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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BERNETTIA CLARA WILLIAMS, on behalf of himself and all others similarly situated, and the general public, Plaintiff, v. EMPIRE TRANSPORTATION, INC., a California corporation; and DOES 1 through 50, inclusive, Defendants.	CLASS ACTION Case No. 23STCV21618 Honorable Timothy Patrick Dillon Dept.: 15 **DECLARATION OF MARTA MANUS IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT** Date: February 9, 2027 Time: 10:00 a.m. Dept.: 15 Complaint Filed: September 7, 2023 First Amended Complaint: November 16, 2023 Second Amended Complaint: June 3, 2024 Trial Date: None Set

DECLARATION OF MARTA MANUS

I, Marta Manus, declare:

1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Court for the Central, Southern, Eastern, and Northern Districts of California, and the Ninth Circuit Court of Appeals. I am a senior attorney at D.Law, Inc., counsel for Plaintiffs BERNETTIA CLARA WILLIAMS and DAVID HERNANDEZ ("Plaintiffs") on behalf of themselves and similarly situated employees of Defendant EMPIRE TRANSPORTATION, INC. ("Defendant" collectively with Plaintiff, "the Parties"). I and my firm are referred to herein as Class Counsel. I have personal knowledge of the facts herein and if called as a witness, I could and would competently testify.

2. All the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I submit this Declaration in support of the Motion for Preliminary Approval, filed by Plaintiff, on behalf of themselves and other similarly situated employees of Defendant, and without opposition from Defendant, for preliminary approval of the Parties' Class Action and Private Attorneys General Act of 2004 ("PAGA") Class Action and PAGA Settlement Agreement ("Settlement Agreement" or "Settlement"), a true and correct copy of which is attached hereto as **Exhibit 1.**

QUALIFICATIONS AND ADEQUACY OF CLASS COUNSEL

3. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases, including class actions and PAGA actions on behalf of employees and others who have had their rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiff's counsel of record in numerous wage and hour and employment class action and PAGA action cases pending in both state and federal court.

4. D.Law is well-qualified and has ample experience, knowledge, and resources to act as counsel and represent Plaintiffs and the putative Class and aggrieved employees in this action. Our practice is exclusively focused on employment matters and representing plaintiffs in wage and hour actions with the same or similar causes of actions brought forth in the matter pending before this Court.

5. D.Law has litigated and successfully resolved many wage and hour class action cases involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. *De La Rosa v. The Coca Cola Company et al*. (Superior Court of California in Napa, 17CV000787), *Harvey v. Bed Bath & Beyond of California Limited Liability Company* (Superior Court of California in Alameda, RG17885153), *Paredes v. Bottling Group LLC et. al*. (Superior Court of California in Kern), *Ramirez v. Harris Ranch Beef Company* (Superior Court of California in Fresno, 16CECG04103), *Gates v. Gate Gourmet, Inc. et. al.* (Southern District of California, 16-cv-01084-L-AGS), *Hargrave v. Antelope Valley Hospital* (Superior Court of California in Los Angeles, BC663252), *Ramirez v. Milton Roy et. al.* (Superior Court of California in Los Angeles, BC 632 276), *Hawkins v. AvalonBay Communities* (Superior Court of California in Santa Clara, 17CV316492), *Jones Tharpe et al. v. Sprint Corporation et al*. (Superior Court of California in Los Angeles, BC644645), *Ortega et al. v. Nestle Waters North America, Inc. et al*. (Superior Court of California in Los Angeles, BC623610), *Schultz v. Jimbo's Natural Family, Inc.* (Superior Court of California in San Diego, 37-2017-00022348-CUE-OE-CTL), *Ambrose v. Victor Valley Global et al.* (Superior Court of California in San Bernardino, CIVDS1709289), *Puerta-Gildardo v. Real Time Staffing Services LLC et. al.* (Superior Court of California in Los Angeles, BC565445), *Vargo v. Pregis Innovative Packaging LLC* (Superior Court of California in Tulare, 270836), *Conlin v. Aegis Senior Communities LLC* (Northern District of California, 17-cv-05534-LHK), *Galarza v. Kloeckner Metals Corporation* (Central District of California, 2:17-cv-04910-FMO), *Estes v. L3 Technologies, Inc. et al.* (Southern District of California, 3:17-cv-02356-H-JMA), *Rowser v. Trunk Club, Inc.* (Central District of California, 2:17-cv-05064-DSF-RAO), *Leach v. The Claremont Colleges, Inc.* (Superior Court of California in Los Angeles, BC686451), *Vaesau v. PCT Enterprises, Inc. dba Precision Cabinets* (Superior Court of California, County of Contra Costa MSC18-02404), *Terry v. TF Louderback, Inc. dba Bay Area Beverage Company* (Superior Court of the State of California, County of Contra Costa, MSC18-00859), *Roach v. Westcare California, Inc.* (Superior Court of California in Kern County, BCV-17-102367-SDS), *Patton v. Church & Dwight Co., Inc.* (Central District of California, EDCV 18-903-MWF (KKx)), *Juarez v. ISL Employees, Inc.* (Superior Court of California in Madera,

MCV074787), *Ferraro v. USC Verdugo Hill s Hospital, et al.* (Superior Court of California in Los Angeles, 18STCV09463), *Ford v. Account Control Technology, Inc., et al.* (Superior Court of California in Los Angeles, 19STCV09369), *Ornelas v. iStorage, et al.* (Superior Court of California in San Francisco, CGC-18-571421), *Martinez v. Ronpak, Inc.* (Superior Court of California in Riverside, RIC1901307), *Barrera et al. v. Exclusive Wireless, Inc.* (Superior Court of California in Stanislaus, 9000687), *Barajas v. Mancha Development Company LLC* (Superior Court of California in Orange County, 30-2018-00974707-CU-OE-CXC), *Prado v. IMAX Corporation dba IMAC Worldwide Home* (Superior Court of California in San Bernardino, CIVDS1820265), *Rodriguez v. ND Industries, Inc.* (Superior Court of California in Los Angeles, 19STCV38096), *Singletary v. Motel 6 Operating LP, et al.* (Southern District of California, 3:20-cv-0270-LAB-AHG), *Quizon v. CF Watsonville East, LLC, et al.* (Superior Court of California in Santa Cruz, 20CV01868), *Stephenson v. Bakersfield Dodge, Inc.* (Superior Court of California in Kern, BCV-20-102693), *Bacerra v. Hugo Boss Retail, Inc.* (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL), *Walker v. Ariat International, Inc.* (Superior Court of California in Alameda, HG19026439), *Orr v. Petvet Care Centers (California) Inc.* (Superior Court of California in Santa Clara, 19CV354063), *Jimenez v. OEC Distribution Services, Inc.* (Superior Court of California in San Bernardino, CIVDS1915743), *Virdi v. Absolute Security International* (Superior Court of California in San Bernardino, CIVDS 1909589), *Raj v. First Transit, Inc.* (Superior Court of California in Sacramento, 34-2021-00295895-CU-OE-GDS), *Marchbanks v. Torrid Administration, Inc.* (Superior Court of California in San Diego, 37-2020-00008179-CU-OE-NC), among others.

6. I am a 2008 California Western School of Law graduate and was admitted to the California State Bar in December 2008. Since graduating from law school, I have dedicated my entire career to litigating employment class actions and PAGA representative actions. I have litigated and settled hundreds of class actions and PAGA representative actions and have obtained numerous six and seven figure settlements.

7. For purposes of this motion, the "Class" or "Class Members" consist of all persons who are or were employed by Defendant as hourly paid, non-exempt employees in the State of

California at any time during the Class Period. Contract employees are not part of the "Class.". The Class Period is defined as April 2, 2021, through August 31, 2023. I do not believe that I have any conflicts of interest with the Class or with the Class Representatives. I am not related to the Class Representatives. I have not previously represented Defendant in any matter. I respectfully submit that I, and D.Law, Inc. are well suited to act as Class Counsel in this action, and we have and will continue to vigorously represent the interests of the Class Members.

PROCEDURAL HISTORY

8. On September 7, 2023, Plaintiffs commenced this putative class action by filing a complaint against Defendant in the Superior Court of California, County of Los Angeles, asserting causes of action against Defendant for: (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay hourly wages and overtime; (4) failure to provide accurate written wage statements; (5) failure to timely pay all final wages; (6) failure to indemnify; and (7) unfair competition.

9. On Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave timely written notice to Defendant and the Labor Workforce Development Agency ("LWDA") by sending the PAGA Notice on September 7, 2023 (LWDA-CM- 980223-23). The LWDA did not express an interest in investigating Plaintiffs' claims within the 65-day period. Therefore, on November 16, 2023, Plaintiffs filed a First Amended Complaint ("FAC") including an eighth cause of action for penalties pursuant to Labor Code § 2698, *et seq*.

