee to become a technician. Technicians' work involved making sure that the system kept running, if something went wrong, they had to clear the HMI screen and restart the system. Technicians were known as fault chasers. The training lasted one week, and no special certificates, education, or diplomas were required. To become a maintenance technician, required a little more training and Defendants trained technicians how to work on robots. Plaintiff is informed and believes that maintenance technicians were paid between \$26-\$32 per hour. Lastly, Plaintiff is informed and believes that Defendants hired a male to replace Plaintiff and paid him about \$3 more per hour than Plaintiff.

B. ALLEGATIONS AND CHARGES

Count One – Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees 2 times their regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff



and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week and were not paid all overtime wages owed. Plaintiff and all Aggrieved Employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.

Count Two – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)

During the period Plaintiff and Aggrieved Employees were employed by Defendants they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.*, IWC Wage Order MW-2019; IWC Wage Order No. 4, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay Plaintiff and Aggrieved Employees for all hours worked. Thus, Plaintiff and Aggrieved Employees were not paid at least the applicable state minimum wage for those hours worked. This is against the law.

Count Three - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 4, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 4, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.

Count Four – Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 4, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendants also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.



Count Five – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” For the reasons stated above, Defendants failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

Count Six – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

Labor Code sections 201-203 require that all wages, including minimum wages, overtime wages, bonuses, missed meal and rest periods, and paid sick time, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

Count Seven – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “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, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Defendants failed to pay any reimbursements to Plaintiff and Aggrieved Employees for the use of personal internet, cell phones, and personal car for work purposes. This was in violation of the law.

Count Eight – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section



558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendants, by and through Defendants agents, violated Plaintiff and Aggrieved Employees' rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Richard B. Cohen is and has been an officer, director, shareholder, and/or managing agents of Defendants responsible for the violations stated herein as they were in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.

Count Nine – Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and Aggrieved Employees' wage records and hours worked. This was against the law.

Count Ten – Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 ("HWHFA") for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Any sick leave taken must be paid at the employee's regular rate of pay. For the reasons state above,



Defendants failed to provide Plaintiff and Aggrieved Employees with sick leave meeting the requirements set forth in HWHFA. Plaintiff will be seeking equitable, injunctive, and restitutionary relief to remedy these violations.

Count Eleventh – Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)

Labor Code section 204(a) provides that “all wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. As stated above, Defendants failed to comply with this provision by paying Plaintiff and Aggrieved Employees for wages earned between the 1st and 15th and between the 16th and last day of the month beyond the maximum time allowed under the statute. This was in violation of the law.

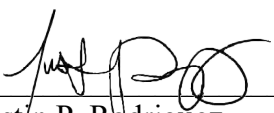
Count Twelfth – Violation of Labor Code § 1197.5 (Wage Discrimination)

Labor Code section 1197.5, states that, “[a]n employer shall not pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions...” Section 1197.5, subdivision (c) further states that, “[a]ny employer who violates [this section] is liable to the employee affected in the amount of the wages, and interest thereon, of which the employee is deprived by reason of the violation, and an additional equal amount as liquidated damages.” Plaintiff and Aggrieved Employees were systematically paid lower wages than employees of the opposite sex for substantially similar work and/or work that was performed in a lower job classification. This is in violation of the law.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

Shimoda & Rodriguez Law, PC

By: 
Justin P. Rodriguez

JPR:rk
cc: Client via e-mail

Vanessa Ruiz v. Symbotic LLC, et al.

**PROOF OF SERVICE — CCP §§ 1013a and 2015.5
and California Rules of Court, Rule 1.21 and Rule 2.150**

I, Elias Tapia, declare that:

I am a citizen of the United States and am over the age of eighteen years and not a party to the within above-entitled action.

On September 8, 2023, I served the following documents on the party below:

- Private Attorneys General Act Letter

Symbotic, LLC 200 Research Drive Wilmington, MA 01887	Symbotic, Inc. 200 Research Drive Wilmington, MA 01887
Richard B. Cohen 200 Research Drive Wilmington, MA 01887	

[XXX] [By Certified Mail] I am familiar with my employer's practice for the collection and processing of correspondence for mailing with the United States Postal Service and that each day's mail is deposited with the United States Postal Service that same day in the ordinary course of business. On the date set forth above, I served the aforementioned document(s) on the parties in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for collection and mailing on this date, following ordinary business practices, at Elk Grove, California, addressed as set forth above.

[] [By Personal Service] By personally delivering a true copy thereof to the office of the addressee above.

[] [By Overnight Courier] By causing a true copy and/or original thereof to be personally delivered via the following overnight courier service:_____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 8, 2023, at Elk Grove, California.



Elias Tapia



Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd.
Suite #120
Elk Grove, CA 95624
Ph. (916) 525-0716
Fax (916) 760-3733
www.shimodalaw.com

October 18, 2024

For Online Filing:

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

Re: *Vanessa Ruiz v. Symbotic LLC, et al.*

Dear Labor Commissioner,

As counsel for Vanessa Ruiz (“Plaintiff”), I am writing this letter in order to amend our previously filed September 8, 2023, notice. By way of this notice, we are providing additional facts and theories of liability as well as clarifying previously stated theories of liability. Notice to relevant employers pursuant to California Labor Code section 2699.3 is also being provided:

Symbotic, LLC
200 Research Drive
Wilmington, MA 01887

Symbotic, Inc.
200 Research Drive
Wilmington, MA 01887

Richard B. Cohen
200 Research Drive
Wilmington, MA 01887

We are setting forth the “facts and theories” to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against Symbotic, LLC, Symbotic, Inc., and Richard B. Cohen (“Defendants”). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but is not limited to the following: all individuals who have worked, or continue to work, for Defendants in California at any time between one year prior to the filing of this notice to the present date. Plaintiff is clearly entitled to bring a Private Attorneys General Act (“PAGA”) claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).



A. FACTS

Plaintiff was employed with Defendants from June 2016 to around March 10, 2023, as a non-exempt employee. Plaintiff was paid \$24.36 per hour. Defendant also paid Plaintiff and Aggrieved Employees various types of bonuses and incentive payments during their employment. Defendants also issued restricted stock units (“Symbotic RSUs”) as part of an incentive compensation plan to Plaintiff and Aggrieved Employees. Defendants provide support for robotic-based supply chain automation for different companies or warehouses. Defendants provide technical support for the robotics that assist with shipping distribution.

At first, Plaintiff worked as an Inventory Specialist. Plaintiff’s job duties and tasks that she performed include but were not limited to looking for misplaced inventory and reporting the misplaced inventory. Later, Plaintiff worked as a Parts Specialist. Her job duties and/or responsibilities included but were not limited to performing audits of all the technicians’ work orders to make sure parts were entered accurately into the system, looking for discrepancies and tracking down and/or correct discrepancies, providing warnings or write ups to technicians for making multiple discrepancies in relation to part orders, providing technicians with list of things that needed to be fixed, running weekly and monthly inventory reports, running purchase reports, speaking to vendors about materials needed at lower pricing or cost, performing parts cycle counts, count all the stock of the parts in the stock room, provide discrepancy reports to Defendants, training technicians in current software that Defendants used for their day to day operations, performing shipping and receiving of parts, creating part numbers for new parts, doing clerical work, sending invoices, communicating with clerical employees to pay for parts, filing paperwork, reaching out to vendors regarding parts, picking up parts from vendors, and organizing company outings such as company events.

Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week. Plaintiff and Aggrieved Employees worked in a fast-paced working environment and were busy most of the time. Plaintiff and Aggrieved Employees clocked in and out using a fingerprint operated timekeeping system. The timekeeping device was located in the middle of the warehouse distribution center where Plaintiff and Aggrieved Employees worked. It would take approximately five (5) minutes for Plaintiff and Aggrieved Employees to walk from the entrance of the building to Defendant’s timekeeping device. Plaintiff and Aggrieved Employees would walk for approximately five (5) minutes to the timekeeping device to clock in prior to their shift and another five (5) minutes after the end of their shift since they had to walk back from the timekeeping device to the entrance/exit doors of the building. As a result, Plaintiff and Aggrieved Employees spent on average approximately ten (10) minutes per day just to clock in and clock out before and after her shift.

Additionally, Defendants rounded Plaintiff’s and Aggrieved Employees’ hours worked to the nearest quarter hour even though Defendants had the ability to track Plaintiff’s and



Aggrieved Employees' time. Defendants failed to pay Plaintiff and Aggrieved Employees for all actual hours worked as a result of rounding, including overtime and minimum wages.

Furthermore, Defendants' employees and/or managers would contact Plaintiff on her personal cell phone after she had clocked out to perform certain tasks, respond to emails. Furthermore, technicians would contact Plaintiff after her work hours with questions and different issues. Vendors and shipping companies would call Plaintiff after work hours to obtain information regarding different orders and shipments. Defendants were aware of such occurrences. Plaintiff estimates that she spent approximately twenty (20) minutes per week performing such tasks off the clock that she was not paid for. Plaintiff is informed and believes that other Aggrieved Employees worked off the clock and were not paid for this time.

Additionally, Defendants paid Plaintiff and Aggrieved Employees retroactive pay when they received a raise. However, the retroactive pay was not calculated accurately to reflect the correct amount of wages. For example, Defendants paid Plaintiff retroactively for the pay period of January 2, 2022, to January 15, 2022. The retroactive pay amount was \$6.16. However, accounting for a raise of \$0.77 per hour, Defendants should have paid Plaintiff \$58.32. Thus, the retroactive payment amount was short \$52.16. Plaintiff is informed and believes that Aggrieved Employees were subject to such inaccurate wage calculations.

Furthermore, Plaintiff and Aggrieved Employees worked overtime because of the high volume of cases and the high demand of the job. Defendants did not pay Plaintiff overtime for work performed off the clock. Plaintiff is informed and believes that Defendants did not pay Aggrieved Employees overtime for work that occurred off the clock. Defendants paid Plaintiff and Aggrieved Employees a bonus for some time during Plaintiff's employment period. For one particular type of bonus, the amount was approximately between \$100 to \$150 per pay period and paid if they had good attendance and did not miss days from work. However, Defendants failed to incorporate the value of the attendance bonus into the regular rate of pay in calculating Plaintiff's and Aggrieved Employees' premium wages, including overtime, meal and rest period premiums, and sick leave. Additionally, Defendants also issued restricted stock units ("Symbotic RSUs") as part of an incentive compensation plan to Plaintiff and Aggrieved Employees. A portion of Plaintiff's Symbotic RSUs vested while Plaintiff worked for Defendants. For example, a payroll statement issued by Defendants on January 6, 2023, shows an amount of \$2,650.68 as earnings of RSUs corresponding to pay period of December 18, 2022, to December 31, 2023. Another payroll statement issued on January 9, 2023, shows an amount of \$2,660.84 as earnings of RSUs corresponding to pay period December 29, 2022, to January 4, 2023. However, Defendants never paid Plaintiff these RSUs, even though they had vested and were earned as wages by Plaintiff. Defendants did not even include these RSUs in Plaintiff's last paycheck. Plaintiff is informed and believes that Defendants failed to pay the RSUs on time to other similarly situated employees. Additionally, Defendants failed to incorporate the value of the Symbotic RSUs into the regular rate of pay in calculating Plaintiff's and Aggrieved Employees' premium wages, including overtime, meal and rest period premiums, and sick leave.



Defendants did not inform Plaintiff and Aggrieved Employees that they were entitled to a thirty (30) minute meal for every five (5) hours of work and a ten (10) minute break for every four (4) hours of work or a fraction thereof. Due to the fact pace of the work and lack of staffing, Plaintiff and Aggrieved Employees failed to take all their meal periods and to take timely meal and rest periods. Defendants also interrupted Plaintiff and Aggrieved Employees during some of their meal and rest periods. For example, Plaintiff took many late meal periods after her fifth hour of work because she was busy performing different tasks. Also, Defendants interrupted Plaintiff and Aggrieved Employees many times to answer questions or perform different tasks during their meal periods. Plaintiff also took rest breaks after her fourth hour of work due to the nature of her work and the tasks that needed to be done. Plaintiff is informed and believes that Aggrieved Employees were also interrupted during their rest breaks and took late rest breaks due to manager's demands and requests during rest periods.

Defendants also did not have a policy to reimburse Plaintiff and Aggrieved Employees on use of their personal cell phones for work purposes. Plaintiff and Aggrieved Employees used their personal cell phones to communicate with managers, supervisors, and other Aggrieved Employees regarding work issues and scheduling. For example, Plaintiff's manager would email and/or message/text her and other Aggrieved Employees via Microsoft Teams App. Plaintiff and Aggrieved Employees asked Defendants to be reimbursed for their personal cell phone use for work purposes. However, Defendants informed Plaintiff and Aggrieved Employees that they will not get reimbursed because they are hourly employees. Also, Defendants did not pay Plaintiff and Aggrieved Employees for internet use when they worked from home during the COVID period. Moreover, Plaintiff used her personal vehicle to pick up parts from local vendors in the same town or West Sacramento and Sacramento area. Plaintiff picked up these parts sometimes during her shift, sometimes after her shift, after she had clocked out. Defendants did not pay Plaintiff for the time that she spent picking up parts after clocking out. Furthermore, Defendants did not reimburse Plaintiff for the mileage that she drove in order to pick up parts for Defendants.