10. On June 3, 2024, Plaintiffs filed a Second Amended Class and Representative Action Complaint ("SAC") adding David Hernandez as an additional plaintiff. The SAC is the Operative Complaint.

INVESTIGATION AND DISCOVERY

11. Before filing the lawsuit, Class Counsel conducted a thorough investigation and researched the facts and circumstances underlying the pertinent issues and applicable law. This required thorough discussions and interviews between Class Counsel and Plaintiffs, in addition to the above-described research into the various legal issues involved in the case. After filing the lawsuit, Class Counsel conducted a thorough investigation of the facts and claims giving rise to

the action, including (1) conducting informal discovery and meeting and conferring with defense counsel about same; (2) reviewing and analyzing records and data, as well as employment-related policies; (3) reviewing Plaintiffs' personnel file and other documentation; (4) interviewing Plaintiff regarding potential Class Members; (5) researching the applicable law and potential defenses; (6) constructing damage models based on interpretations of California law and the facts and numbers provided by Defendants; and (7) reviewing information provided by Defendants in response to informal discovery and in advance of the mediation. The Parties conducted their own evaluations of the potential recoveries based on the claims alleged in the Action. Plaintiffs hired expert damages consultant to analyze class data and formulate a damages model for mediation.

12. Defendant, for their part, vigorously contested liability, the amount of claimed damages, and the propriety of class certification. After Class Counsel analyzed the relevant documents and other gathered data, Class Counsel believed that this case was appropriate for resolution via mediation. Given the high level of risk present for both sides, the Parties elected to mediate Plaintiff's claims and explore the possibility of settlement.

13. In advance of mediation, Class Counsel conducted a thorough investigation into the facts of, and applicable law to, the Action, including reviewing documents and data regarding Defendants' employment policies and practices. Plaintiff' counsel provided Defendants' counsel with a comprehensive listing of informal discovery items required to constructively mediate. Defendants responded by producing timekeeping and corresponding payroll records for approximately 130 individuals (at the time of the data production). (See Declaration of Jarrett Gorlick ¶ 6, **Exhibit 3** hereto). Prior to mediation, Plaintiff therefore obtained and analyzed the production of time and payroll data for Class Members and Aggrieved Employees and the necessary policy documents through informal discovery to properly evaluate the strengths and weaknesses of their claims and engage in meaningful settlement discussions. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*").

14. On August 14, 2026, the Parties mediated this case with Lonnie D. Giamela, Esq., a

respected and highly experienced mediator in wage and hour class actions. During mediation, Plaintiff's and Defendant's counsel discussed all aspects of the case, including the risks of litigation and the risks to both Parties of proceeding with a motion for class certification as well as the law relating to off-the-clock work, meal and rest breaks, reimbursement of business expenses, and wage statements. The Parties agreed to settle the lawsuit according to the terms set forth in the Settlement Agreement.

15. From Class Counsel's review of the facts, strengths, and weaknesses of the case, the risks and delays posed by further litigation, and Class Counsel's own prior litigation experience, Class Counsel believes that the recovery for each class member is fair and reasonable taking into consideration the amounts received in other wage and hour class actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each Class Member's claim to the settlement award he or she will receive. Further, and based on the settlement negotiations, which were extensive and conducted in good faith and at arm's length between attorneys with substantial experience litigating class actions and wage and hour cases, the Settlement Agreement was the product of a non-collusive settlement process in which the Parties were forced to make significant compromises in the interest of reaching a full and complete settlement of the lawsuit.

SUMMARY OF SETTLEMENT

16. The Parties have executed a Class Action and PAGA Settlement Agreement ("Settlement Agreement") attached hereto and incorporated herein as Exhibit 1. Defendant has agreed to pay $550,000 ("Gross Settlement Amount") on a non-reversionary basis to settle and release all claims asserted by Plaintiffs in the operative complaint on behalf of the proposed Class. Defendant will pay its employer-side payroll tax obligations on the Wage Portion of the Individual Class Payments in addition to the Gross Settlement Amount. (Ex. 1, ¶¶ 3.1, 4.3.)

17. The Settlement Agreement defines the "Class" or "Class Member(s)" or "Settlement Class" as all persons who are or were employed by Defendant as hourly paid, non-exempt employees in the State of California at any time during the Class Period. Contract employees are not part of the "Class." (Ex. 1, ¶ 1.3.) "Class Period" means the period from April 2, 2021, through August 31, 2023. (Ex. 1, ¶ 1.10.)

18. The "Net Settlement Fund" shall be the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administration Expenses Payment. (Ex. 1, ¶ 1.25.) These amounts are detailed as follows:

- Class Counsel Fees Payment and Expenses Payment of not more than One Hundred Eighty-One Thousand Five Hundred Dollars and Zero Cents ($181,500) and up to Twenty-Five Thousand Dollars and Zero Cents ($25,000) in litigation costs; (Ex. 1, ¶ 3.2.2);
- Administration Expenses Payment of not more than Nine Thousand Dollars and Zero Cents ($9,000) to the Administrator (Ex. 1, ¶ 3.2.3). The Administration Expenses Payment is currently estimated to be $8,000. (Declaration of Jonathan Paul on behalf of Xpand Legal Consulting LLC ("Xpand"), at ¶ 11, Exhibit 2 hereto);
- Class Representative Service Payment of not more than Ten Thousand Dollars ($10,000) to each Plaintiff; (Ex. 1, ¶ 3.2.1);
- PAGA Penalties in the amount of $30,000 for civil penalties under PAGA, with 75% ($22,500) will be paid to the LWDA and 25% ($7,500.00) will be included in the Net Settlement Amount and distributed to Aggrieved Employees); (Ex. 1, ¶ 3.2.5).

19. The "Individual Class Payment," which is each Class Member's share of the Net Settlement Amount, the Administrator shall calculate by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. (Ex. 1, ¶ 3.2.4.). Using a straight average and assuming they worked throughout the Class Period, Plaintiffs estimates that each Class Member will receive an average of $504.42 (estimated Net Settlement Amount of $285,500.00 divided by 566 class members) for their Individual Class Payment for the class portion of the Settlement.

20. The Gross Settlement Amount was a compromise figure, factoring in the inherent risks related to certification, liability and damages. However, considering all of the circumstances of

the action and the defenses raised by Defendant against certification, liability and damages, Class Counsel believes that the settlement is fair and reasonable.

21. Class Members shall each receive a "Class Notice" via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List. (Ex. 1 ¶¶ 7.4.2, Ex. A thereto,) Before mailing, the Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. (Ex. 1, ¶ 7.4.2.) If a new address is obtained by way of a returned Class Notice, then the Administrator will promptly forward the original Class Notice to the updated address via first-class regular U.S. mail, indicating on the original packet the date of such re-mailing. (Ex. 1, ¶ 7.4.3.)

22. Class Members will have an opportunity to dispute the information provided in their Class Notice and may challenge the allocation by communicating with the Administrator via fax, email, or mail. (Ex. 1, ¶ 7.6.) The Administrator must encourage the challenging class Member to submit supporting documentation. All disputes must be submitted by the Response Deadline and will be decided by the Administrator after the Response Deadline. (Ex. 1, ¶¶ 1.40, 7.6.)

23. Class Members wishing to opt-out from the Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Administrator within the Response Deadline (Ex. 1, ¶ 7.5.1.) The postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. The Administrator will provide the data and counts of any exclusion requests but will not provide Class Member identity or contact information to Class Counsel. (Ex. 1, ¶ 7.8.2.)

24. Class Members will also have the opportunity to object to the Settlement Agreement. A Class member may send written objections to the Administrator, on or before the Response Deadline or appear in person at the Final Approval Hearing. (Ex. 1, ¶ 7.7.2, Ex. A thereto.)

THE STRENGTH OF PLAINTIFF'S CASE

IN LIGHT OF THE SETTLEMENT AMOUNT

25. Because the class consists of numerous employees, it was unlikely that the potential monetary claims of individual Class Members would have proved viable without the class-action

mechanism. The Settlement Agreement should be approved in light of two California appellate decisions: *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

26. The strength of the Plaintiff's case in light of the settlement amount is deemed by courts to be the "most important." *Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 799 (citing *Kullar*). Here, Plaintiffs allege that Defendant failed to pay minimum wages and overtime, failed to provide meal and rest breaks, failed to provide reimbursement of business expenses, failed to provide accurate wage statements, and failed to pay all wages upon termination, all in violation of California law. Plaintiffs seek related violations of California's Business & Professions Code, penalties pursuant to Labor Code § 2699 *et seq*. The merits of each of these claims will be addressed separately below.