As a result of Defendants' failure to pay Plaintiff and Aggrieved Employees all minimum wages, overtime wages, and meal and rest period premiums owed, sick leave owed, earned RSUs, the wage statements Defendants issued were inaccurate. The paystubs that Defendants issued did not accurately itemize all hours worked, the accurate rates of pay, minimum and overtime wages earned, the number of meal and rest period premiums owed, and the accurate gross and net wages earned.

As of this date of this letter, Defendants have not paid Plaintiff and Aggrieved Employees all the minimum wages, overtime wages, meal and rest period premiums, sick leave wages, earned RSUs owed to them.



Symbiotic LLC identified Richard B. Cohen, as its manager or member, as of April 13, 2023, in its filing with the California Secretary of State. Plaintiff is informed and believes that Mr. Cohen was responsible for creating and electing to implement the payroll and compensation policies and practices identified herein and/or that Mr. Cohen was aware of such policies and practices and ratified them. Plaintiff is informed and believes that Richard B. Cohen holds similar positions and duties for Symbiotic, Inc.

Additionally, Plaintiff was systematically paid lower wages than male employees with similar skill, education, and experience for substantially similar work under similar working conditions. Plaintiff is informed and believes that other similarly situated employees were paid less than other male employees. At the time of her separation from employment, there were only three females working for Defendant out of the Woodland, California location out of about thirty-six (36) employees. Plaintiff and only two other women, one who was human resources employee, and another who worked remotely, were the only females, out of about thirty-six (36) employees working for Defendants at the Woodland, California location. Throughout her employment, Plaintiff was paid less than other male employees performing substantially similar work. For example, Defendants gave Plaintiff raises of about 2-2.5% whereas male employees received raises of 3-7%. Also, Plaintiff's hourly rate was \$24.36, whereas male employees' hourly rate was between \$25-\$27 per hour for technicians and \$26-\$32 for maintenance technicians.

Plaintiff received lower wages than male employees since the beginning of her employment. At first, Plaintiff was paid \$14-\$15 per hour when she was an Inventory Specialist. The Inventory Specialist's duties included but were not limited to pulling out cases and boxes to make sure that they were placed in the right location, if not, then moving the box to the right location. At some point after Plaintiff started her new position as a Parts Specialists, Defendants hired two females as inventory specialists. Plaintiff is informed and believes that the two female employees were making about \$22 per hour. Plaintiff is informed and believes that those two female employees were also upset that Defendants paid them wages that were lower than other male employees who performed substantially similar work. However, after the two female employees left employment, Defendant hired two (2) males. Plaintiff is informed and believes that the two males were paid about \$25-\$26 per hour.

Plaintiff has complained to Defendants regarding her receiving lower wages than male counterparts or employees. However, Defendants informed Plaintiff that the wage difference is due to Plaintiff's attendance since Plaintiff has missed some time during her Family Medical Leave Act ("FMLA") leave. However, the same wage disparity continued between Plaintiff and other male employees who perform substantially similar work. Plaintiff is informed and believes that other similarly situated employees experienced the same wage disparity with male employees as Plaintiff did.

Defendant's job positions at Plaintiff's worksite included site manager, maintenance manager, shift lead, automation manager, technicians, and system operator. All the positions were filled by men. Plaintiff worked closely with the maintenance manager and if Plaintiff was out of the office, the maintenance manager would cover for Plaintiff and perform most of the work that Plaintiff performed daily. The maintenance manager's duties included but were not limited to overseeing the part's specialist and the technicians. If there was anything wrong with the software system, the maintenance manager would tell Plaintiff and the technicians what he needed. Then, Plaintiff would order the parts that were needed. Technician's job duties included but were not limited to maintaining the robots, ask the part's specialist to order certain parts that were needed.

However, for about one year, Plaintiff performed the same job duties and tasks as the maintenance manager because the maintenance manager left, and Defendants did not replace him for about one year. As a result, Plaintiff managed technicians, informed technicians what needed to be fixed, performed maintenance manager's daily tasks, informed technicians about discrepancies with work orders and parts requests, check discrepancies with parts that technicians would use and not account for in the system, input parts in inventory in order to re-stock, give warnings to technicians for not complying with procedures, reach out to vendors to figure out if can buy material at a lower cost, manage deadlines during peak season of September to January by increasing the number of re-ordering parts to make sure that parts were sufficient in the inventory. Plaintiff even trained the new maintenance manager that Defendants hired by showing to him different procedures, training him in the software that Defendants used to find parts in the inventory, trained him how to run reports on parts, how to navigate the system, and other daily tasks important in the running of the operations and maintenance.

Plaintiff found it easy to perform maintenance manager's duties and tasks because they were substantially the same as her work as a part's specialist. However, Plaintiff is informed and believes that the maintenance manager was paid about \$80,000 per year and the technicians were paid about \$25-\$27 per hour. Furthermore, there was minimal training for an employee to become a technician. Technicians' work involved making sure that the system kept running, if something went wrong, they had to clear the HMI screen and restart the system. Technicians were known as fault chasers. The training lasted one week, and no special certificates, education, or diplomas were required. To become a maintenance technician, required a little more training and Defendants trained technicians how to work on robots. Plaintiff is informed and believes that maintenance technicians were paid between \$26-\$32 per hour. Lastly, Plaintiff is informed and believes that Defendants hired a male to replace Plaintiff and paid him about \$3 more per hour than Plaintiff.



B. ALLEGATIONS AND CHARGES

Count One – Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees 2 times their regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week and were not paid all overtime wages owed. Plaintiff and all Aggrieved Employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.

Count Two – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)

During the period Plaintiff and Aggrieved Employees were employed by Defendants they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.,* IWC Wage Order MW-2019; IWC Wage Order No. 4, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay Plaintiff and Aggrieved Employees for all hours worked. Thus, Plaintiff and Aggrieved Employees were not paid at least the applicable state minimum wage for those hours worked. This is against the law.

Count Three - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 4, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 4, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.



**Count Four – Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A)
(Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)**

Labor Code section 226.7 and Wage Order No. 4, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendants also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.

Count Five – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” For the reasons stated above, Defendants failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

Count Six – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

Labor Code sections 201-203 require that all wages, including minimum wages, overtime wages, bonuses, missed meal and rest periods, and paid sick time, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

Count Seven – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “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, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions,



believed them to be unlawful.” Defendants failed to pay any reimbursements to Plaintiff and Aggrieved Employees for the use of personal internet, cell phones, and personal car for work purposes. This was in violation of the law.

Count Eight – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendants, by and through Defendants agents, violated Plaintiff and Aggrieved Employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Richard B. Cohen is and has been an officer, director, shareholder, and/or managing agents of Defendants responsible for the violations stated herein as they were in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.

Count Nine – Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and Aggrieved Employees’ wage records and hours worked. This was against the law.

Count Ten – Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so



that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 (“HWHFA”) for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Any sick leave taken must be paid at the employee's regular rate of pay. For the reasons state above, Defendants failed to provide Plaintiff and Aggrieved Employees with sick leave meeting the requirements set forth in HWHFA. Plaintiff will be seeking equitable, injunctive, and restitutionary relief to remedy these violations.

Count Eleven – Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)

Labor Code section 204(a) provides that “all wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. As stated above, Defendants failed to comply with this provision by paying Plaintiff and Aggrieved Employees for wages earned between the 1st and 15th and between the 16th and last day of the month beyond the maximum time allowed under the statute. This was in violation of the law.

Count Twelve – Violation of Labor Code § 1197.5 (Wage Discrimination)

Labor Code section 1197.5, states that, “[a]n employer shall not pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions...” Section 1197.5, subdivision (c) further states that, “[a]ny employer who violates [this section] is liable to the employee affected in the amount of the wages, and interest thereon, of which the employee is deprived by reason of the violation, and an additional equal amount as liquidated damages.” Plaintiff and Aggrieved Employees were systematically paid lower wages than employees of the opposite sex for substantially similar work and/or work that was performed in a lower job classification. This is in violation of the law.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.



Very truly yours,

Shimoda & Rodriguez Law, PC

By: _____
Justin P. Rodriguez

JPR:rk

cc: Client via e-mail

EXHIBIT D

DECLARATION OF LISA MULLINS

1
2
3 1. I am a resident of the United States of America and am over the age of 21. I am the
4 President for ILYM Group, Inc., (herein after referred to as “ILYM Group”), a professional class action
5 services provider. I am preparing this declaration at the request of Plaintiff’s Counsel. I have personal
6 knowledge of the facts herein, and, if called upon to testify, I could and would testify competently to such
7 facts.

8 2. ILYM Group has extensive experience in disseminating class action notices and
9 administering class action settlements, including direct mail services, telephone, and web-based support,
10 database management, opt-out processing, and settlement fund distribution services for class actions
11 ranging in size from 26 to 4.5 million Class Members. Attached hereto, as **Exhibit A**, is a true and correct
12 copy of ILYM Group’s current CV, reflecting our primary competencies as they relate to class action
13 administration. ILYM Group maintains the highest level of confidentiality. The class data and all forms
14 of communication received by ILYM Group, Inc. will be held in strict confidentiality and will not be
15 disclosed. ILYM Group, will set up a login for Defense Counsel to transmit the class data through our
16 encrypted secure portal. Attached hereto, as **Exhibit B** is ILYM Group’s Security Summary and Protocol.
17 ILYM Group is insured with E&O and Cyber Insurance policies. ILYM Group is insured with E&O
18 Insurance policies up to \$2,000,000 per incident and Cyber Insurance policies up to \$5,000,000 per
19 incident.

20 3. ILYM Group has never had any financial interests in nor affiliation with the parties or
21 counsel in the *Ruiz v. Symbotic LLC, et al.* matter.

22 4. If appointed by the Court to disseminate the class notice in this case, ILYM Group’s duties
23 will include but not limited to: (a) conducting address traces to locate class member addresses as necessary;
24 (b) mailing the class notice to the class members; (c) handling inquiries from class members concerning
25 the class notice; and (d) performing other such duties as the parties and/or the Court may direct.

26 5. Upon appointment, ILYM Group will provide a mailing address and toll-free telephone
27 number to receive correspondence and inquiries from class members. After receiving the class data file
28 from Defendant, which should contain the class members’ names, last known addresses, and social security

1 numbers, ILYM Group will upload the data into our database and check for duplicates and other possible
2 discrepancies.

3 6. As part of the preparation for mailing the class notice, ILYM Group will process class
4 members' names and addresses against the National Change of Address ("NCOA") database, maintained
5 by the United States Postal Service ("USPS"), for the purpose of updating and confirming the mailing
6 addresses of the class members before mailing of the class notice and opt-in form. To the extent an updated
7 address is found in the NCOA database, ILYM Group will use the updated address for mailing the class
8 notice. If ILYM Group does not locate an updated address in the NCOA database, it will use the original
9 address provided by Defendant for mailing the class notice.

10 7. Should any class notices be returned to ILYM Group's office as undeliverable, ILYM
11 Group will attempt to locate an updated address using the NCOA database and/or other skip trace efforts
12 and will promptly re-mail the class notice.

13 8. Prior to sending out the notice in English & Spanish, ILYM Group will fill in the specific
14 date for the deadline so that all class members will be apprised of exactly when all applicable forms will
15 be due, depending on the deadlines set by the Court, i.e., 60-day Notice period to opt-out, dispute or file
16 an objection. At the expiration of the deadline, ILYM Group will inform all parties as to the number and
17 name of those individuals who filed a timely opt-out, dispute or objection.

18 9. ILYM Group's Disbursement Process will include but not limited to; (a) applying for the
19 case EIN; (b) establishing Qualified Settlement Fund ("QSF") Escrow Account), with administering tasks
20 including but not limited to overview and reconciliation of account; (c) calculating the individual
21 settlement amounts; (d) preparing, administering and distributing settlement award checks to the
22 Participating Class Members, including necessary tax forms (W2 and/or 1099); (e) calculating and
23 withholding all applicable state and federal taxes; and (f) performing other such duties as the Parties and/or
24 the Courts direct. The above services are included in ILYM Group's initial quote. Attached hereto, as
25 **Exhibit C**, is a true and correct copy of ILYM Group's capped quote for this matter.

26 10. ILYM Group's fees are charged: hourly, fixed & per person. No additional charges will be
27 incurred unless the class size increases, or additional services are requested. ILYM Group's fees associated
28 with the administration of this settlement are capped at: **\$6,950.00**.

1 I declare, under penalty of perjury under the laws of the United States of America and the State
2 of California that the foregoing is true and correct. Executed this 30th day of September 2024, at Tustin,
3 California.

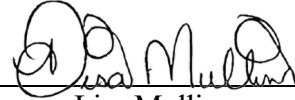
4
5 
6 Lisa Mullins

EXHIBIT “A”

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Overview of Our Firm:

ILYM Group, Inc is a class action administration, legal notification, and direct media outlets firm. With over 20 years of combined experience, our primary commitments are to client satisfaction, cutting edge technology and data management security, seamless case management and delivery of case expectations. Because, of our adherence to these commitments, ILYM Group, Inc is a one of the fastest growing, Woman Owned Business (NAPW), in the industry and has become the go-to firm for class action administration and legal notification. ILYM Group, Inc works with the top defense and plaintiff firms across the United States.

AREAS OF EXPERTISE:

- Wage and Hour
- FLSA
- Insurance and Health Care
- Consumer
- Finance
- ERISA
- TCPA
- Antitrust
- Securities

Ramirez v JC Penney.

- ERISA Case with a class size of 26,000.

Kruger, et al. v. Novant Health

- ERISA Case with a class size of \$32 million.

Abbott, et al. v. Lockheed Martin Corp.

- ERISA Case with \$62 million.

Jacqueline Jones vs. I.Q. Data International, Inc.

- TCPA Case with a class size of 93,993. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.82% of the Class that did not have a name or address.

Reza Barani vs. Wells Fargo Bank, N.A.

- TCPA Case with a class size of 82,874. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 87.84% of the Class that did not have a name or address.

Kimberly Roberts, et al. v. T.J. Maxx of CA, LLC, et al.

- Wage & Hour Case with a class size of 82,549.

Robert Stone, et al. v. Universal Protection Services, LP, et al.

- Wage & Hour Case with a class size of 75,351.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

ILYM Group, Inc. is operational 24/7 delivering true client and class member availability. Our call center is open 24/7/365 days a year, even holidays and is full digital, automated and multilingual. ILYM Group Inc.'s mail and media center is a state-of-the-art facility, fully digital and USPS integrated. We can accommodate cases of any size, from ten class members to multi-millions. ILYM Group, Inc. prides itself on its commitment to service, quality, value pricing and availability. We've committed ourselves to being the best Class Action Administration and Notification Company in our industry. Through our years of experience, ILYM Group, Inc. is dedicated to exceeding our client's expectations.

PRE-SETTLEMENT CONSULTATION

- **Administration Consultation:** Meeting to determine objectives and expectations by both parties. All reporting and responsibilities will be agreed upon as will the seamless process to access data. We will also discuss the opportunities to identify class members with the proposed print and web-based media for optimum reach. Additionally, all expectations and delivery of those results will be planned for and mapped accordingly.

MAILING AND NOTIFICATION

- **Fulfillment and Correspondence:** All provided settlement information will be published via United States Postal Service (USPS first class standards) to the proposed mailing class. Notifications will include a Claim ID and how to respond, or Opt-Out, based on the stipulations.
- **Reverse Lookup:** A confidential reverse phone or reverse cell lookup will provide; owner's name, location, address history, carrier, phone type (landline or cell phone) and more. Our reverse lookup is powered by an extensive database which includes hundreds of millions of cell phone, landline, residential and unlisted number. Our software collects data from multiple data sources and carriers across the US. Our average "hit ratio" ranges from 93% - 98%.
- **Creating Class Database:** All Data is verified and filtered to eliminate duplication against the United States Postal Service (USPS) National Change of Address (NCOA) database. ILYM Group, Inc. will also certify and validate with the Coding Accuracy Support System (CASS) and Track Your Class (TYC) for zone delivery.
- **Claim Forms:** ILYM Group, Inc. will email all claim forms, whenever possible, to have accurate reporting and tracking of all class requests. Emails will contain full text claim forms.
- **Translations:** When needed, ILYM Group, Inc. will translate notices to any language needed to reach Class members.
- **Remails:** Returned mail will be scanned, re-verified and re-mailed. All returned mail is data warehoused and reported to both parties' counsels in a weekly report.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

MEDIA & INTERNET BANNER ADS

Notice Publication

- **Legal Notices:** ILYM Group, Inc. can provide a Media Proposal to maximize reach based on quantitative and qualitative methodologies.
- **Electronic Publication (Banner Ads):** ILYM Group, Inc. will utilize Internet Banner Noticing efforts and web technologies for maximum reach via the World Wide Web.
- **Electronic Mail Notices:** ILYM Group, Inc. can email an estimated number of class members a full text notice. We are compliant with all search engines and Internet Service Providers (ISP) so that our emails are always “White List” accepted with minimal returns.
- **Reach:** Every case has its own proposed reach and exposure percentage. We filter, verify and scrub the data to improve reach results.
- **Services Included:** Analysis, Documentation, Research and Methodologies, Execution and Reporting.

PROJECT MANAGEMENT

- **Case Notification, Maintenance and Management:** ILYM Group, Inc.’s Senior Project Managers will provide all Account Management, Pre-Consultation to Case Conclusion, Reporting and Claims Processing. Design, negotiation and implementation, upon approval, of all forms and notices, all distribution reporting and filings with the court.
- **Claims Processing:** All claims can be submitted by USPS, Internet, Fax, and Email or Online submission. Claims will be processed and recorded with matching ILYM database ID's. E-claims will have corresponding records of intake. All deficient claims will be notified via USPS and make provisions for class member to re-submit claims.
- **Call Center:** ILYM Group, Inc. will support class members with a toll-free number to get the most up-to-date case settlement information. Customer service representatives will be available 24/7/365 as will recorded messages. All class members are given the options to best serve their needs and to receive case information.
- **Internet Support:** Class members can log on to a provided website and view, print or submit information and claim forms regarding the settlement. Frequently Asked Questions (FAQ's) will be provided as well. Class members may download the claim form with mailing and fax instructions provided on the form.
- **Objection and Request for Exclusion:** All objections and request for exclusion, opt-out, will be data warehoused, dated and reported. Postmarks will serve for exclusion dating and will be forwarded to both counsels' no more than 5 days post submission. Objection will be reviewed by ILYM Group, Inc. to determine the timeliness and basis of the objection. All information will be forwarded to both parties counsel, along with any representation information from the class member, within 5 days.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

DATA ADMINISTRATION AND NETWORK SECURITY

- **Network Security:** All provided data is encrypted, stored and hosted in a Tier 4, SAS70 certified environment.
- **Database Administration:** To be developed with all electronically provided data. Class members will be assigned ILYM Group, Inc. internal tracking ID's to ensure all collected member data coincides with all received claims.

DISTRIBUTION AND SETTLEMENT FUNDING

- **Distribution and Management:** Upon receipt of settlement funds, ILYM Group, Inc. will open a QSF Account for proceeds of the Gross Settlement Payment. The deposited funds will then be managed per the Settlement Agreement. All funds will be settled with class members and counsel along with all federal and state income tax reporting.
- **Check Printing and Mailing:** Claims processed, quantified and approved by clients, will be processed for distribution. All checks will be printed and mailed via USPS first class standards. ILYM Group, Inc. will reissue checks in accordance with the Settlement Agreement.
- **Preparation, Filing and Reporting of Taxes:** ILYM Group, Inc. will ensure taxes are filed in accordance to all federal, state and local employment tax returns. All taxes associated with the settlement will be paid on time to tax authorities. All filings and returns (e.g., 1099s, W-2s, etc.) will be done properly and timely with the appropriate authorities. All QSF steps and obligations with federal, state and/or local law will be followed.

CASE CONCLUSION

- **Data Manager Final Report:** All database and electronic documentation will be sent in reports weekly and at the conclusion of the Administration engagement. Call center activity, e-claims, mailed, and faxed claims will be included in all reporting.
- **Project Manager Final Report:** All case and class related information will be provided on a weekly basis and at the conclusion of the Administration engagement. Mailing and media final analysis, exclusions, objections, and all other claims processing outcomes, status reports and final court documentations will be included.
- **Affidavits:** ILYM Group, Inc. will provide all affidavits in support of analysis and media reach, final approvals and settlement. Expert Testimony and Media Methodologies will be determined.
- **Document Retention:** Unless otherwise directed, ILYM Group, Inc. will destroy all undeliverable notices on the effective date of the settlement or when the case is no longer subject to appeal. ILYM Group, Inc. will correspond for one year after the final distribution or until the case is no longer subject to appeal.

EXHIBIT “B”

ILYM Group, Inc. (ILYM) in conjunction with our security and Information Technology (IT) vendor(s), maintains the highest level of confidentiality of class member data. The class data and all forms of communication received by ILYM, will be held in strict confidentiality and will not be disclosed. Data provided to the administrator for purposes of notice, settlement, or award administration will be used solely for settlement implementation and for no other purpose. ILYM will set up a login for Defense Counsel to transmit the class data through our encrypted secure portal. ILYM processes adhere to the Settlement Administration Data Protection Checklist in the Northern District of California and are summarized in the tables below.

Technical Controls

Firewalls and intrusion detection/prevention systems	Yes
Endpoint Detection and Response (EDR) Systems	Yes
Complex Password Requirements	Yes
MultiFactor Authentication for Access to Systems and Data	Yes
Malware Protection and AntiVirus	Yes
Vulnerability Scanning/Pen Testing	Yes
Data Encryption	Yes
Key Management for access to encrypted Data	Yes
Access only provided on need-to-know basis	Yes
Security Operations Center (SOC)	Yes
Managed Detection and Response (MDR)	Yes
Security Information and Event Management (SIEM)	Yes
Software Defined Global Network (SGN) with next gen firewall	Yes

Administrative Policies

Personnel and support staff risk assessment and management, including pre-hire background checks and screening processes	Yes
Personnel and support staff required to enter into non-disclosure and confidentiality agreements	Yes
Access controls to systems and data, including guidance for granting, modifying, and reviewing access rights	
Information security and privacy policy training, including policy review, best practices, and data security	Yes
No remote access to systems for Employees	No
Exit interviews/confirmation that terminated/departed employees are immediately cut off from access	Yes
Robust audits of data privacy policies by third-party vendors	Yes
Accreditation in accordance with ISO 27001 and SOC2 (among the industry standards listed below)	Compliant
Disclosure of external certifications and any notice of expiration	Yes

Crisis and Risk Management

Incident response/disaster plan for immediate response to security incidents such as data breach.	Yes
Process and timing for notification to attorneys, claimants, and other stakeholders of a data breach and consideration of resources and/or remedies to provide thereto	Yes
Vendor management program that determines and defines requirements to manage risk associated with outsourcing	Core Vendors are limited and have been vetted. New program being implemented as part of SOC 2

Physical Access Controls

Physical Access Security Security Guards Access Cards to facilities with assignment of identification card subject to approval and review Logs of Access	Logs and “codes” No cards – just codes No security guards Logs are kept
Alarm Systems	Yes
CCTV recording Systems	Yes

Data Collection and Retention

Minimization of collection of personally identifiable information, e.g., social security numbers and banking information	Yes
Data collection only required to extent necessary for settlement administration	Yes
Various methods for ensuring data protection and security of Data classification (including implementation of appropriate safeguards to protect from theft, loss, and/or unauthorized disclosure, use, access, destruction) Compliance with applicable laws and regulations (see below) Secure data transfer	Yes

Data Destruction

Preservation of data only for so long as required for administration of the settlement and any relevant reporting required following the payments or distributions	Yes
Secure data destruction (e.g., 6 months – 1 year or when no longer required)	Yes
Physical media (e.g., paper, CDs) shredded or destroyed to point where they cannot be reconstructed	Yes
Destruction of all derivative copies and/or back-ups	Yes

Applicable Laws, Standards, and Other Regulation

Industry standards: National Institute of Standards and Technology (NIST), HIPAA, FISMA, System and Organization Controls (SOC1 and SOC2) or more advanced assessment, ISO 27001	Yes
Local, national, international privacy regulations (including CCPA)	Yes

Ethical Rules

Administrative policies and/or employee handbook incorporating commitment to ethical rules (e.g., company, court ethical rules) setting forth standards of ethical and legal behavior	Yes
Enforcement clauses, violation resulting in disciplinary action including and up to termination of employment	Yes

Customer Service Measures

Description of settlement website and posting thereto of relevant privacy policies or statements (including portal for reporting suspected loss of confidential data submitted with claim)	Yes
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Explanation of role of claims administrator and how to prevent phishing (e.g., clear indication that administrator will not request confidential information by e-mail and how to identify a valid e-mail sent from the administrator)	Yes
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EXHIBIT “C”

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Ruiz v. Symbotic LLC, et al.

Monday, September 30, 2024

Requesting Attorneys Name:

E-Mail:

ILYM Contact:

E-Mail:

Contact Number:

Renald Konini

rkonini@shimodalaw.com

Lisa Mullins

Lisa@ilymgroup.com

714.878.8836

Estimate For Administrative Solutions: Class & PAGA

KEY ASSUMPTIONS	
Total Number of Class Members	190
Estimated Percentage of Remails	15%
Certified Spanish Translation	Yes
ILYM Group Static Website	No
Case Duration (Years)	1

Summary Estimate: ILYM Group Fees & Expenses

Case Startup:	\$325.00
Project Management & Noticing:	\$2,170.00
Notification & Mailing:	\$577.50
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$2,862.50
Case Conclusion:	\$1,015.00

Capped ILYM Fees & Expenses: \$6,950.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Ruiz v. Symbotic LLC, et al.

Monday, September 30, 2024

Requesting Attorneys Name: Renald Konini

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	1	\$150.00
Programming of Class Database	Hourly	\$175.00	1	\$175.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$325.00

PROJECT MANAGEMENT & NOTICING				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	3	\$360.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	2	\$140.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	2	\$140.00
Report Processing	Hourly	\$70.00	2	\$140.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
NCOA	Flat Rate	\$65.00	1	\$65.00
Toll-Free Customer Service Representative	Flat Fee	\$75.00	1	\$75.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$2,170.00

NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	190	\$285.00
USPS First Class Postage	Per Piece	\$0.70	190	\$133.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.00	29	\$57.00
Storage, Photocopies, Deliveries	Flat Fee	\$102.50	1	\$102.50

Subtotal \$577.50

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Ruiz v. Symbotic LLC, et al.