27. Based on the data provided for mediation, Class Counsel estimated Defendant's exposure on the primary claims in this case as follows: unpaid wages claim at $618,750 (discounted by 75% to $XXX); unpaid overtime wages claim at $154,687.50; approximately $8,015 (regular rate of pay violation); meal period claim at $1,748,908 (discounted by 80% to $349,781.60; rest period claim at $2,594,376 (discounted by 90% to $259,437.60); wage statement claim at $623,600 (discounted by 75% to $155,900); waiting time penalties at $1,588,298 (discounted by 75% to $397,074.50); unreimbursed business expenses at $184,493 (discounted by 50% to $92,246.50). With these discounts applied, the total damages exposure amounts to approximately $1,417,142.70. PAGA penalties were calculated at $642,300, bringing the maximum total estimated exposure to $2,059,442.70. Each claim is addressed below.

Unpaid Wages

28. Plaintiffs alleged that Defendant failed to pay Plaintiffs and other Class Members minimum wages and overtime for all hours worked. Plaintiffs contend that they and other Class Members were not paid proper overtime and minimum wages. Specifically, Plaintiffs alleged that Plaintiffs and Class Members performed pre-shift Covid screenings, conducting pre-trip inspections, and waiting in line to approach the time clock. Further, Plaintiffs alleged that Plaintiffs and Class Members completed work while off the clock such as undergoing random

drug tests, preparing incident reports, work logs, and responding and/or sending emails to Defendant.

29. Additionally, Plaintiffs alleged that Defendant unlawfully paid a lower wage while purporting to pay the wage designated by statue or by contract.

30. Finally, Defendant provided Class Members with nondiscretionary payments, including but not limited to bonuses; however, Defendant failed to correctly consider these additional payments in the computation of the regular rate of pay to determine the legal overtime pay, meal and rest break premiums, vacation pay, and sick pay for the Class Members.

31. Defendant contends that it paid for all reported hours worked, that Class Members were trained to record all hours worked, and that they paid proper minimum wages and regular rate of pay. Additionally, Defendant also maintained that the allegations regarding failure to pay wages for hours worked in excess of eight hours in a day did not constitute a basis for violation of Labor Code § 510. Furthermore, Defendant argued that given their written policies and practices, any unrecorded hours were likely subject to individualized inquiry and unlikely to be certified.

32. Class Counsel estimated Defendant's exposure on the unpaid wages claims to be approximately $618,750 (based on 10 minutes of off the clock work per shift and assuming 74.6% of off the clock hours attributable to overtime, based on the data analyzed by Plaintiffs' expert). However, given Defendant's defenses and the potential hurdles facing certification of this claim, Class Counsel applied a 75% discount to this claim making for an adjusted estimated exposure of $154,687.50.

33. Class Counsel estimated Defendant's exposure on underpaid overtime wage due to the miscalculation of the regular rate claim to be approximately $8,015. This claim was not discounted.

Meal Periods and Rest Breaks

34. Plaintiffs alleged that Defendant consistently failed to provide timely and uninterrupted meal breaks to Class Members. *See Brinker Restaurant Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004, 1040 ("[T]he wage order's meal period requirement is satisfied if the employee (1) has at least 30 minutes uninterrupted, (2) is free to leave the premises, and (3) is relieved of all duty for

the entire period.").

35. Plaintiffs also allege that Defendant failed to provide Plaintiffs and Class Members with lawful first and second meal periods and failed to pay the legally required premium at their regular rate of pay whenever meal periods were missed, interrupted, or late.

36. For each meal period missed, of less than 30 minutes, or taken late for which the employee was not provided a reasonable opportunity to take a complete and timely meal period, an employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay." To comply with these laws, every employer must keep, for each employee, accurate time records showing when the employee begins and ends each work period and takes his or her meal periods. *See* Wage Section (7)(A)(3) of the applicable IWC Wage Order.

37. Defendant disagreed with Class Counsel's interpretation of the law and facts. Defendant argued that in practice all employees were authorized and did in fact take timely uninterrupted meal breaks. Defendant also argued that their written policies were valid, disseminated to all Class Members, and provided Class Members with 30-minute unpaid meal breaks. Defendant contended that Class Members were given a reasonable opportunity to take their meal periods, and in fact received their meal periods most of the time.

38. Class Counsel estimated Defendant's maximum total exposure on the meal break claim at approximately $1,748,908 (excluding interest), based on an analysis of meal period records and an offset of $82,835 for meal premiums paid. Class Counsel believes this estimate is high given Defendant's defenses and potential hurdles facing certification of this claim and thus provided an 80% discount making Defendant's adjusted estimated exposure $349,781.60.

39. The same argument applied to rest breaks. Plaintiffs contend that Defendant did not provide Class Members with paid 10-minute rest breaks for every four hours or major fraction thereof. Class Members consistently worked in excess of consecutive four-hour shifts and were entitled to paid rest breaks of not less than ten minutes for each consecutive four-hour shift which they were denied. Class Members received rest breaks of less than ten minutes and were not permitted to leave the premises during their rest periods, or they would face reprimand resulting

in on-duty rest periods.

40. Defendant maintained that it did provide the reasonable opportunity for Class Members to take duty-free rest breaks. Defendant also pointed out that, unlike meal periods, rest breaks need not be recorded. As these considerations would likely depress the damages *vel non* ultimately awarded, Class Counsel applied significant and appropriate discounts to the rest-break claim.

41. Class estimated Defendant's maximum total exposure on the rest break claim at approximately $2,594,376 (assuming 100% violation rate for shifts of at least 3.5 hours – total of 14,017 shifts). However, Class Counsel believes this estimate is high given the difficulty of proving rest break violations at trial and the potential hurdles facing certification of this claim difficult to achieve and thus applied a 90% discount making Defendant's realistic exposure more likely to be $259,437.60. Owing to the arguments above and the fact that recording of rest periods is not required, this claim was substantially discounted and was not a major driver of exposure in this case.

Wage Statement Violations

42. Plaintiffs also contend that Defendant failed to provide Class Members with accurate, itemized wage statements in writing as required by California Labor Code § 226(a) because of the systematic underpaying of Employees due to the off-the-clock work which Defendant knew or reasonably should have known were owed to Plaintiffs and Class Members. As a direct and proximate cause of Defendant's violation of Labor Code § 226(a), the Class Members suffered injuries, including among other things confusion over whether they received all wages owed them. Pursuant to Labor Code §§ 226(a) and 226(e), employees are entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

43. Defendant contended that Plaintiffs' claim for further Labor Code § 226(e) penalties would depend in large part on their underlying wage claims and thus be subject to the same

defenses. Defendant further contended that wage claim violations, even if established, could not be the predicate for a Labor Code § 226 wage statement claims. *See, e.g. Culley v. Lincare Inc.* (E.D. Cal. 2017) 236 F.Supp.3d 1184, 1195-96; *Soto v. Motel 6 Operating, L.P.* (2016) 4 Cal.App.5th 385, 392-393 (noting wage statement need only document compensation actually received and the hours used to calculate that compensation). Finally, because the damages for this cause of action are penalties, the statute of limitations only runs from one year prior to the filing of the original complaint. *See* Cal. Civ. Pro. § 340.

44. Class Counsel estimated Defendant's maximum total exposure on the section 226 claim at approximately $623,600 ($50/$100 x 6,423 pay periods). Class Counsel believes it may be difficult to prevail on this claim because Class Members would need to show that they suffered an injury and that Defendant's noncompliance was knowing and intentional (on top of the challenges described above with the underlying wage and break claims) which are both subject to individualized issues making certification of this claim difficult to achieve. Thus, Class Counsel provided a 75% discount making the adjusted estimated exposure $155,900.

Failure to Pay Final Wages

45. In failing to pay the California Class Members their minimum wages, overtime wages, all discussed above, Defendant willfully failed to pay the California Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation, as required under Labor Code § 203.

46. Labor Code § 203 provides that if an employer willfully fails to pay an employee all wages due at termination or within 72 hours of resignation, then that employee's wages shall continue as a penalty until paid for a period of up to thirty (30) days from the date they were due. Because Class Members stopped working for Defendant but again were not paid their full compensation for the reasons discussed above, Class Members did not receive all wages due upon termination of employment.

47. Defendant argued that, under Labor Code § 203, employers are only obligated to pay waiting-time penalties if they "willfully" fail to pay wages due and owing at the time of termination or resignation. As Title 8, California Code of Regulations, § 13520 states:

> A willful failure to pay wages within the meaning of Labor Code Section 203 occurs when an employer intentionally fails to pay wages to an employee when those wages are due. However, a good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203.
>
> A "good faith dispute" that any wages are due occurs when an employer presents a defense, based in law or fact, which, if successful, would preclude any recovery on the part of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith dispute did exist. Defenses presented which, under all the circumstances, are unsupported by any evidence, are unreasonable, or are presented in bad faith, will preclude a finding of a "good faith dispute."

Defendant maintained that because they had viable defenses in both law and fact, especially in light of the *Brinker* holding, that waiting-time penalties could not be awarded and, in any case, such penalties were subject to a three-year limitations period under Labor Code § 203(b).