Monday, September 30, 2024

Requesting Attorneys Name: Renald Konini

Activity	Rate Type	Unit Cost	Volume	Amount
DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	2	\$300.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	2	\$250.00
Check, Stub & Release - Print & Mail (W-2/1099)	Per Check	\$1.00	190	\$190.00
USPS First Class Postage	Per Piece	\$0.60	190	\$114.00
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$1.50	19	\$28.50
Preparation of Taxes	Hourly	\$120.00	4	\$480.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal **\$2,862.50**

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Project Manager Final Reporting	Hourly	\$120.00	2	\$240.00
Process Unclaimed Funds to the State	Flat Fee	\$550.00	1	\$550.00
Declaration	Hourly	\$125.00	1	\$125.00

Subtotal **\$1,015.00**

Capped ILYM Fees & Expenses: **\$6,950.00**

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT E

Date	Description	Amount
9/8/23	Administration Fee - Phone, Fax, Scan, Copying, Westlaw Legal Research Fee	\$ 500.00
9/8/23	Payment to LWDA - PAGA Filing Fee	\$ 75.00
9/8/23	Certified Mail - PAGA Letter	\$ 16.38
9/15/23	One Legal Service Fee - complex fee \$1000, complaint fee \$435, filing fee \$144.25 order 21177561	\$ 1,579.25
11/17/23	One Legal Service Fee - Proof of service order 21522055	\$ 83.39
12/12/23	One Legal Service Fee - Stipulation and Proposed Order Granting Plaintiff Leave to File an Amended Complaint Order 21806540	\$ 154.94
1/19/24	One Legal Service Fee - first amended complaint order 21999493	\$ 101.92
5/13/24	One Legal Service Fee -Case Management Statement 22886173	\$ 16.88
6/12/24	Mediation \$9500 + \$284.05 cc fee	\$ 9,784.05
11/1/24	One Legal Service Fee - Joint Case Management Statement	\$ 17.50
ANTICIPATED	One Legal Service Fee - Motion for Preliminary Approval	\$ 125.00
ANTICIPATED	One Legal Service Fee - Motion for Final Approval	\$ 125.00
ANTICIPATED	One Legal Service Fee - Notice of Entry of Judgment or Order	\$ 25.00
ANTICIPATED	One Legal Service Fee - Compliance Declaration	\$ 25.00
Total:		\$ 12,629.31

EXHIBIT F

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SACRAMENTO

VANESSA RUIZ, individually and on behalf of
all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC LLC, a Delaware Limited Liability
Company; SYMBOTIC, INC., a Delaware
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 23CV008326

**NOTICE OF PROPOSED CLASS ACTION,
COLLECTIVE ACTION, AND PAGA
SETTLEMENT, AND HEARING DATE FOR
FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: All non-exempt employees who were employed by Defendants in the State of California at any time between September 11, 2019, through [REDACTED] (the “Class Members”); All non-exempt employees who were employed by Defendants in the State of California at any time between September 11, 2020, through [REDACTED] (the “Collective Members”); All non-exempt employees who were employed by Defendants in the State of California at any time between September 8, 2022, through [REDACTED] (the “PAGA Group Members”).

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS, COLLECTIVE, AND PAGA LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER AND/OR A COLLECTIVE MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the Sacramento County Superior Court (“Court”) granting Plaintiff’s motion for preliminary approval of a Joint Stipulation Regarding Class Action, Collective Action, and PAGA Settlement and Release (“Agreement” or “Settlement”) as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Vanessa Ruiz (“Plaintiff” or “Class Representative”), and Defendants Symbotic LLC, and Symbotic, Inc. (“Defendants”). The terms of the Settlement are outlined herein. You are receiving this notice because Defendants’ records indicate you fall within the definition of “Class Member,” “Collective Member,” and/or PAGA Group Member. Defendants’ records also indicate that you worked [REDACTED] weeks during the applicable Class Period, [REDACTED] weeks during the applicable FLSA Period, and [REDACTED] weeks during the applicable PAGA Period (as defined below). As a result, your estimated Individual Settlement Payment is \$[REDACTED], your estimated Individual FLSA Payment is \$[REDACTED], and your estimated Individual PAGA Payment is [REDACTED]. Accordingly, the total amount you may be able to receive under the Settlement is \$[REDACTED]. Your actual share of the settlement proceeds will vary depending on the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court’s order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On September 11, 2023, Plaintiff filed a Complaint against Defendants in the Sacramento County Superior Court of California alleging wage and hour claims on behalf of herself and similarly situated employees. The term “Action” means this putative class, collective, and PAGA action pending in Sacramento County Superior Court, Case No. 23CV008326. The Class Period is September 11, 2019, through [REDACTED], the FLSA Period is September 11, 2020, through [REDACTED], and the PAGA Period is September 8, 2022, through [REDACTED].

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself, Class Members, Collective Members, and PAGA Group Members. Plaintiff alleged that Defendants violated California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods or pay premiums in lieu thereof,

4) failing to provide rest periods or pay premiums in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to pay final wages, 7) failing to pay reimbursement for expenses, 8) failing to maintain accurate records, 9) failing to provide paid sick leave, 10) untimely payment of wages, and 11) violating the Equal Pay Act. Plaintiff also alleged that these actions resulted in liability under California's Unfair Competition laws, under the Fair Labor Standards Act ("FLSA"), and claims for civil penalties under the Private Attorney's General Act ("PAGA"). Defendants have denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information during the course of the litigation. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a settlement covering the class, collective, and PAGA claims asserted in the Action. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, Collective Members, and PAGA Group Members as defined above. If you are a Class Member or Collective Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. This notice is to advise Class Members and Collective Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, PAGA Group Members cannot opt out of this Agreement as it relates to the PAGA Fund, their Individual PAGA Payment, or the Released PAGA Claims regardless of whether they opt-out of being a Class Member or opt-in to being a Collective Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Two Hundred Forty-Six Thousand Five Hundred Dollars (\$246,500) ("Gross Fund Value"). Deducted from this Gross Fund Value will be sums approved by the Court for attorney's fees not to exceed 35% of the Gross Fund Value, attorney's costs not to exceed \$15,000, Settlement Administrator Costs estimated not to exceed \$15,000, an Incentive Award of \$10,000 to the Class Representative, \$20,000 for resolving claims under the FLSA ("FLSA Settlement Fund") and payment to Collective Members, and \$20,000 for alleged PAGA penalties (the "PAGA Fund") and payment to PAGA Group Members, which will result in a "Net Settlement Amount" for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Fund Value. As explained further below, payments to each Class Member, Collective Member, and/or PAGA Group Member will depend on the number of weeks worked by each individual within the Class Period, FLSA Period, and/ PAGA Period. Of the \$20,000 allocated to resolving the PAGA claims, 75% of the PAGA Fund will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Fund will be divided among PAGA Group Members.

B. Payment Allocations Between Class Members, Collective Members, and PAGA Group Members

The number of weeks you worked during the Class Period, FLSA Period, and/or PAGA Period and your estimated share of the Net Settlement Amount, FLSA Settlement Fund, and/or PAGA Fund is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Class Members, Collective Members, and/or PAGA Group Members after the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. Payment to Class Members, Collective Members, and PAGA Group Members will be determined by dividing their total workweeks within their respective claim periods by the total workweeks by all Class Members, Collective Members, and/or PAGA Group Members within the same respective claim period. That fraction will then be multiplied by applicable Net Settlement Amount, 25% portion of the PAGA Fund, and/or FLSA Settlement Fund allocated for that group to determine the Individual Settlement Payment, Individual FLSA Payment, and/or Individual PAGA Payment owed for the individual from that group.

Defendants will make settlement payments through the Settlement Administrator. Each Participating Class Member (i.e. a Class Member who does not opt-out) will be paid their Individual Settlement Award to resolve the Released Class Claims. To become a Collective Member, a Participating Class Member must cash the check containing their Individual FLSA Payment, which will be sent to the Participating Class Member at the same time the Individual Settlement Payment is sent. The Individual FLSA Payment will include FLSA release language printed on the back of the check and, by cashing the Individual FLSA Payment, Participating Class Members will have opted-in to also being a Collective Member. However, whether an individual opts-out of being a Class Member or opts-in to being a Collective Member, that will have no effect on their allocation from the PAGA Fund. PAGA Group Members will

receive their Individual PAGA Payment regardless of whether they opt-out of being a Class Member or opt-in to being a Collective Member.

All payments under the Settlement will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that 75% of Individual Settlement Payments and Individual FLSA Payments will be characterized as disputed interest, statutory penalties, and other non-wage damages for which an IRS Forms 1099-MISC and 1099-INT will issue and 25% of the of Individual Settlement Payments and Individual FLSA Payments will be characterized as disputed wages for which IRS Forms W-2 will issue. Individual PAGA Payments will be characterized as 100% for civil penalties for which an IRS Forms 1099-MISC will be issued.

Receipt of any payments under the Agreement will not entitle any Class Member, Collective Member, and/or PAGA Group Member to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes

The amount payable will be calculated by the Settlement Administrator based on Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants' records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by a Class Member, Collective Member, and/or PAGA Group Member. If an individual disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member, Collective Member and/or PAGA Group Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [REDACTED]. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

The Agreement contains the following releases:

Released Class Claims: (i) all claims that were alleged in the Operative Complaint, and (ii) all claims that reasonably could have been alleged, based on the facts stated in the Operative Complaint, including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; (9) violation of the California Equal Pay Act; and, (10) claims for statutory penalties for violation of California Labor Code sections 201, 201.3, 202, 203 204.1, 204.2, 210, 226, 226.3, 226.7, 245, 246, 246.5, 248.5, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1197.1, 1197.5, and 2802-2804, California Code of Civil Procedure section 1021.5, Civil Code sections 3287, 3289, and California Business and Professions Code section 17200 et seq. or any applicable Wage Order, irrespective of the theory of recovery alleged, during the Class Period. Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, worker's compensation, or claims based on facts occurring outside the Class Period.

Released FLSA Claims: (i) all wage and hour claims with respect to the Released Parties under the Fair Labor Standards Act, 29 U.S.C. section 201, et seq. that are asserted in the Operative Complaint and, (ii) any other claims under the FLSA that reasonably could have been brought based on the facts alleged in the Operative Complaint filed in the Action during the FLSA Period.

Released PAGA Claims: (i) all claims for PAGA penalties that were alleged in Plaintiff's notice letter(s) to the LWDA, and (ii) all claims that reasonably could have been alleged during the PAGA Period, based on the facts stated in Plaintiff's notice letter(s) to the LWDA, including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay final wages at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; (9) failure to pay sick pay wages; (10) claims for penalties under the Private Attorneys General Act for violation of California Labor Code sections 201, 201.3, 202, 203 204.1, 204.2, 210, 226, 226.3, 226.7, 245, 246, 246.5, 248.5, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1197.1, 1197.5, and 2802-2804, 2698, et seq. during the PAGA Period.

The releases will apply to all “Released Parties” which is defined as Defendants, and any of their past, present, and future direct or indirect parents, subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, and assigns, as well as each of their past, present, and future officers, directors, employees, partners, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

Class Members, Collective Members and/or PAGA Group Members can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member and Collective Member

If you wish to be a Participating Class Member and believe your workweek information is accurate, you do not need to take any further action to receive your Individual Settlement Payment. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. To also become a Collective Member, you only need to cash the Individual FLSA Payment check, which will be sent with your Individual Settlement Payment. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects employees from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement

The Court will exclude you from being a Class Member or Collective Member if you request this by [redacted]. If you do not wish to be bound by the Settlement as a Class Member you may request to be excluded (i.e., “opt out”) by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or want to be excluded from this Settlement; (c) identify the case name and number (i.e. *Ruiz v. Symbotic LLC, et al.*, 23CV008326); (d) be signed; and (e) be post-marked no later than [redacted]. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by [redacted], your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement relating to Class Members. If you fail to cash the Individual FLSA Payment by the check cashing deadline, you will not be a Collective Member, forfeit your Individual FLSA Payment, and not be bound by the Released FLSA Claims. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member or Collective Member and not receive their share of the Net Settlement Amount of FLSA Settlement Fund. PAGA Group Members cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by submitting an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. You may submit a written objection, which should (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (i.e. *Ruiz v. Symbotic LLC, et al.*, 23CV008326); (e) be signed; and (f) be post-marked no later than [redacted]. Written objections must be sent to the Settlement Administrator at the address identified in Section III.B.