48. Class Counsel estimated Defendant's maximum total exposure on the section 203 claim at approximately $1,588,298 (315 terminated employees). Class Counsel believes it would be difficult to recover waiting time penalties given that Plaintiffs would need to show willfulness on top of proving the underlying wage and break claims which are also potentially subject to individualized issues making certification of this claim difficult to achieve. Thus, Class Counsel provided a 75% discount making Defendant's adjusted estimated exposure $397,074.50.

Failure to Reimburse for Necessary Business Expenditures

49. Labor Code § 2802 provides that an employer must reimburse employees for all necessary expenditures incurred in the performance of their job duties. Plaintiffs worked for Defendant and in the course of performing their heir own masks during COVID, socks, safety vests, and the special slip resistant shoes on their own account. Defendant maintained that Plaintiffs and the Class members were not required to purchase their own supplies during their scheduled shift. Defendant contended that many of the alleged expenses were not required or necessary to perform Class Members' job duties, that certain expenses were adequately reimbursed or otherwise covered by Defendant, and that individualized inquiries would be required to determine whether a particular expense was actually incurred, was necessary, and was not reimbursed. These defenses created meaningful risks as to certification, liability, and the amount of recoverable damages.

50. Class Counsel estimated unpaid business expenses in the amount of $25 per employee month for an estimated total exposure of approximately $184,493. In light of Defendant's factual and legal defenses, Class Counsel appropriately discounted this claim by 50% for an adjusted estimated exposure of $92,246.50.

PAGA Penalties

51. The Labor Code Private Attorneys General Act, Labor Code § 2699 *et seq*., allows Plaintiffs to obtain civil penalties on behalf of herself and other Class Members for Defendant's violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining twenty-five (25) percent allocated to the affected employees. The limitations period as for all penalties is one year prior to the filing of the complaint.

52. The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq*., and 2802, Defendant asserted that if PAGA penalties were mandatory, an employer's PAGA liability would be huge because of the possibility of collecting multiple civil penalties for a single violation, and thus such penalties would almost always dwarf the damages available under the causes of action proper. However, PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." *See, e.g., Lopez v. Friant & Assocs., LLC*, 15 Cal. App. 5th 773, 788 (2017), *rev. denied* (2018), (recognizing court's ability to reduce PAGA penalties). Courts have held that

situations similar to the current one (e.g. injuryless violations, technical errors, and substantial compliance) should lead to reductions in penalties. *See Thurman v. Bayshore Transit Management, Inc.*, 203 Cal. App. 4th 1112, 1134-1135 (2012) (holding that reduction was justified when employer "attempted to comply with the law"); *Fleming v. Covdien, Inc.*, No. ED CV10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 at *8-9 (C.D. Cal. August 12, 2011) (reducing PAGA penalties more than 80% – from $2.8 million to $500,000 – when "employees suffered no injury" employers were "not aware" of the violation and "took prompt steps to correct all violations once notified"). Defendant here maintained that it had a strong argument that it would be unjust to award maximum PAGA penalties.

53. Furthermore, PAGA penalties are also derivative of each and every other claim, and Defendant therefore argued the PAGA claims would be subject to the same defenses as the underlying claims. Finally, under *Amaral v. Cintas Corp.* (2008) 163 Cal.App.4th 1157, it can be argued that penalties under PAGA could, at best, be awarded only at the rates obtainable for initial violations under the applicable statutes, because Defendant had never been notified of the alleged violations. *Id.* at 1208-1209. Moreover, Section 2699(e)(1) authorizes the Court to exercise the same discretion as the DLSE whether to award civil penalties. *Amaral* 163 Cal. App. 4th 1157, 1211-12. Therefore, if Labor Commissioner - on whose behalf Plaintiff is prosecuting this action for civil penalties - would not impose civil penalties in a case like this, the Court may not award civil penalties. Moreover, in *Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1136, the Court of Appeal affirmed the trial court's reduction of PAGA civil penalties by 30 percent, finding that awarding the full penalties would have been "unjust" because "…a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Additionally, PAGA penalties for multiple Labor Code violations are "stacked," and plaintiff is entitled to recover penalties for multiple violations based on the same conduct. *Hernandez v. Towne Park, Ltd*., No. 12 Civ. 02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June 22, 2012) ("federal courts applying California law have concluded that stacking is appropriate"; defining "stacking" as multiple

PAGA penalties assessed for the same pay period for different Labor Code violations). However, as discussed above PAGA provides that the Court "may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."

54. Class Counsel estimated Defendant's maximum total exposure on the PAGA claim at approximately $642,300 ($100 x 6,423 PAGA pay periods). However, Class Counsel notes that owing to the discretionary nature of PAGA penalties and the foregoing case law it is unlikely the Court would award the full penalty and that it would be substantially reduced. Class Counsel applied discounts considering the countervailing arguments regarding the primary causes of action, and moreover the Court's power to award "a lesser amount than the maximum civil liability." The parties also considered that the purpose of PAGA is to "achieve maximum compliance with state labor laws," *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal. 4th 348, 379. This makes the Settlement's proposed PAGA payment of $30,000 is appropriate.

Unfair Business Practices

55. Plaintiffs pleaded this cause of action in order to augment their other causes of action and aid in their prosecution. Business & Professions Code § 17208 extends the statute of limitations on Plaintiff's wage claims, which qualify as unfair business practices, to four years rather than the three years provided by statute. This cause of action is derivative of the other claims that have already been analyzed. Accordingly, the damages available under this cause of action have already been analyzed or are duplicative of damages discussed above.

Summary

56. The foregoing discussion has sought to explain how the settlement amount is adequate in light of the merits of Plaintiffs' case. It has done this by explaining the legal basis for each of Plaintiffs' causes of action, summarizing the evidence that Class Counsel gathered in support of those causes of action, and relating Defendant's legal and factual arguments that worked to derogate from the strength of Plaintiffs' case.

57. Based upon the foregoing, this case had a reasonable value of approximately

$1,417,142.70 for the underlying Labor Code claims. After considering the sharply disputed factual and legal issues involved in the lawsuit, the risks attending further prosecution, and the substantial benefits to be received under the compromise and settlement of the action, Class Counsel are of the opinion that settlement is in the best interests of the Class and is fair and reasonable. Accordingly, the Gross Settlement Amount of $550,000 represents approximately **38%** of the maximum potential value of the underlying Labor Code claims (valued at $1,417,142.70) and approximately 26% of the overall value including PAGA penalties (total case value of $2,059,442.70 ($1,417,142.70 + $642,300), which is a reasonable and fair result.

58. After analyzing and weighing the evidence discussed above as well as the legal issues, Class Counsel and Plaintiffs concluded that the settlement of $550,000 represents a fair and reasonable discount from the realistic recovery. The Settlement will allow the parties to avoid the expense and time commitments of continued litigation and provides a significant benefit for the Class which would not otherwise have been available. The Gross Settlement Amount of is a fair, reasonable, and adequate settlement for the claims at issue.

59. Under the Settlement, each of the approximately 566 Class Members will receive, using a straight average and assuming they worked throughout the Class Period, $502.65 (NSA of $284,500 / 566 for their Individual Class Payment. Plaintiffs feel that this Settlement is fair, reasonable, and advantageous to the class.

THE RISK, EXPENSE, AND LIKELY DURATION OF FURTHER LITIGATION, AS WELL AS THE RISK OF MAINTAINING CLASS ACTION STATUS THROUGH TRIAL

60. The next *Clark/Kullar* factors recognize that settlements take into consideration the risks and expenses posed by further litigation and, in the class-action context, the risk of non-certification. Consequently, it is proper that trial courts should keep these considerations in mind when judging the adequacy of class action settlements.

61. Further litigation of this case posed real risks for a number of reasons. First, there were the risks of unfavorable rulings on the merits of the various indeterminate legal issues outlined in the previous section. In that section, it was observed that almost every cause of action was subject

to some unique indeterminacy of its own, and that the derivative causes of action were thus subject to a double indeterminacy, both their own and those of the causes of action on which they were based.

62. The Parties disputed the effect of these and other issues on class certification and decertification. Class Counsel maintained that there were several legal and factual questions at issue in the case that could best be decided on a class wide basis. Class Counsel contended that the same policies and practices applied to all Class Members and therefore common questions obtained and were likely to predominate over individual inquiries. Defendant disputed these contentions and insisted that the *Brinker* decision called into question the certifiability of cases such as this one. Defendant also argued that its policies were compliant with the law, while Plaintiffs disputed that the policies were unlawful, and argued the lawfulness of such policies would give rise to common questions amenable to certification. Thus, the Parties had set positions on the propriety of certifiability and liability that did not admit of an easy resolution.