Additionally, or in the alternative to sending a written objection to the Settlement Administrator, you may appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. A notice of entry of entry of judgment will be filed with the Court and available online at (<https://prod-portal-sacramento-ca.journaltech.com/public-portal/?q=Home>). The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement, Collective Members, and PAGA Group Members, will release Defendants and the Released Parties from the Released Class Claims, Released FLSA Claims, and Released PAGA Claims described above. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 23, 720 9th Street Sacramento, California 95814, on [REDACTED] at [REDACTED] to determine whether the Agreement should be finally approved as fair, reasonable and adequate. For Sacramento if Dept 23 - To join by Zoom: <https://saccourt-ca.gov.zoomgov.com/my/sscdept23>. To join by phone: (833) 568-8864 / ID 16108301121. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representative's Incentive Award. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents required by the Court at <https://prod-portal-sacramento-ca.journaltech.com/public-portal/?q=Home>. You can also contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Michael Kopp
Lilah J. Wylde
Seyfarth Shaw LLP
400 Capitol Mall, Suite 2300
Sacramento, CA 95814-2300
Telephone: (916) 498-7001
Facsimile: (916) 288-6333
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [REDACTED]

BY ORDER OF THE COURT

EXHIBIT G

EXHIBIT H

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
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Attorneys for Plaintiff VANESSA RUIZ

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

CLASS ACTION AND COLLECTIVE ACTION

**SECOND AMENDED COMPLAINT FOR
DAMAGES:**

- 1. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 510, 1194)**
- 2. Failure to Pay Overtime Wages Under FLSA**
- 3. Failure to Pay Minimum Wages (Cal. Lab. Code §§ 1194, 1194.2, 1197)**
- 4. Failure to Pay Minimum Wages Under FLSA**
- 5. Meal Period Violations**
- 6. Rest Period Violations**
- 7. Wage Statement Violations**
- 8. Waiting Time Penalties**
- 9. Failure to Reimburse Expenses**
- 10. Unfair Competition**
- 11. California Equal Pay Act Violations (Cal. Lab. Code § 1197.5)**
- 12. Private Attorneys General Act**

DEMAND FOR JURY TRIAL

Plaintiff VANESSA RUIZ ("Plaintiff"), on behalf of herself and all other similarly situated employees, hereby files this Second Amended Complaint against Defendants SYMBOTIC LLC, a Delaware Limited Liability Company; SYMBOTIC, INC., a Delaware Corporation; and DOES 1 to

1 100, inclusive (hereinafter all collectively referred to as “Defendants”). On information and belief,
2 Plaintiff allege the following:

3 **INTRODUCTION**

4 1. This is a class action and a Private Attorneys General Act (“PAGA”) lawsuit brought by
5 Plaintiff for failure to provide overtime wages, failure to provide minimum wages, meal and rest period
6 violations, wage statement violations, waiting time penalties, failure to reimburse expenses, untimely
7 payment of wages, unfair competition, and California Equal Pay Act violations. Plaintiffs also brings
8 this case as a collective action under the Fair Labor Standards Act (“FLSA”) for violations of federal
9 overtime and minim wage protections as outlined herein.

10 **JURISDICTION AND VENUE**

11 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
12 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
13 Labor Code, California Business and Professions Code, and Wage Orders.

14 3. Venue in Sacramento County is proper pursuant to Civil Procedure Code §§ 395(a),
15 395.2, and/or 395.5, in that Defendants are foreign entities and have not designated any county in
16 California as being where they maintain their principal offices.

17 4. Plaintiff sought permission pursuant to California Labor Code section 2699 *et seq.* to
18 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
19 of herself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
20 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
21 (“LWDA”) on approximately September 8, 2023. Plaintiff provided facts and legal bases for his claims
22 within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause
23 of action. Plaintiff also submitted the \$75.00 filing fee. The September 8, 2023, notice was also sent via
24 certified mail to Defendants on the same day. To date, the LWDA has not provided any response to
25 Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies
26 pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of herself
27 and all similarly situated employees, *i.e.* Aggrieved Employees. See Cal. Lab. Code § 2699.3(a)(2)(A),
28 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005).

Aggrieved Employees include, but are not limited to the following: all individuals who have worked, or continue to work, for Defendants in California as non-exempt employee at any time from September 8, 2022 to the present.

PARTIES

5. VANESSA RUIZ is an individual over the age of eighteen (18) and is a resident of the State of California.

6. On information and belief, Plaintiff alleges, SYMBOTIC LLC, is now and/or at all times mentioned in this Complaint was a Delaware Limited Liability Company and the owner and operator of an industry, business and/or facility doing business in the State of California.

7. On information and belief, Plaintiff alleges, SYMBOTIC, INC. is now and/or at all times mentioned in this Complaint was a Delaware Corporation and the owner and operator of an industry, business and/or facility doing business in the State of California.

8. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true names and capacities of these DOE Defendants when they are ascertained.

9. At all times mentioned herein, each Defendant was the agent or employee of each of the other Defendants and was acting within the course and scope of such agency or employment. The Defendants are jointly and severally liable to Plaintiff.

10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in a joint employment, joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership and common enterprise.

11. Defendants, and each of them, now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

12. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

CLASS ALLEGATIONS

1 13. Plaintiff brings the First through Ninth Causes of Action on behalf of herself and all
2 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
3 The class which Plaintiff seeks to represent is composed of, and defined, as follows:

4 All individuals who have worked, or continue to work, for Defendants in
5 California as a non-exempt employee at any time from September 11,
6 2019, to the present.

7 14. This action has been brought and may be properly maintained as a class action,
8 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
9 defined community of interests in the litigation and the proposed class is easily ascertainable.

10 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
11 is impracticable under the circumstances of this case. While the exact number of class
12 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
13 Defendants have employed as many as fifty (50) individuals falling within the above
14 stated class definition throughout the State of California during the applicable statute of
15 limitations, who were subjected to the policies and practices outlined in this Complaint.
16 As such, joinder of all members of the putative class is not practicable.

17 (b) Common Questions Predominate: Common questions of law and fact exist as to all
18 members of the putative class and predominate over questions that affect only individual
19 members of the class. These common questions of law and fact include, without
20 limitation, the following:

- 21 (1) Whether Defendants maintained accurate payroll records;
- 22 (2) Whether, as a result of Defendants' policies and practices, Plaintiff and putative
23 class members were not paid all overtime wages owed;
- 24 (3) Whether Defendants paid Plaintiff and putative class members for all hours
25 worked;
- 26 (4) Whether Defendants failed to correctly calculate the regular rate of pay for
27 premium wage purposes such as overtime, double time, meal and rest period
28 premiums, and sick leave wages;

- 1 (5) Whether Defendants failed to pay meal and rest period premiums for meal and
2 rest period violations;
- 3 (6) Whether Defendants failed to reimburse Plaintiff and putative class members for
4 the use of personal cell phone, internet, and personal cars for work purposes;
- 5 (7) Whether as a result of Defendants' policies and practices Plaintiff's and putative
6 class members received all wages, due and owing, at the time of their termination
7 or separation; and
- 8 (8) Whether Defendants provided Plaintiff's and putative class members with wage
9 statements that complied with Labor Code section 226.

10 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
11 class. The putative class also sustained damages arising out of Defendants' common
12 course of conduct in violation of the law as complained of herein. Plaintiff and all
13 members of the putative class were non-exempt employees who were not paid all
14 minimum wages owed, overtime wages owed, meal and rest period premiums, as a result
15 of Defendants' policies and practices resulting in inaccurate wage statements that did not
16 itemize the accurate minimum wages owed, overtime wages owed, meal and rest period
17 premiums, and sick leave wages. Additionally, Defendants issued Plaintiff and all
18 members of the putative class wage statements that did not comply with Labor Code
19 section 226. As a result, Plaintiff and each member of the putative class will have
20 suffered the same type of harm and seek the same type of recovery based on the same
21 legal theories.

22 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
23 putative class. For all relevant times, Plaintiff resided in California and worked for
24 Defendants in California. Moreover, Plaintiff is an adequate representatives of the
25 putative class as Plaintiff has no interests that are adverse to those of putative class
26 members. Additionally, Plaintiff has retained counsel who has substantial experience in
27 complex civil litigation and wage and hour matters.

28

1 (e) Superiority: A class action is superior to other available means for the fair and efficient
2 adjudication of the controversy since individual joinder of all members of the putative
3 class is impracticable. Class action treatment will permit a larger number of similarly
4 situated persons to prosecute their common claims in a single forum simultaneously,
5 efficiently, and without the unnecessary duplication of effort and expense that numerous
6 individual actions would engender. Further, as damages suffered by each individual
7 member of the class may be relatively small, the expenses and burden of the individual
8 litigation would make it difficult or impossible for individual members of the class to
9 redress the wrongs done to them, and an important public interest will be served by
10 addressing the matter as a class action. The cost to the court system of adjudication of
11 such individualized litigation would be substantial. Individualized litigation would also
12 present the potential for inconsistent or contradictory judgments.

13 15. Plaintiff is unaware of any difficulties that are likely to be encountered in the
14 management of this action that would preclude its maintenance as a class action.

15 **COLLECTIVE ACTION ALLEGATIONS**

16 16. Plaintiff brings the Second and Fourth Causes of Action for violation of the FLSA as a
17 collective action pursuant to 29 U.S.C. section 216(b) on behalf of all non-exempt hourly employees
18 who have been employed by Defendants anywhere in California from September 11, 2020, through the
19 present (hereinafter referred to as “Collective Members”).

20 17. Plaintiff and the Collective Members are similarly situated in that they were subject to
21 substantially similar compensation and requirements, and were subject to Defendants’ common practice,
22 policy, or plan of failing to pay all minimum and overtime wages to the Collective Members.

23 18. The Second and Fourth Causes of Action may be brought and maintained as an “opt-in”
24 collective action pursuant to 29 U.S.C. § 216(b), since the claims of Plaintiff are similar to the claims of
25 the Collective Members.

26 19. The names and addresses of the Collective Members are available from Defendants and
27 notice should be provided to the Collective Members via first class mail to their last known address they
28 provided to Defendants as soon as possible.

GENERAL ALLEGATIONS

20. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 19 as though fully set forth herein.

21. Plaintiff was employed with Defendants from June 2016 to around March 10, 2023, as a non-exempt employee. Plaintiff was paid \$24.36 per hour. Defendant also paid Plaintiff and similarly situated employees various types of bonuses and incentive payments during their employment. Defendants also issued restricted stock units (“Symbotic RSUs”) as part of an incentive compensation plan to Plaintiff and similarly situated employees. Defendants provide support for robotic-based supply chain automation for different companies or warehouses. Defendants provide technical support for the robotics that assist with shipping distribution. At first, Plaintiff worked as an Inventory Specialist. Plaintiff’s job duties and tasks that she performed include but were not limited to looking for misplaced inventory and reporting the misplaced inventory. Later, Plaintiff worked as a Parts Specialist. Her job duties and/or responsibilities included but were not limited to performing audits of all the technicians’ work orders to make sure parts were entered accurately into the system, looking for discrepancies and tracking down and/or correcting discrepancies, providing warnings or write ups to technicians for making multiple discrepancies in relation to part orders, providing technicians with list of things that needed to be fixed, running weekly and monthly inventory reports, running purchase reports, speaking to vendors about materials needed at lower pricing or cost, performing parts cycle counts, counting all the stock of the parts in the stock room, providing discrepancy reports to Defendants, training technicians in current software that Defendants use for their day to day operations, performing shipping and receiving of parts, creating part numbers for new parts, doing clerical work, sending invoices, communicating with clerical employees to pay for parts, filing paperwork, reaching out to vendors regarding parts, picking up parts from vendors, and organizing company outings such as company events.

22. Plaintiff and similarly situated employees worked over eight (8) hours per day and forty (40) hours per week. Plaintiff and similarly situated employees worked in a fast-paced working environment and were busy most of the time. Plaintiff and similarly situated employees clocked in and out using a fingerprint operated timekeeping system. The timekeeping device was located in the middle

1 of the warehouse distribution center where P Plaintiff and similarly situated employees worked. It
2 would take approximately five (5) minutes for Plaintiff and similarly situated employees to walk from
3 the entrance of the building to Defendant's timekeeping device. Plaintiff and similarly situated
4 employees would walk for approximately five (5) minutes to the timekeeping device to clock in prior to
5 their shift and another five (5) minutes after the end of their shift since they had to walk back from the
6 timekeeping device to the entrance/exit doors of the building. As a result, Plaintiff and similarly situated
7 employees spent on average approximately ten (10) minutes per day just to clock in and clock out before
8 and after her shift. Additionally, Defendants rounded Plaintiff's and similarly situated employees' hours
9 worked to the nearest quarter hour, even though Defendants had the ability to track Plaintiff's and
10 similarly situated employees' time. Defendants failed to pay Plaintiff and similarly situated employees
11 for all actual hours worked as a result of rounding including overtime and minimum wages under both
12 state and federal law.

13 23. Furthermore, Defendants' employees and/or managers would contact Plaintiff on her
14 personal cell phone after she had clocked out to perform certain tasks, respond to emails. Furthermore,
15 technicians would contact Plaintiff after her work hours with questions and different issues. Vendors and
16 shipping companies would call Plaintiff after work hours to obtain information regarding different
17 orders and shipments. Defendants were aware of such occurrences. Plaintiff estimates that she spent
18 approximately twenty (20) minutes per week performing such tasks off the clock that she was not paid
19 for. Plaintiff is informed and believes that other similarly situated employees worked off the clock and
20 were not paid for this time.

21 24. Additionally, Defendants paid Plaintiff and similarly situated employees retroactive pay
22 when they received a raise. However, sometimes, the retroactive pay was not calculated accurately to
23 reflect the correct amount of wages. For example, Defendants paid Plaintiff retroactively for the pay
24 period of January 2, 2022, to January 15, 2022. The retroactive pay amount was \$6.16. However,
25 accounting for a raise of \$0.77 per hour, Defendants should have paid Plaintiff \$58.32. Thus, the
26 retroactive payment amount was short \$52.16.