63. Finally, it is always preferable to reach a relatively early resolution of a dispute because, in addition to what has already been said, such resolutions save time and money that would otherwise go to litigation. In light of the risk and expense of the lawsuit and proceeding to trial there was a need to resolve this matter soon than later. Most cases settle sooner or later. If this case settled after further litigation, the settlement amount would have taken into account the additional costs incurred, and there might have been less available for Class Members after all was said and done. This is not just an abstract contention. The Parties were moving into the phase of this litigation where they would have had to depose a number of people such as managers, supervisors, and employees in order to establish liability for trial. Discovery disputes would have been in the offing. The Parties were also aware that a class action trial would be a complicated and expensive proceeding, and then there was the likelihood of a long, drawn-out appeals process. In contrast, the settlement provides real benefits for Class Members in the immediate future. The benefits are not insignificant for anyone, especially given the current economic climate. Consequently, the risk and expense of further litigation outweighed any benefit that might have been gained otherwise.

NOTICE TO CLASS MEMBERS OF THE PROPOSED SETTLEMENT

64. It is premature to address this factor now, at the preliminary approval stage; however, some observations are in order. First, the notification procedure set out in the Settlement Agreement provides the greatest likelihood that each and every Class Member will receive the Class Notice ("Class Notice") attached to the Settlement Agreement as **Exhibit A**. Under the Settlement Agreement, the Administrator will send the Class Notice to each Class Member via First Class U.S. mail. (Ex 1. ¶ 7.4.2.) Before mailing, the Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. (Ex. 1, ¶ 7.4.2.) If a new address is obtained by way of a returned Class Notice, then the Administrator will promptly forward the original Class Notice to the updated address via first-class regular U.S. mail, indicating on the original packet the date of such re-mailing. (Ex. 1, ¶ 7.4.3.) Thus, most, if not all, Class Members will likely receive the Notice.

65. The Class Notice itself fully apprises Class Members of the nature of the lawsuit, the claims involved, the terms of the settlement, and their options thereunder. They provide for a specific procedure to seek exclusion from the Class, and for lodging objections to the settlement. The efforts taken to ensure that Class Members receive the Class Notice and are well informed about the settlement augur a favorable response rate.

66. All Class Members will benefit because defendant who have been sued are generally more likely to comply with the law in the future. If a Class Member disputes the number of workweeks stated for that Class Member in the Class Notice, the Class Members may produce evidence to the Administrator showing that such information is inaccurate. (Ex. 1, ¶ 7.6.) Defendant's records will be presumed to be correct, but the Administrator shall contact the Parties regarding the dispute, without divulging the Class Member identity or contact information to Class Counsel, and the Parties will work in good faith to resolve it. *Id*.

CONCLUSION OF THE *CLARK/KULLAR* ANALYSIS

67. The foregoing discussion establishes the fairness of the class-action settlement in the instant case. It has done this by analyzing the settlement in light of the appellate decisions in

Clark and *Kullar*. This analysis has concluded that the settlement is fair, reasonable, and adequate. Class Counsel conducted a thorough investigation of the subject wage-and-hour practices and engaged in non-collusive, arm's-length negotiations in order to reach a settlement. Defendant has agreed to pay fair value to settle Plaintiffs' claims given the existence of legal uncertainty. From Class Counsel's substantial experience with wage-and-hour class action lawsuits Class Counsel believe that this case could not have settled on better terms under the circumstances. Request therefore is made that the settlement be granted preliminary approval so that those persons whom it was intended to benefit shall be afforded the opportunity to determine its adequacy.

REQUEST FOR ATTORNEYS' FEES

68. Under the Settlement, Class Counsel also requests, without opposition from Defendant, an award of Class Counsel's Fees and Expenses consisting of: (1) no more than $181,500.00 and (2) $25,000 in litigation costs. (Ex. 1, ¶ 3.2.2.) This request is fair, reasonable, and adequate to compensate Class Counsel for the substantial work they have put into this case and, moreover, the risk they assumed by taking it in the first place. The attorneys' fees award is intended to reimburse Class Counsel for all uncompensated work that they have already done and for all the work they will continue to do in carrying out and overseeing the notification to Class Members, communicating with Class Members regarding their claims, and assisting in the administration of the settlement if it is preliminarily approved.

69. My firm took this case on a contingent-fee basis against a business represented by a reputable defense firm. When we take contingent cases, we must pay careful attention to the economics involved or one bad case can destroy years of work. Accordingly, when we take contingency cases, we anticipate that we shall, if successful, receive a fee that exceeds our normal hourly rate; otherwise, the risk is often too great to bear. Even when we work long hours, the number of hours in a day is limited. Because of this, when we take on one particular matter, we are unable to take on other matters. When Class Counsel became involved in this case, we realized the time commitment that it would entail and we were forced to turn down matters that we otherwise should have been able to handle. In sum, this case claimed a significant portion of

Class Counsel's time and attention throughout its pendency.

70. The requested fee is reasonable for the services provided to Class Members and for the benefits they are to receive. Indeed, even with a modest multiplier under the lodestar theory, *see Bihun v. AT&T Information System* (1993) 13 Cal.App.4th 976, 997, Class Counsel's fees would still be justified. Class Counsel will more fully brief the Court on its lodestar in the motion for final approval.

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SERVICE PAYMENTS TO PLAINTIFFS AS THE CLASS REPRESENTATIVES

71. Plaintiffs herein are entitled to reasonable service payment for their efforts and initiative in bringing and helping to prosecute this action. Plaintiffs spent a considerable amount of time better apprising themselves of their rights, deciding whether remedial action should be taken, how it should be taken, searching for attorneys, and finally contacting Class Counsel, who spent many hours with Plaintiffs discussing the case and the law. In the end, Plaintiffs decided to vindicate not only their own rights but also those of their co-workers by filing a class action lawsuit.

72. The courage it took to stand up to Defendant by filing and litigating this action in this way should not be underestimated. By suing Defendant, Plaintiffs increased their risk of retaliation by prospective employers. Plaintiffs' lawsuit has now required Defendant to expend considerable resources, and Plaintiffs justifiably fears the fact that they served as class representatives in a wage and hour class action will not be lost on a prospective employer who has to choose between an applicant who has never sued a prior employer and one who has. Plaintiffs contend this risk is particularly real in the information age, where employers can, more easily than ever, perform background checks of prospective employees, sometimes with the stroke of a key. It is common for employers to screen employee candidates to determine whether they have ever filed suit, and employee candidates who might be branded "litigious" are likely to be screened out of the process. In fact, an entire industry has developed for providing employers with background information on employee candidates.

73. But Plaintiffs did not allow their fears of the potential repercussions of being class

representatives to deter him from acting for the benefit of Class Members. To the contrary, Plaintiffs have been intimately involved in this case since its inception. They have devoted a substantial amount of time to helping Class Counsel effectively develop and prosecute this action at every stage of the litigation. Both before and after the filing of this lawsuit, Plaintiffs conferred with Class Counsel on numerous occasions to discuss every aspect of her case. Plaintiffs provided Class Counsel with information about Defendant and about the industry generally, reviewed documents, identified witnesses, consulted Class Counsel throughout the litigation repeatedly and at length, participated in the mediation process, monitored the progress of the litigation with Class Counsel, and reviewed and signed the Settlement Agreement. (See Declarations of Bernettia Clara Williams and David Hernandez in Support of Motion for Preliminary Approval, filed herewith).

74. Plaintiffs have spent a significant amount of time with Class Counsel detailing their knowledge of Defendant's practices and helping Class Counsel with the prosecution of this action. They have diligently, adequately, and fairly represented Class Members, and has not placed her interests above any member of the putative class. The payments to Plaintiffs are intended to recognize their time and effort on behalf of the Class. The amount requested is fair and appropriate based on her contribution and involvement. For example, Plaintiffs instigated the lawsuit by bringing these violations to the attention of Class Counsel. They spent several hours answering questions and providing information to Class Counsel throughout the pendency of this action. They identified witnesses, explained to Class Counsel day-to-day business practices of Defendant with regard to work schedules, etc. The Parties are in agreement that Plaintiffs are entitled to an service payment for their time and effort in this matter. This sort of payment to a class representative has been a common feature of settlements negotiated by Class Counsel and has been routinely approved by trial courts.

75. In light of the foregoing, Class Counsel believes that the service payment in the amount of $10,000 to each Plaintiff is fair and reasonable. This amount is a far cry from the $50,000 of enhancement awards to the two named plaintiffs approved by the trial court in *Clark. See Clark, supra*, 175 Cal.App.4th at 807. Although Class Counsel appreciate that the Court has a duty to

ensure that class representatives are not overcompensated at the expense of the class, modest incentive awards in employment class actions, such as the one here, are necessary not only to compensate class representatives for the time they spend in the case, but also, and more importantly, to encourage aggrieved employees to challenge questionable employment practices notwithstanding the very real consequences they may face.

CRITERIA SATISFIED FOR CERTIFICATION OF SETTLEMENT CLASS

76. The proposed Classes satisfy the criteria for certification of a settlement class under California law, as embodied in California Code of Civil Procedure § 382. Defendant has agreed to the certification of the class for settlement purposes. In general, courts may take a proposed settlement into account in evaluating the propriety of class certification. *See Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1807 fn. 19. Indeed, a "lesser standard" of scrutiny applies in certifying classes for settlement purposes. *Ibid.* Therefore the Court should take into consideration the fact that the parties have settled their claims and stipulated to certification for settlement purposes when assessing typicality and adequacy.

a. Numerosity. The putative classes are so numerous that joinder of all members is impractical. Class Members are all persons who are or were employed by Defendant as hourly paid, non-exempt employees in the State of California at any time during the Class Period. Contract employees are not part of the "Class." Documents and information exchanged between the parties reflect a class of approximately 566 Class Members. Thus, there are a sufficient number of Class Members to warrant certifying this as a class action for settlement purposes.

b. Ascertainability. The putative classes are defined in a manner that is precise, objective, and ascertainable. The Class Members are readily identifiable by reference to Defendant's payroll and personnel records.

c. Typicality. A class representative's claims are typical when they arise from the same event, practice, or course of conduct that gives rise to the claims of other putative class members, and if their claims rest on the same legal theories. The class representative's claims must be "typical" but not necessarily identical to the claims of other class members. It is sufficient that the representative is similarly situated so that he or she will have the motive to

litigate on behalf of all Class Members. *Classen v. Weller* (1983) 145 Cal.App.3d 27, 47; *B.W.I. Custom Kitchens v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347 ("[I]t has never been the law in California that the class representative must have identical interests with the class members."). Thus, it is not necessary that the class representative should have personally incurred all of the damages suffered by each of the other class members. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 228.

Plaintiffs' claims are typical of Class Members' claims because they arose from the same factual basis and are based on the same legal theories. Plaintiffs were employed by Defendant during the Class Period subject to the allegedly unlawful meal and rest break policies, reimbursement, and pay practices at issue in this litigation. Accordingly, Plaintiffs are a member of the class. The central issues of this litigation (whether Defendant failed to pay all wages, whether Defendant failed to reimburse necessary business expenses, whether Defendant failed to provide meal and rest periods, etc.), which would arise if this were an individual action brought by Plaintiffs, apply to the other Class Members as well, and the answer to these questions would determine Defendant's liability to the entire putative class. Thus, Plaintiffs' claims are typical of the claims of the putative class. Accordingly, the typicality requirement is satisfied.

d. Adequacy. A class representative must possess the same interest and suffer the same injury as the class members. "To assure 'adequate' representation, the class representative's personal claim must not be inconsistent with the claims of other members of the class." *J.P. Morgan & Co., Inc. v. Sup.Ct. (Heliotrope General, Inc.)* (2003) 113 Cal.App.4th 195, 212. Thus, the adequacy requirement is satisfied when the class representative's interests are not antagonistic to those of the class. *McGhee v. Crocker-Citizens Nat. Bank* (1976) 60 Cal.App.3d 442, 451.

Plaintiffs have no conflicts with the class and in fact their interests are aligned with those of the class. Because Plaintiffs' claims are identical to those that would be asserted by the unnamed Class Members were they before the Court, Plaintiffs have every interest in zealously representing the unnamed class members. Plaintiffs have not shrunk from this responsibility. Indeed, Plaintiffs have devoted a substantial amount of time and energy to litigating this action and effecting a settlement. Furthermore, as detailed above, Class Counsel are experienced in

wage-and-hour litigation, especially class actions, and have zealously represented the interests of the class in litigating this case. *See infra* ¶¶ 3-7. Accordingly, the adequacy requirement is satisfied.

e. Commonality. Common questions of law or fact in this case predominate over individual questions. This action involves, *inter alia*, a determination about Defendant's alleged failure to pay minimum and overtime wages, failure to pay all wages due to allegedly common and unlawful policies, failure to provide meal and rest periods, the resulting failure to pay final wages when required, the failure to provide accurate paystubs, the failure to reimburse employees for necessary business expenditures, and largely derivative claims under the Business & Professions Code and PAGA. Plaintiffs contend these practices, including the alleged failure to provide corresponding premium payments, that affected class members in the same way. All class members were employed during the Class Period. Therefore, the operative complaint delineates a common course of conduct applicable to all Class Members. Therefore, based on Class Counsel's investigation, the review of the discovery produced by Defendant, and their discussions with Plaintiffs, Plaintiffs contend the evidence supports her position that the employment practices and policies of Defendant's business were consistent and uniform.

f. Predominance. Individualized issues do not predominate over the issues of law and fact that are common to the class as a whole. The principal issues of controversy are whether Class Members were paid for all hours worked, reimbursed for necessary business expenses, and provided lawful meal breaks. As explained, *supra*, there are common issues of law and fact given that Plaintiffs and all Class Members were subjected to the same policies and pay practices during the relevant time period. Plaintiffs and Class Members seek meal and rest break premiums, unpaid wages and overtime, reimbursement of necessary business expenses, and penalties for work performed as non-exempt hourly employees for Defendant. These issues are suitable for common adjudication because all Class Members were subject to the same employment policies and Plaintiffs contend the practices applied uniformly to all Class Members.

g. Superiority. Class resolution is superior to other available methods for the fair and efficient adjudication of the controversy. There is little interest or incentive for Class Members to

individually control the prosecution of separate actions. Although the injury resulting from Defendant's policies and practices are real and significant, the cost of individually litigating each such case against Defendant would easily exceed the value of any relief that could be obtained by any one Class Member individually. If Class Members are forced to litigate their claims individually this would result in about 566 individual actions against Defendant. Here, the alternative methods of resolution are individual suits for relatively small amounts. Hence, an individual suit would prove uneconomical for potential plaintiffs because litigation costs would dwarf a potential recovery.

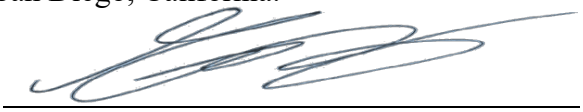
h. Except for Plaintiffs' case before this Court, Plaintiffs are unaware of any other actions by Class Members against Defendant asserting similar claims as here. Furthermore, Los Angeles County is a compelling forum for this action given that Defendant's location is in Los Angeles County and numerous Class Members work in this County.

i. There are no serious manageability difficulties presented by preliminarily approving the case for settlement purposes. As this case will not go to trial if finally approved, all that would remain is claims administration and responding to possible objectors.

77. On the same date as filing this Motion, my office submitted the proposed Settlement to the LWDA. Attached hereto as **Exhibit 4** is a true and correct copy of the confirmatory email my office received from the LWDA after submission of the Settlement.

78. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 12, 2026, at San Diego, California.



Marta Manus

EXHIBIT 1

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CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (the "Agreement") is made by and between Plaintiffs **Bernettia Williams and David Hernandez** ("Plaintiffs") and Defendant **Empire Transportation, Inc.** ("Defendant"). The Agreement refers to Plaintiffs and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS

"Action" means the Plaintiffs' lawsuit alleging wage and hour violations against Defendant, captioned *Bernettia Williams et al. v. Empire Transportation, Inc.,* Case No. 23STCV21618, initiated on or about September 7, 2023, and pending in the Superior Court of the State of California, County of Los Angeles.

1.1. "Administrator" means XPand Legal, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.2. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.3. "Class" means all persons who are or were employed by Defendant as hourly paid, non-exempt employees in the State of California at any time during the Class Period. Contract employees are not part of the "Class."

1.4. "Class Counsel" means David Keledjian, Norayr Zakaryan, Enoch Kim, and Marta Manus of D.Law, Inc.

1.5. "Class Counsel Fees Payment" and **"Class Counsel Litigation Expenses Payment**" means the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.6. "Class Data" means Class Member identifying information in Defendant's possession including the Class Member's (1) full name; (2) last-known mailing address; (3) social security number(s); (4) dates of employment; and (5) number of Class Period Workweeks and PAGA Pay Periods.

1.7. "Class Member" or **"Settlement Class Member"** means a member of the Class, as either

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a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.8. **"Class Member Address Search**" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.9. **"Class Notice"** means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement. The Notice will use the L.A. Superior Court Model Class Notice form as a base template, as modified for this case, for the Class Notice.

1.10. **"Class Period"** means the period from April 2, 2021, through August 31, 2023.

1.11. **"Class Representative"** means the named Plaintiffs in the Action seeking Court approval to serve as Class Representative.

1.12. **"Class Representative Service Payments**" means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.

1.13. **"Court"** means the Superior Court of California, County of Los Angeles.

1.14. **"Defendant"** means named Defendant Empire Transportation, Inc.

1.15. **"Defense Counsel"** means Cynthia J. Emry and Payam Malakouti of Jackson Lewis P.C.