27 25. Furthermore, Plaintiff and similarly situated employees worked overtime because of the
28 high volume of cases and the high demand of the job. Defendants did not pay Plaintiff overtime for

work performed off the clock. Plaintiff is informed and believes that Defendants did not pay overtime to similarly situated employees for off the clock work. Defendants paid Plaintiff and similarly situated employees a bonus for some time during Plaintiff's employment period. For one particular type of bonus, the amount was approximately between \$100 to \$150 per pay period and paid if they had good attendance and did not miss days from work. However, Defendants failed to incorporate the value of the bonus into the regular rate of pay in calculating Plaintiff's and similarly situated employees' premium wages, including overtime, meal and rest period premiums, and sick leave. Additionally, Defendants also issued restricted stock units ("Symbotic RSUs") as part of an incentive compensation plan to Plaintiff and similarly situated employees. A portion of Plaintiff's Symbotic RSUs vested while Plaintiff worked for Defendants. For example, a payroll statement issued by Defendants on January 6, 2023, shows an amount of \$2,650.68 as earnings of RSUs corresponding to pay period of December 18, 2022, to December 31, 2023. Another payroll statement issued on January 9, 2023, shows an amount of \$2,660.84 as earnings of RSUs corresponding to pay period December 29, 2022, to January 4, 2023. However, Defendants never paid Plaintiff these RSUs, even though they had vested and were earned as wages by Plaintiff. Defendants did not even include these RSUs in Plaintiff's last paycheck. Plaintiff is informed and believes that Defendants failed to pay the RSUs on time to other similarly situated employees. Additionally, Defendants failed to incorporate the value of the Symbotic RSUs into the regular rate of pay in calculating Plaintiff's and similarly situated employees' premium wages, including overtime, meal and rest period premiums, and sick leave.

26. Defendants did not inform Plaintiff and similarly situated employees that they were entitled to a thirty (30) minute meal for every five (5) hours of work and a ten (10) minute break for every four (4) hours of work or a fraction thereof. Due to the fast pace of the work and lack of staffing, Plaintiff and similarly situated employees failed to take all their meal periods and to take timely meal and rest periods. Defendants also interrupted Plaintiff and similarly situated employees during some of their meal and rest periods. For example, Plaintiff took many late meal periods after her fifth hour of work because she was busy performing different tasks. Also, Defendants interrupted Plaintiff and similarly situated employees many times to answer questions or perform different tasks during their meal periods. Plaintiff also took rest breaks after her fourth hour of work due to the nature of her work

1 and the tasks that needed to be done. Plaintiff is informed and believes that similarly situated employees
2 were also interrupted during their rest breaks and took late rest breaks due to manager's demands and
3 requests during rest periods.

4 27. Defendants also did not have a policy to reimburse Plaintiff and similarly situated
5 employees on use of their personal cell phones for work purposes. Plaintiff and similarly situated
6 employees used their personal cell phones to communicate with managers, supervisors, and other
7 Similarly situated employees regarding work issues and scheduling. For example, Plaintiff's manager
8 would email and/or message/text her and other similarly situated employees via Microsoft Teams App.
9 Plaintiff and similarly situated employees asked Defendants to be reimbursed for their personal cell
10 phone use for work purposes. However, Defendants informed Plaintiff and similarly situated employees
11 that they will not get reimbursed because they are hourly employees. Also, Defendants did not pay
12 Plaintiff and similarly situated employees for internet use when they worked from home during the
13 COVID period. Moreover, Plaintiff used her personal vehicle to pick up parts from local vendors in the
14 same town or West Sacramento and Sacramento area. Plaintiff picked up these parts sometimes during
15 her shift, sometimes after her shift, after she had clocked out. Defendants did not pay Plaintiff for the
16 time that she spent picking up parts after clocking out. Furthermore, Defendants did not reimburse
17 Plaintiff for the mileage that she drove to pick up parts for Defendants.

18 28. As a result of Defendants' failure to pay Plaintiff and similarly situated employees all
19 minimum wages, overtime wages, and meal and rest period premiums owed, sick leave owed, earned
20 RSUs, the wage statements Defendants issued were inaccurate. The paystubs that Defendants issued did
21 not accurately itemize all hours worked, the accurate rates of pay, minimum and overtime wages earned,
22 the number of meal and rest period premiums owed, and the accurate gross and net wages earned.

23 29. As of this date of this letter, Defendants have not paid Plaintiff and similarly situated
24 employees all the minimum wages, overtime wages, meal and rest period premiums, sick leave wages,
25 earned RSUs owed to them.

26 30. Additionally, Plaintiff was systematically paid lower wages than male employees with
27 similar skill, education, and experience for substantially similar work under similar working conditions.
28 Plaintiff is informed and believes that other similarly situated employees were paid less than other male

employees. At the time of her separation from employment, there were only three females working for Defendant out of the Woodland, California location out of about thirty-six (36) employees. Plaintiff and only two other women, one who was a human resources employee, and another who worked remotely, were the only females, out of about thirty-six (36) employees working for Defendants at the Woodland, California location. Throughout her employment, Plaintiff was paid less than other male employees performing substantially similar work. For example, Defendants gave Plaintiff raises of about 2-2.5% whereas male employees received raises of 3-7%. Also, Plaintiff's hourly rate was \$24.36, whereas male employees' hourly rate was between \$25-\$27 per hour for technicians and \$26-\$32 for maintenance technicians.

31. Plaintiff received lower wages than male employees since the beginning of her employment. At first, Plaintiff was paid \$14-\$15 per hour when she was an Inventory Specialist. The Inventory Specialist's duties included but were not limited to pulling out cases and boxes to make sure that they were placed in the right location, if not, then moving the box to the right location. At some point after Plaintiff started her new position as a Parts Specialists, Defendants hired two females as inventory specialists. Plaintiff is informed and believes that the two female employees were making about \$22 per hour. Plaintiff is informed and believes that those two female employees were also upset that Defendants paid them wages that were lower than other male employees who performed substantially similar work. However, after the two female employees left employment, Defendant hired two (2) males. Plaintiff is informed and believes that the two males were paid about \$25-\$26 per hour.

32. Plaintiff has complained to Defendants regarding her receiving lower wages than male counterparts or employees. However, Defendants informed Plaintiff that the wage difference is due to Plaintiff's attendance, since Plaintiff has missed some time during her Family Medical Leave Act ("FMLA") leave. However, the same wage disparity continued between Plaintiff and other male employees who perform substantially similar work. Plaintiff is informed and believes that other similarly situated employees experienced the same wage disparity with male employees as Plaintiff did.

33. Defendants have different positions at the Woodland location. The positions include site manager, maintenance manager, shift lead, automation manager, technicians, and system operator. All the positions were filled by men. Plaintiff worked closely with the maintenance manager and if Plaintiff

1 was out of the office, the maintenance manager would cover for Plaintiff and perform most of the work
2 that Plaintiff performed on a daily basis. The maintenance manager's duties included but were not
3 limited to overseeing the part's specialist and the technicians. If there was anything wrong with the
4 software system, the maintenance manager would tell Plaintiff and the technicians what he needed.
5 Then, Plaintiff would order the parts that were needed. Technician's job duties included but were not
6 limited to maintaining the robots, ask the part's specialist to order certain parts that were needed.

7 34. However, for about one year, Plaintiff performed the same job duties and tasks as the
8 maintenance manager because the maintenance manager left, and Defendants did not replace him for
9 about one year. As a result, Plaintiff managed technicians, informed technicians what needed to be
10 fixed, performed maintenance manager's daily tasks, informed technicians about discrepancies with
11 work orders and parts requests, check discrepancies with parts that technicians would use and not
12 account for in the system, input parts in inventory in order to re-stock, give warnings to technicians for
13 not complying with procedures, reach out to vendors to figure out if can buy material at a lower cost,
14 manage deadlines during peak season of September to January by increasing the number of re-ordering
15 parts to make sure that parts were sufficient in the inventory. Plaintiff even trained the new maintenance
16 manager that Defendants hired by showing to him different procedures, training him in the software that
17 Defendants used to find parts in the inventory, trained him how to run reports on parts, how to navigate
18 the system, and other daily tasks important in the running of the operations and maintenance.

19 35. Plaintiff found it easy to perform maintenance manager's duties and tasks because they
20 were substantially the same as her work as a part's specialist. However, Plaintiff is informed and
21 believes that the maintenance manager was paid about \$80,000 per year and the technicians were paid
22 about \$25-\$27 per hour. Furthermore, there was minimal training for an employee to become a
23 technician. Technicians' work involved making sure that the system kept running, if something went
24 wrong, they had to clear the HMI screen and restart the system. Technicians were known as fault
25 chasers. The training lasted one week, and no special certificates, education, or diplomas were required.
26 To become a maintenance technician, required a little more training and Defendants trained technicians
27 how to work on robots. Plaintiff is informed and believes that maintenance technicians were paid
28

1 between \$26-\$32 per hour. Lastly, Plaintiff is informed and believes that Defendants hired a male to
2 replace Plaintiff and paid him about \$3 more per hour than Plaintiff.

3 **CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**
5 **FAILURE TO PAY OVERTIME WAGES**
6 **(Cal. Lab. Code §§ 510, 1194)**
7 **(As to all Defendants)**

8 36. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 35 as though fully
9 set forth herein.

10 37. During the period Plaintiff was employed by Defendants, Defendants were required to
11 compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of
12 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
13 hours worked in excess of twelve (12) hours per day. *See, e.g.*, IWC Wage Order No. 4, section (3)(A);
14 Cal. Lab. Code §§ 510, 1194.

15 38. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
16 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
17 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
18 worked at their regular rate of pay.

19 39. Plaintiff and similarly situated employees were not exempt from overtime protections
20 employees under the California Wage Orders and Labor Code.

21 40. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
22 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
23 the extent pertinent as if set forth here in full.

24 **SECOND CAUSE OF ACTION**
25 **FAILURE TO PAY OVERTIME WAGES UNDER FLSA**
26 **(On behalf of the Collective Members As to all Defendants)**

27 41. Plaintiff incorporates by reference and re-allege paragraphs 1 through 40 as though fully
28 set forth herein.

42. Defendants are an "employer" as defined under the FLSA of Plaintiffs and the Collective
Members. The FLSA defines an "employer" as "any person acting directly or indirectly in the interest

1 of an employer in relation to an employee.” 29 U.S.C. § 203(d). An individual who exercises “control
2 over the nature and structure of the employment relationship,” or “economic control” over the
3 relationship is an employer under FLSA. *See Lambert v. Ackerley*, 180 F.3d 997, 1011-12 (9th Cir.
4 1999) (en banc).

5 43. Plaintiff is informed and believes, and on that basis alleges, that Defendants are engaged
6 in interstate commerce as they engage in business in multiple states and they engage with businesses
7 located in other states. Plaintiff is informed and believes, and on that basis alleges, that Defendants’
8 business earns over \$500,000 per year.

9 44. Attached hereto as Exhibit A is the consent to join form signed by Plaintiff in this action
10 pursuant to 29 U.S.C. §§ 216(b) and 256. It is likely that other individuals will sign consent forms and
11 join as plaintiffs on this claim in the future.

12 45. Defendants held a significant ownership interest with operational control of significant
13 aspects of the company’s day-to-day functions; Defendants had the power to hire and fire Plaintiff and
14 the Collective Members and set wage rates for them; Defendants also had the responsibility to maintain
15 Plaintiff’s and the Collective Members’ employment records. Defendants also paid Plaintiff for fewer
16 hours than they actually worked and failed to pay overtime wages for hours in excess of forty (40) per
17 week in an effort to circumvent the FLSA’s overtime requirements.

18 46. Defendants willfully failed to pay overtime to Plaintiff and the Collective Members.
19 They knew of the existence of both state and federal wage and hour laws regarding overtime, but failed
20 to do any investigation whether they were in compliance. They had knowledge that Plaintiff and the
21 Collective Members were working uncompensated hours through rounding, off the clock work, and
22 weren’t paid the accurate regular rate of pay for overtime due to not calculating the value of the bonuses
23 and RSUs in the regular rate of pay. Despite this knowledge, Defendants refused to pay Plaintiffs and
24 the Collective Members for all actual hours worked at the legally required rates.

25 47. For the three (3) years preceding the filing of this lawsuit, Defendants were required to
26 compensate Plaintiff and the Collective Members overtime wages at a rate of no less than one and one-
27 half (1½) times the regular rate of pay for all time worked in excess of forty (40) hours per week. *See* 29
28 U.S.C. § 207.

1 55. Plaintiff is informed and believes, and on that basis alleges, that Defendants are engaged
2 in interstate commerce as they engage in business in multiple states and they engage with businesses
3 located in other states. Plaintiff is informed and believes, and on that basis alleges, Defendants'
4 business earns over \$500,000 per year.

5 56. Attached hereto as Exhibit A are the consent to join form signed by Plaintiff in this action
6 pursuant to 29 U.S.C. §§ 216(b) and 256. It is likely that other individuals will sign consent forms and
7 join as plaintiffs on this claim in the future.