1.16. **"Effective Date"** means the date by when the following has occurred: If there are no objectors to the settlement or Motions for intervention filed then: (1) the Stipulation of Settlement has been executed by all Parties, Class Counsel and Defendant's Counsel; (2) the Court has given preliminary approval to the Stipulation of Settlement; (3) the Notice of Class Action Settlement has been given to the putative members of the Settlement Class, providing them with an opportunity to object to the terms of this Stipulation of Settlement or opt out of the settlement; (4) the Court has held a formal fairness hearing and entered a final Order and Judgment certifying the Settlement Class, dismissing the Action with prejudice, and approving the Stipulation of Settlement; If there are objectors and/or Motions to Intervene or Object filed then: (5) when 65 calendar days have passed since the Court has entered a final Order and

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Judgment certifying the Settlement Class, dismissing the Action with prejudice, and approving the Stipulation of Settlement; and (6) five business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court's Entry of Judgment has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing or seeking to vacate the Court's Judgment or final Order approving the Stipulation of Settlement has been filed, five business days after any appeal, writ or other appellate proceedings opposing the Stipulation of Settlement or seeking to vacate the Judgment has been finally and conclusively dismissed with no right to pursue further remedies or relief.

1.17. "Final Approval" means the Court's order granting final approval of the Settlement.

1.18. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.19. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.20. "Gross Settlement Amount" means Five Hundred Fifty Thousand Dollars and Zero Cents ($550,000.00) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments and the Administrator's Expenses.

1.21. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.22. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.23. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

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

1.25. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment,

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Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is the Net Settlement Amount to be paid proportionately to Participating Class Members as Individual Class Payments.

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

1.27. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.28. "PAGA Period" means the period from September 12, 2022, through the end of the Class Period.

1.29. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.30. "PAGA Notice" means the September 7, 2023, letter to Defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.31. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, $30,000) allocated 25% to the Aggrieved Employees $7,500 and the 75% to the LWDA $22,500 in settlement of the PAGA claims.

1.32. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.33. "Plaintiffs" means Bernettia Williams and David Hernandez, the named plaintiffs in the Action.

1.34. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.35. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.36. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.37. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.

1.38. "Released Parties" means Defendant and all of its present and former parent companies,

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direct and indirect subsidiaries, members, joint ventures, owners, principals, agents, divisions, and their respective related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and Defendant's counsel of record in the Action.

1.39. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.40. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his, her, or their Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline expiration date.

1.41. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.42. "Workweek" means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS

2.1. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notice and Amended PAGA Notice.

2.2. On September 7, 2023, Plaintiffs commenced this putative class action by filing a complaint against Defendant in the Superior Court of California, County of Los Angeles, asserting causes of action against Defendant for: (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay hourly wages and overtime; (4) failure to provide accurate written wage statements; (5) failure to timely pay all final wages; (6) failure to indemnify; and (7) unfair competition. (hereinafter, "Original Complaint"). On November 16, 2023, Plaintiffs filed a First Amended Class and Representative Action Complaint ("FAC") adding a PAGA claim. On June 3, 2024, Plaintiffs filed a Second Amended Class and Representative Action Complaint ("SAC") adding David Hernandez as an additional plaintiff. Defendant denies the allegations in the Original Complaint, FAC, and SAC.

2.3. On August 14, 2026, Plaintiffs and Defendant, by and through Class Counsel and Defense Counsel respectively, participated in an all-day mediation presided over by Lonnie D. Giamela, Esq.,

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which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiffs obtained, through informal discovery, time records, pay records, relevant policies and handbooks, collective bargaining agreements, and other information relating to the size and scope of the Class, as well as data permitting Plaintiffs to fully understand the nature and scope of the allegations. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

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

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Five Hundred Fifty Thousand Dollars and Zero Cents ($550,000.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than Ten Thousand Dollars ($10,000) each (total of $20,000), in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves the Class

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Representative Service Payments for less than the amounts requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on their individual Class Representative Service Payments.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33% of the Gross Settlement Amount, which is currently estimated to be One Hundred Eighty-One Thousand Five Hundred Dollars and Zero Cents ($181,500.00) and a Class Counsel Litigation Expenses Payment of not more than Twenty-Five Thousand Dollars and Zero Cents ($25,000.00). Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed $9,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than $9,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments: 20% of each Participating

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Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The other 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $30,000.00 allocated 25% to the Aggrieved Employees $7,500.00 and the 75% to the LWDA $22,500.00 in settlement of the PAGA claims to be paid from the Gross Settlement Amount.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($7,500.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

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4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks. Based on a review of its records to date, Defendant estimates 566 Class Members who collectively worked a total of approximately 29,812 Workweeks from April 2, 2021, through August 31, 2023.

4.2. Class Data. Not later than 30 calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 30 calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 7 calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the

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check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are retuned undelivered without United States Postal Service ("USPS") forwarding address. Within 5 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure section 384, subd. (b). Any fees or costs associated with depositing the uncashed checks with the California Controller's Unclaimed Property Fund shall be paid from the Gross Settlement Amount.

4.4.4. All Individual Class Payments to Class Members and all Individual PAGA Payments to Aggrieved Employees shall be deemed to be paid to such Class Members and Aggrieved Employees solely in the year in which such payments actually are received by the Class Members and Aggrieved Employees. It is expressly understood and agreed that the receipt of such Individual Class Payments and Individual PAGA Payments will not entitle any Class Member or Aggrieved Employee to additional compensation or additional benefits under any compensation or benefit plans to which any Class Member or Aggrieved

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Employee may be eligible, including, but not limited to: bonus, contest or commissions plans, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, deferred compensation plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the intent of this Settlement that the Individual Class Payments and the Individual PAGA Payments provided for in this Settlement are the sole payments to be made by Defendant to the Class Members and Aggrieved Employees, will not affect any rights, contributions, or amounts to which any Class Members or Aggrieved Employees may be entitled under any compensation or benefit plans, and that the Class Members and Aggrieved Employees are not entitled to any new or additional compensation or benefits as a result of having received the Individual Class Payments and the Individual PAGA Payments (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 Settlement). For those Class Members or Aggrieved Employees who are also union members, whose terms and conditions of employment are covered by a collective bargaining agreement ("CBA"), it is agreed that any Individual Class Payments and Individual PAGA Payments shall not be considered wages under the terms of the CBAs, particularly with respect to overtime, vacation accrual, sick leave accrual, and the payment of union dues and initiation fees.

5. RELEASE OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiffs' Release. Plaintiffs and their former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: any and all claims, known and unknown, asserted and not asserted, which Plaintiffs have or may have against the Released Parties as of the date of execution of this Agreement ("Plaintiffs' Released Claims"). The Plaintiffs' Released Claims include, but are not limited to, all of the Released Class Claims, the Released PAGA Claims and any other claims arising under the California Labor Code; any claim arising out of the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and federal common law; all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination, including but

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not limited to, 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract and tort. This release excludes the release of claims not permitted by law. Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits (except as to claims under Labor Code §§ 132a and 4553) that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

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

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

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims alleged, or reasonably could be alleged, in the Action, including, California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq*., 2802, California Industrial Commission Wage Orders, and Business and Professions Code sections 17200, et seq., and including all claims for or related to alleged failure to provide meal periods; failure to provide rest periods; failure to pay hourly wages and overtime; failure to provide accurate written wage statements; failure to timely pay all final wages; failure to indemnify; and unfair competition; including, but not limited to, claims for injunctive relief, liquidated damages, penalties, interest, fees, costs, and all other claims and allegations made or which could have been made in the Action based on the facts and allegations pled in the Action during the Class Period ("Released Class Claims"). Except as set forth in Section 5.3 of this

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Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties alleged, or reasonably could be alleged, in the Action and the PAGA Notice, , including civil penalties pursuant to PAGA under California Labor Code section 2698, *et seq.* for or related to claims for failure to provide meal periods; failure to provide rest periods; failure to pay hourly wages and overtime; failure to provide accurate written wage statements; failure to timely pay all final wages; and failure to indemnify, as well as all other claims and allegations alleged in the Action, throughout the PAGA Period ("Released PAGA Claims").

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

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

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declaration from Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; and obtaining a prompt hearing date for the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

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

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state

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and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4. Notice to Class Members.

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

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 25 days after the Court grants Preliminary Approval of the Settlement, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendant or Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and

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in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or their representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. Aggrieved Employees are prohibited from requesting exclusion from the Released PAGA Claims.

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

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

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-

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Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement.

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

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

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

7.7.4. Aggrieved Employees are not permitted to object to any of the PAGA components of the Settlement.

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

7.8.1. Email Address and Toll-Free Number. The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

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

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

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

7.8.5. Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence

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

7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATE. Based on its records, Defendant estimates that, as of the date of the mediation, approximately 566 Class Members collectively worked a total of approximately 29,812 Workweeks during the Class Period.