8 57. Defendants held a significant ownership interest with operational control of significant
9 aspects of the company's day-to-day functions; Defendants had the power to hire and fire Plaintiff and
10 the Collective Members and set wage rates for them; Defendants also had the responsibility to maintain
11 Plaintiff's and the Collective Members' employment records. Defendants also paid Plaintiff for fewer
12 hours than she actually worked and failed to pay minimum wages for all hours worked in an effort to
13 circumvent the FLSA's minimum wage requirements.

14 58. Defendants willfully failed to pay overtime to Plaintiffs and the Collective Members.
15 They knew of the existence of both state and federal wage and hour laws regarding minimum wages, but
16 failed to do any investigation whether they were in compliance. They had knowledge that Plaintiff and
17 the Collective Members were working uncompensated hours through the rounding and working of the
18 clock policies' that Defendants instituted and that they were not getting paid for all hours worked
19 notwithstanding those policies and practices. Despite this knowledge, Defendants refused to pay
20 Plaintiff and the Collective Members for all actual hours worked at the legally required rates.

21 59. For the three (3) years preceding the filing of this Complaint, Defendants were required
22 to compensate Plaintiff and the Collective Members minimum wages at the applicable Federal rate for
23 all time worked that was unpaid per week. *See* 29 U.S.C. § 206.

24 60. As a proximate result of Defendants' conduct, Plaintiffs and the Collective Members
25 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
26 the extent pertinent as if set forth here in full.

FIFTH CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
(As to all Defendants)

61. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 60 as though fully set forth herein.

62. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and California Labor Code sections 226.7 and 512.

63. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 4, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

64. California Labor Code section 512 and Wage Order No. 4 section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. Employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided.

65. Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated employees to take their first meal period before the completion of their fifth hour of work and failed to allow Plaintiff and similarly situated employees to take their second meal period before the completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their rights to all meal periods throughout their employment.

66. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

67. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SIXTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(As to all Defendants)

68. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 67 as though fully set forth herein.

69. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

70. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

71. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly situated employees to take paid rest periods of at least ten (10) minutes for each work period that they worked more than four (4) hours or a major fraction thereof.

72. Defendants further failed to pay Plaintiff and similarly situated employees the applicable rest period premiums for any such missed rest periods.

73. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SEVENTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(As to all Defendants)

74. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 73 as though fully set forth herein.

75. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and

1 *the last four digits of his or her social security number or an employee*
2 *identification number other than a social security number, (8) the name*
3 *and address of the legal entity that is the employer and, if the employer is*
4 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*
5 *name and address of the legal entity that secured the services of the*
6 *employer, and (9) all applicable hourly rates in effect during the pay*
7 *period and the corresponding number of hours worked at each hourly rate*
8 *by the employee. The deductions made from payment of wages shall be*
9 *recorded in ink or other indelible form, properly dated, showing the*
10 *month, day, and year, and a copy of the statement and the record of the*
11 *deductions shall be kept on file by the employer for at least three years at*
12 *the place of employment or at a central location within the State of*
13 *California.*

14 76. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
15 itemized statement or failed to provide an accurate and complete itemized statement showing the
16 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not
17 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime
18 and double time hours worked and corresponding rates of pay, and gross and net wages earned. The
19 paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours
20 worked due to Defendants' clocking in policy, the location of the timekeeping device, as well as
21 Defendants' meal and rest period policy and practices that interrupted Plaintiff and similarly situated
22 employees during their meal and rest breaks, that resulted in off-the-clock work. Plaintiff and
23 similarly situated employees were not able to promptly and easily determine their total hours worked
24 from their paystubs alone. Additionally, Plaintiff and similarly situated employees suffered
25 confusion over whether they received all wages owed and were prevented from effectively
26 challenging information on their wage statements.

27 77. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
28 employees have been damaged as stated in the section below entitled "DAMAGES," which is
incorporated here to the extent pertinent as if set forth here in full.

29 **EIGHTH CAUSE OF ACTION**
30 **WAITING TIME PENALTIES**
31 **(As to all Defendants)**

32 78. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 77 as though fully
33 set forth herein.

1 79. An employer must pay an employee who is terminated all unpaid wages immediately
2 upon termination. *See* Cal. Lab. Code § 201.

3 80. An employer must pay an employee who resigns all unpaid wages within seventy-two
4 (72) hours of their resignation. *See* Cal. Lab. Code § 202.

5 81. Plaintiff and similarly situated employees did not receive all wages, including minimum
6 and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or
7 within the required time after their separation from employment.

8 82. An employer who willfully fails to pay an employee wages in accordance with California
9 Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
10 days. *See* Cal. Lab. Code § 203.

11 83. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
12 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
13 and similarly situated employees had to walk about five (5) minutes from the entrance of the building to
14 the timekeeping device to clock in and Plaintiff and similarly situated employees were not paid for this
15 time. Defendants also knew that Plaintiff and similarly situated employees used their cell phones,
16 internet, and cars for work purposes because Defendants communicated with them via Microsoft Teams
17 App to give instructions or request tasks done. Furthermore, Defendants knew that Plaintiff and
18 similarly situated employees had vested RSUs, but Defendants failed to calculate the value of the earned
19 RSUs into the regular rate of pay for purposes of overtime premiums, meal and rest period premiums,
20 and sick leave pay. However, Defendants did not pay at the time of Plaintiff's termination the correct
21 amount of wages owed for overtime premiums, meal and rest period premiums and sick leave pay, as
22 well as the earned RSUs. Further, Defendants knew that Plaintiff and similarly situated employees were
23 not provided with compliant meal and rest periods because Defendants interrupted Plaintiff and
24 similarly situated employees during their meal and rest periods or caused them not to take timely meal
25 and rest periods. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the
26 time of separation, yet Defendants still refused to pay the remaining wages owed.

84. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

NINTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(As to all Defendants)

85. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 84 as though fully set forth herein.

86. California Labor Code section 2802(a) states that “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, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

87. Defendants required Plaintiff and similarly situated employees to use their personal cell phones to maintain communication regarding the status of their work, and various other work-related communications that needed to be made during the day while Plaintiff and similarly situated employees were stationed all over the warehouses. Defendants required Plaintiff and similarly situated employees to use Microsoft Team App to communicate with each other. Defendants also emailed or texted Plaintiff and similarly situated employees after work hours or on weekends to communicate regarding work issues and Plaintiff took calls from different shipping companies and vendors on her private cell phone. Plaintiff also used her car to pick up parts for Defendants and was not reimbursed for the miles that she drove to pick up parts. Plaintiff and similarly situated employees requested Defendants to reimburse them for such use. However, Defendants did not reimburse Plaintiff and similarly situated employees for such use.

88. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

TENTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to all Defendants)

89. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 88 as though fully set forth herein.

90. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See California Business and Professions (“B&P”) Code § 17200.

91. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, and meal and rest period premiums, paid sick leave, reimbursed for business expenses, during their employment or any time thereafter. Moreover, through Defendants conduct Plaintiff and similarly situated employees were denied statutory protections regarding meal and rest periods.

92. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (Business and Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

93. As a direct and legal result of the Defendants’ conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of California Labor Code sections 226.7, 245 *et seq.*, 510, 512, and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

ELEVENTH CAUSE OF ACTION
VIOLATION OF CALIFORNIA’S EQUAL PAY ACT
(Cal. Lab. Code § 1197.5)
(As to all Defendants)

94. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 93 as though fully set forth herein.

1 95. Labor Code section 1197.5, states that, “[a]n employer shall not pay any of its employees
2 at wage rates less than the rates paid to employees of the opposite sex for substantially similar work,
3 when viewed as a composite of skill, effort, and responsibility, and performed under similar working
4 conditions...”

5 96. Labor Code section 1197.5, subdivision (c) further states that, “[a]ny employer who
6 violates [this section] is liable to the employee affected in the amount of the wages, and interest thereon,
7 of which the employee is deprived by reason of the violation, and an additional equal amount as
8 liquidated damages.”

9 97. Here, Plaintiff and similarly situated employees systematically paid lower wages than
10 male employees with similar skill, education, and experience for substantially similar work under
11 similar working conditions.

12 98. Plaintiff, therefore, suffered damages proximately caused by Defendants, and each of
13 their agent’s acts as stated in the section below entitled “DAMAGES,” which is incorporated here to the
14 extent pertinent as if set forth here in full.

15 **TWELFTH CAUSE OF ACTION**
16 **PRIVATE ATTORNEYS GENERAL ACT**
 (As to all Defendants)

17 99. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 98 as though
18 fully set forth herein.

19 100. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
20 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
21 current and former employees:

- 22 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime
23 Wages)
- 24 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay
25 Minimum Wages)
- 26 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B)
27 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 28

- Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 204, 210 (Untimely Payment of Wages)
- Violation of Labor Code § 1197.5 (Wage Discrimination)

101. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

102. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

103. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;

1 3. As to the Second Cause of Action:

- 2 a. All wages earned and owing;
- 3 b. Attorney's fees, costs, and interest pursuant to 29. U.S.C. § 216;
- 4 c. Liquidated damages pursuant to 29 U.S.C. § 216;

5 4. As to the Third Cause of Action:

- 6 a. Wages in an amount to be proven at trial;
- 7 b. Interest for the wages due pursuant to California Labor Code section 1194;
- 8 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
- 9 Code section 1194;
- 10 d. Liquidated damages pursuant to California Labor Code section 1194.2;

11 5. As to the Fourth Cause of Action:

- 12 a. All wages earned and owing;
- 13 b. Attorney's fees, costs, and interest pursuant to 29. U.S.C. § 216;
- 14 c. Liquidated damages pursuant to 29 U.S.C. § 216;

15 6. As to the Fifth Cause of Action:

- 16 a. Wages in an amount to be proven at trial;
- 17 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 18 section 1021.5;

19 7. As to the Sixth Cause of Action:

- 20 a. Wages in an amount to be proven at trial;
- 21 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 22 section 1021.5;

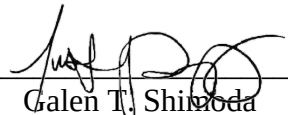
23 8. As to the Seventh Cause of Action:

- 24 a. Penalties as provided for in Labor Code section 226, including the greater of all
- 25 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
- 26 violation occurred and one hundred dollars (\$100.00) per employee for each
- 27 violation in the subsequent pay periods, but not to exceed four thousand dollars
- 28 (\$4,000.00);

- 1 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
2 226(e);
- 3 9. As to the Ninth Cause of Action:
- 4 a. An amount to be proven at trial;
- 5 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
- 6 10. As to the Eleventh Cause of Action (Cal. Labor Code § 1197.5):
- 7 a. For wages that Plaintiff was deprived of due to Equal Pay Act violations and any
8 interest thereon, according to proof;
- 9 b. For liquidated damages in an equal amount, according to proof;
- 10 c. For reasonable attorney's fees and costs pursuant to Labor Code section 1197.5
11 (h);
- 12 11. As to the Twelfth Cause of Action:
- 13 a. For civil penalties as provided in the Labor Code for each enumerated violation;
- 14 b. For those Labor Code sections where there is no civil penalty provided for their
15 violation, the default penalty provided in Labor Code section 2699(f): for any
16 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
17 period; For any subsequent violation, two hundred dollars (\$200) for each
18 aggrieved employee per pay period;
- 19 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 20 d. For any other remedies as allowed by law and/or deemed appropriate by the
21 Court;
- 22 12. For such other and further relief as this Court may deem just and proper,
23 including, but not limited to:
- 24 a. Wages as proved at trial;
- 25 b. Injunctive and Declaratory relief;
- 26 c. Attorney's fees and costs as provided for by law; and
- 27 d. Interest.
- 28

1
2
3 Dated: January 7, 2025

Shimoda & Rodriguez Law, PC

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5 By: 
6 Galen T. Shimoda
7 Justin P. Rodriguez
8 Renald Konini
9 Attorneys for Plaintiff
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Attorneys for Plaintiff VANESSA RUIZ

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

VANESSA RUIZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

SYMBOTIC, LLC, a Delaware Limited
Liability Company; SYMBOTIC, INC., a
Delaware Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 23CV008326

*Assigned for All Purposes to Hon. Jill H. Talley
Department 23*

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION,
COLLECTIVE ACTION AND PAGA
SETTLEMENT**

Reservation No. A-08326-001

Date: January 31, 2025

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: September 11, 2023

FAC Filed: January 12, 2024

Trial Date: None Set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action, Collective Action, and PAGA
3 Settlement (“Motion”) in the above referenced case came before this Court, on January 31, 2025, at
4 9:00 a.m., in Department 23 before the Honorable Jill H. Talley, presiding. Plaintiff Vanessa Ruiz
5 (“Plaintiff”) filed this putative class action on September 11, 2023. Plaintiff requests leave to amend
6 to file a proposed Second Amended Complaint which will become the operative Complaint in this
7 action. Plaintiff alleges that Defendants Symbotic, LLC, and Symbotic, Inc. (“Defendants”), violated
8 California law by failing to pay overtime wages and minimum wages under California law, failing to
9 pay overtime and minimum wages under the Fair Labor Standards Act (“FLSA”), failing to provide
10 meal periods or pay premiums in lieu thereof, failing to provide rest periods or pay premiums in lieu
11 thereof, failing to provide accurate wage statements, failing to timely pay final wages, failing to
12 reimburse expenses, engaging in unfair competition, and engaging in California Equal Pay Act
13 violations. Plaintiff has also alleged Defendants are liable for civil penalties under the Private
14 Attorney’s General Act (“PAGA”) based on these violations. Plaintiff sought attorneys’ fees and costs
15 as part of this Action. Defendants denied all of Plaintiff’s claims and denied that this case was
16 appropriate for class treatment. No class has been certified.

17 The parties have agreed to settle the class, FLSA collective action, and PAGA claims.
18 Defendants will provide monetary consideration in exchange for a release of claims consistent with the
19 terms of the proposed settlement as set forth in the Joint Stipulation Regarding Class Action,
20 Collective Action and PAGA Settlement and Release (“Agreement” or “Settlement”). Any capitalized
21 terms herein shall have the same meaning as set forth in the Agreement. The Court, having received
22 and considered Plaintiff’s Motion for Preliminary Approval of Class Action, Collective Action and
23 PAGA Settlement, the declarations in support, the Agreement, the proposed Notice of Settlement, and
24 other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:

25 **I. PRELIMINARILY CERTIFYING SETTLEMENT CLASS; APPOINTMENT OF CLASS**
26 **REPRESENTATIVE; APPOINTMENT OF CLASS COUNSEL; CONDITIONALLY**
27 **CERTIFYING COLLECTIVE MEMBERS UNDER FLSA**

28 The Court finds that certification of the following class for settlement purposes only is
appropriate under the California Code of Civil Procedure and related case law:

1 All non-exempt hourly employees who were employed by Defendants in
2 the State of California at any time from September 11, 2019, through
3 December 18, 2024.

4 The Court finds that Class Members meet the ascertainability and numerosity requirements since
5 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
6 the definition and the number of Class Members would make joinder impractical. The commonality and
7 predominance requirements are met for settlement purposes since there are questions of law and fact
8 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
9 contentions that Defendants caused the violations outlined above by 1) failing to pay Plaintiff and
10 similarly situated employees for the time it took them to walk back and forth from the entrance of the
11 building before and after the end of their shift to clock in and out, 2) rounding employees hours worked
12 to the nearest quarter hour up until approximately November 2023, 3) failing to pay Plaintiff and
13 similarly situated employees for off the clock work for tasks performed after business hours, such as
14 responding to phone calls, emails, and texts, 4) failing to pay Plaintiff and similarly situated employees
15 the correct amount of retroactive pay after their raises, 5) failing to incorporate the value of bonuses into
16 the regular rate of pay in calculating Plaintiff's and similarly situated employees' premium wages,
17 including overtime, meal and rest period premiums, and sick leave, 6) failing to pay restrictive stock
18 units ("RSUs") that were vested to Plaintiff and to similarly situated employees, 7) failing to incorporate
19 the value of the RSUs into the regular rate of pay in calculating Plaintiff's and similarly situated
20 employees' premium wages, including overtime, meal and rest period premiums, and sick leave, 8) not
21 providing Plaintiff and similarly situated employees with compliant meal and rest periods, 9) failing to
22 reimburse Plaintiff and similarly situated employees for the use of their personal cell phones for work
23 purposes, such as to communicate with managers, supervisors, and other employees regarding work
24 issues and scheduling, and 10) paying similarly situated female employees less than male employees
25 with similar skill, education, and experience for substantially similar work under similar working
26 conditions. The PAGA, waiting time penalty, wage statement violation, and unfair competition claims
27 also derive from these violations. Additionally, Class Members seek the same remedies under state
28 law. The typicality requirement for settlement purposes is also satisfied since the claims of the Class
Representative is based on the same facts and legal theories as those applicable to the Class Members.

1 The Court finds that preliminarily and conditionally certifying the settlement class is required to
2 avoid each Class Member from litigating similar claims individually. This Settlement will achieve
3 economies of scale for Class Members with relatively small individual claims and conserve the
4 resources of the judicial system.

5 The Court finds that Plaintiff Vanessa Ruiz and Plaintiff's counsel, Galen T. Shimoda
6 Justin P. Rodriguez, Renald Konini of Shimoda & Rodriguez Law, PC, to be adequate representatives of
7 the settlement class. The Court appoints them as Class Representative and Class Counsel, respectively.

8 The Court finds that the same material factual and legal similarities identified above also support
9 certifying the Collective Members as similarly situated under the FLSA for settlement purposes. *See*
10 *Campbell v. City of Los Angeles*, 903 F.3d 1090, 1117 (9th Cir. 2018). Collective Members include the
11 following individuals:

12 All non-exempt employees who have been employed by Defendants in the
13 State of California at any time from September 11, 2020, through
14 December 18, 2024

15 The Court recognizes that the foregoing definitions for Class Member and Collective Members
16 are for identification purposes only and is not intended to capture the claims at issue or limit or alter the
17 released claims under the Agreement.

18 **II. PRELIMINARILY APPROVING THE CLASS, COLLECTIVE, AND PAGA SETTLEMENT**

19 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
20 A. The Court finds, on a preliminary and conditional basis, that the Settlement is fair, reasonable, and
21 adequate and falls within a range of reasonableness for a settlement that could ultimately be given final
22 approval by this Court. The Court finds the Settlement was agreed upon only after extensive
23 investigation, litigation, and arms-length negotiations by counsel experienced in complex litigation, who
24 took reasonable steps and measures to weigh the potential value of the disputed claims against the risks
25 of continued litigation. The Court also acknowledges that Class and Collective Members may present
26 any objections to the Settlement at a fairness hearing approved by this Court or opt-out of being bound
27 by the preliminarily approved Agreement. The Court preliminarily approves the Agreement and all
28 terms therein as if stated here in full, including the \$246,500 Gross Fund Value.

1 The Court approves of ILYM Group, Inc. acting as the Settlement Administrator in this case and
2 hereby appoints them to fulfill those duties as outlined in the Agreement.

3 The Court finds that an award of fees under the common fund doctrine may be appropriate in this
4 case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits
5 that Plaintiff and Class Counsel were able to negotiate on behalf of Class Members can be accurately
6 traced as set forth in the Agreement, and the fee can be shifted with exactitude to those benefiting as the
7 fee request is a specific, lump-sum percentage of the Gross Fund Value. *See Laffitte v. Robert Half*
8 *Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v. Grauly*, 886 F.2d 268, 271
9 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers a
10 common fund for the benefit of persons other than . . . her client is entitled to a reasonable attorney’s fee
11 from the fund as a whole.”). The amounts allocated under the Agreement for attorney’s fees and costs,
12 an Incentive Award to the Class Representative, and Settlement Administrator Costs shall be included in
13 the Notice of Settlement to enable Class Members to review and comment thereon. The Court will
14 consider the reaction of Class Members when evaluating the reasonableness of the requested amounts at
15 final approval. *See In re Heritage Bond Litig.*, 2005 WL 1594403, *21 (C.D. Cal. 2005) (“The absence
16 of objections or disapproval by class members to Class Counsel’s fee request further supports finding
17 the fee request reasonable”). Plaintiff and Class Counsel are directed to provide information in
18 connection with the motion for final approval that will enable the Court to assess the appropriateness of
19 any requested fee percentage, to perform a lodestar cross check of the requested fee percentage, and to
20 quantify the amount of time spent by Plaintiff on this case and any further risks and/or burdens incurred
21 as a result of acting as Class Representative. Class Counsel is also directed to provide an updated
22 declaration and itemization regarding actual litigation costs incurred. The Settlement Administrator
23 shall also submit a declaration attesting to Settlement Administrator Costs incurred. The Court will
24 review these amounts and allocations in connection with the final approval hearing. To the extent the
25 Court ultimately awards less than the amounts allocated under the Agreement for attorney’s fees and
26 costs, any Incentive Award, and/or Settlement Administrator Costs, the difference between the amounts
27 awarded and the amounts requested shall be added to the Net Settlement Amount for distribution to
28 Participating Class Members pro rata as set forth in the Agreement.

1 The Court approves of the Twenty Thousand Dollars (\$20,000) PAGA Fund which shall be paid
2 from the Gross Fund Value, not in addition to the Gross Fund Value, to resolve the alleged PAGA
3 claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and Workforce
4 Development Agency (“LWDA”) and Twenty-Five percent (25%) will be paid to Aggrieved Employees
5 on a pro rata basis as described in the Agreement. The Court also finds that the Agreement provides a
6 recovery that creates an effective, substantial deterrent to any potential future non-compliance,
7 furthering the purpose of the Labor Code and LWDA.

8 The Court approves of the Twenty Thousand Dollars (\$20,000) FLSA Settlement Fund, which
9 shall be paid from the Gross Fund Value, not in addition to the Gross Fund Value, to resolve the alleged
10 FLSA claims.

11 The Court approves of the identified distribution plan wherein any checks issued to Participating
12 Class Members, Collective Members and/or PAGA Group Members that are not cashed by the deadline
13 to do so shall be escheated to the State of California’s Controller, to be held in the name of each expired
14 check payee, pursuant to applicable unclaimed property laws.

15 The releases and waivers for Class Members who do not opt out of being bound by the
16 Agreement (*i.e.* Participating Class Members), Collective Members who opt-in by cashing their check,
17 PAGA Group Members, and the Class Representative are also approved by the Court as set forth in the
18 Agreement.

19 Plaintiff is granted leave to file the Second Amended Complaint attached as Exhibit 1 to the
20 Agreement. The Second Amended Complaint shall be filed and served upon Defendants within fourteen
21 (14) calendar days of this order being signed.

22 **III. APPROVAL OF THE NOTICE OF SETTLEMENT AND METHOD FOR** 23 **DISTRIBUTING THE NOTICE OF SETTLEMENT**

24 The Court finds that the proposed Notice of Settlement, attached to this Order as Exhibit 1 and
25 incorporated by reference, fairly and adequately advises Class Members and Collective Members of the
26 terms of the Agreement, the rights being waived, their right to opt out, the ability to dispute the number
27 of workweeks worked during the Class Period, their pro rata share of the Net Settlement Amount, how
28 to participate in the settlement, how to file documentation in opposition to the proposed settlement, and

1 when to appear at the fairness hearing to be conducted on the date set forth below. The Court further
2 finds that the Notice of Settlement and proposed distribution of such notice by first class mail to each
3 identified Class Member at his or her most recent address based on a National Change of Address
4 database search from the Class Members' and Collective Members' last known address and a skip trace
5 on any Class Members and Collective Members who have the Notice of Settlement returned as
6 "undeliverable" or "not at this address" comports with all constitutional requirements, including those of
7 due process.

8 The Court also finds that because there is a strong interest in providing Class Members and
9 Collective Members the opportunity to participate in the settlement, along with the parties' efforts to
10 minimize any intrusion of privacy rights, the sharing of employment information as set forth in the
11 Agreement is not a serious intrusion on their privacy rights. Hence, the Court orders Defendants to
12 provide Class Member and Collective Members information to the Settlement Administrator as set forth
13 in the Agreement and any other information the Settlement Administrator needs to effectuate notice to
14 Class Members, Collective Members and PAGA Group Members. The Class Member and Collective
15 Members information will be provided to the Settlement Administrator only, and not to Plaintiff or Class
16 Counsel, as contemplated within the Agreement and approved by this Order. The Settlement
17 Administrator shall only use this information for the purposes identified in the Agreement and shall keep
18 this information confidential consistent with the terms of the Agreement.

19 IV. IMPLEMENTATION SCHEDULE

20 Accordingly, with good cause shown, the Court hereby approves and orders that the following
21 implementation schedule be adhered to:

22 23 24 25	Last day for Defendants to provide Settlement Administrator with Class Member, Collective Members, and PAGA Group Members information	Within 14 calendar days after the Preliminary Approval Date
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1	Last day for Settlement Administrator to complete NCOA search, update Class Member, Collective Members, and PAGA Group Members mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members' and Collective Members' information from Defendants
2		
3		
4		
5	Last day for Class Members and Collective Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
6		
7		
8	Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
9		
10	Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts to Participating Class Members, Collective Members and/or PAGA Group Members, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
11		
12		
13		
14		
15	Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
16		
17		
18	Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Incentive Award, PAGA Fund, Settlement Administrator Costs, payment to Participating Class Members, Collective Members and payment to PAGA Group Members	Within 14 calendar days after Defendants have funded the settlement
19		
20		
21		
22	Last day for Participating Class Members, Collective Members, and PAGA Group Members to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members, Collective Members, and PAGA Group Members
23		
24		
25	Last day for Settlement Administrator to deliver value of uncashed settlement to the State of California's Controller	Within 14 calendar days after settlement check cashing deadline
26		
27	Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline
28		

1 **V. FINAL APPROVAL AND HEARING**

2 The Court hereby grants Plaintiff's Motion and sets final approval hearing on the proposed date
3 of June 20, 2025, at 9:00 a.m., with briefs and supporting documentation to be submitted according to
4 the California Code of Civil Procedure, in this Department. Participating Class Members and Collective
5 Members may object as set forth in the Agreement as well as appear and present such objections at the
6 fairness hearing in person or by counsel.

7 If for any reason the Court does not grant final approval of the Agreement, all evidence and
8 proceedings held in connection therewith shall be without prejudice to the status quo and rights of the
9 parties to the litigation, including all challenges to personal jurisdiction and to class certification for any
10 purpose other than approving a settlement class. The parties will revert to their respective positions as if
11 no settlement had been reached at all.

12 **IT IS SO ORDERED.**

13
14 Date: _____

By: _____
Judge of the Superior Court