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 15% of the total of all Class Members and/or if the combined workweeks worked by Class Members who timely exclude themselves amounts to more than 15% of the total workweeks worked by all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than thirty (30) calendar days after the expiration of the opt-out period.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final

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Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel no later than 7 business days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

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10.5. Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, with any additional Administration Expenses reasonably incurred after remittitur to be paid out of the Gross Settlement Fund. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. ADDITIONAL PROVISIONS.

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

12.2. Confidentiality Prior to Preliminary Approval. Prior to the Motion for Preliminary

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Approval being filed, the Class Representative and Class Counsel will not make any public disclosures of any kind regarding the Settlement, including but not limited to postings on Class Counsel's website and postings on any social media sites/outlets. Class Counsel will take all steps necessary to ensure the Class Representative is aware of, and will encourage him to adhere to, the restriction against any public disclosures regarding the Settlement. Class Counsel will not include or use the Settlement for any marketing or promotional purposes, or for attempting to influence Defendant's business relationships, either before or after the Motion for Preliminary Approval is filed. Following Preliminary Approval of the Settlement, the Class Representative and Class Counsel will not initiate any communications with the media or third parties. If contacted by the media or third parties (except for Class Members), the Class Representative and Class Counsel will only discuss information publicly available. Class Counsel will take all steps necessary to ensure the Class Representative is aware of, and will encourage him to adhere to, the restriction against any media comment. Class Counsel further agree not to use the Settlement or any of its terms for any marketing or promotional purposes prior to Final Approval.

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

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

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

12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement

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Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

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

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

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

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

12.11. Released Parties are Third-Party Beneficiaries. All Released Parties are third party beneficiaries of this Agreement for purposes of the protections offered by this Agreement, and they shall be entitled to enforce the provisions of this Agreement applicable to any such Released Party as against Plaintiffs, Participating Class Members, or any party acting on Plaintiffs and/or Participating Class Members' behalf.

12.12. Plaintiffs' Waiver of Right to Be Excluded. Plaintiffs agree that by signing this Agreement, they will be bound by the terms herein, including the general release described in Paragraph 5.1 above. Plaintiffs further agree that, upon signing this Agreement, they will not request to be excluded from this Settlement and that any such request for exclusion by Plaintiffs will be void and of no force or effect.

12.13. Applicable Law. All terms and conditions of this Agreement and its exhibit(s) will be governed by and interpreted according to the internal laws of the state of California, without regard to

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conflict of law principles.

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

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

12.16. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evid. Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used with respect to this Settlement, and may not be used in any way that violates any existing contractual agreement, statute, or California rules of court.

12.17. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

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

12.19. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, to the other Party's respective counsel of record.

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

12.21. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that

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upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DATED: October 21, 2026

BERNETTIA WILLIAMS

DocuSigned by:
20B2BEB549AC4C7...

DATED: October 21, 2026

DAVID HERNANDEZ

Signed by:
David Hernandez
835211CBA8F2485...

DATED: _____, 2026

EMPIRE TRANSPORTATION, INC.

_____

By: _____

Title: _____

Approved as to form and content:

Dated: October 21, 2026

D.LAW, INC.

David Keledjian, Esq.
Norayr Zakaryan, Esq.
Enoch Kim, Esq.
Marta Manus. Esq.
Attorneys for Plaintiffs Bernettia Williams and David Hernandez

Dated: _____, 2026

JACKSON LEWIS P.C.

_____

Cynthia J. Emry, Esq.
Payam Malakouti, Esq.
Attorneys for Defendant
Empire Transportation, Inc.

upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DATED: _____, 2026

BERNETTIA WILLIAMS

_____

DATED: _____, 2026

DAVID HERNANDEZ

_____

DATED: Oct 22, 2026

EMPIRE TRANSPORTATION, INC.

_____

By: MIGUEL A. OLIVER

Title: CEO

Approved as to form and content:

Dated: _____, 2026

D.LAW, INC.

_____

David Keledjian, Esq.
Norayr Zakaryan, Esq.
Enoch Kim, Esq.
Marta Manus. Esq.
Attorneys for Plaintiffs Bernettia Williams and David Hernandez

Dated: 10/22, 2026

JACKSON LEWIS P.C.

_____

Cynthia J. Emry, Esq.
Payam Malakouti, Esq.
Attorneys for Defendant
Empire Transportation, Inc.

EXHIBIT A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Bernettia Williams et al. v. Empire Transportation, Inc.
Los Angeles County Superior Court Case Number 23STCV21618

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Empire Transportation, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by former employees Bernettia Williams and David Hernandez ("Plaintiffs") and alleges claims for: (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay hourly wages and overtime; (4) failure to provide accurate written wage statements; (5) failure to timely pay all final wages; (6) failure to indemnify; and (7) unfair competition. The class Plaintiffs seek to represent is comprised of all persons who worked for Defendant in California as non-exempt employees at any time during the Class Period from April 2, 2021, through August 31, 2023 ("Class Members"). Based on these and other alleged Labor Code violations, Plaintiffs also seek civil penalties under the California Private Attorney General Act ("PAGA") for all persons who worked for Defendant in California as non-exempt employees at any time during the PAGA Period from September 12, 2022, through August 31, 2023. ("Aggrieved Employees"). Defendant vigorously denies the claims in this Action and contends that it fully complied with all applicable laws at all times.

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be $_____ (less withholding) and your Individual PAGA Payment is estimated to be $_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. **Read this Notice carefully.** You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to

finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant as a non-exempt hourly employee during the Class Period or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims, and PAGA Period penalty claims against Defendant.

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims and Released PAGA Claims, defined below).
You Can Opt-out of the Class Settlement but not the PAGA Settlement **The Opt-out Deadline is** _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement **Written Objections Must be Submitted by** _____	Class Members who do not opt-out ("Participating Class Members") can object to the Class Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/PAGA Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number of Class Period workweeks and the number of PAGA Period pay periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. In the Action, Plaintiffs accuse Defendant of violating California labor laws for: (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay hourly wages and overtime; (4) failure to provide accurate written wage statements; (5) failure to timely pay all final wages; (6) failure to indemnify; and (7) unfair competition. Based on these and similar claims, Plaintiffs have also asserted a claim for civil penalties under PAGA. Plaintiffs are represented by the attorneys of Consumer & Employment Lawyers in the Action ("Class Counsel").

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

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

The Court has made no determination whether Defendant or Plaintiffs are correct on the merits.

In the meantime, Plaintiffs and Defendant hired an experienced neutral mediator to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the

expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the claims and the risks and uncertainties of continued litigation; and (2) the Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. Defendant Will Pay $550,000.00 as the Gross Settlement Amount. Defendant has agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement Amount not more than 10 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

    a. Up to $181,500 (33% of the Gross Settlement Amount) to Class Counsel for attorneys' fees and reimbursement of their litigation expenses, which is currently estimated not to exceed $25,000. To date, Class Counsel has worked and incurred expenses on the Action without payment.

    b. Up to $10,000 to Plaintiff Williams and $10,000 to Plaintiff Hernandez as Class Representative Service Payments for filing the Action, working with Class Counsel, and representing the Class.

    c. Up to $9,000 to the Administrator for services administering the Settlement.

d. Up to $30,000 for PAGA Penalties, allocated 75% ($22,500) to the LWDA PAGA Payment and 25% ($7,500) in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement Amount (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

   If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The Request for Exclusion should be a letter from a Class Member or their representative setting forth the Class Member's name and a statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out or object to any portion of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert the Released PAGA Claims against Defendant as defined below.

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

8. Administrator. The Court has appointed a neutral company, XPand Legal (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion and written objections. The Administrator will also decide Class Member Challenges over Workweeks or PAGA Pay Periods, mail and remail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement Amount and separately paid the employer-side payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for the Released Class Claims (defined below).

   The Participating Class Members will be bound by the following release:

   > All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims alleged, or reasonably could be alleged, in the Action, including, California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, et seq., 2802, California Industrial Commission Wage Orders, and Business and Professions Code sections 17200, et seq., and including all claims for or related to alleged failure to provide meal periods; failure to provide rest periods; failure to pay hourly wages and overtime; failure to provide accurate written wage statements; failure to timely pay all final wages; failure to indemnify; and unfair competition; including, but not limited to, claims for injunctive relief, liquidated damages, penalties, interest, fees, costs, and all other claims and allegations made or which could have been made in the Action based on the facts and allegations

pled in the Action during the Class Period ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's Judgment is final and Defendant has fully funded the Gross Settlement Amount and separately paid the employer-side payroll taxes, all Aggrieved Employees will be legally barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

    The Aggrieved Employees will be bound by the following release:

    All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties alleged, or reasonably could be alleged, in the Action and the PAGA Notice, , including civil penalties pursuant to PAGA for or related to claims for failure to provide meal periods; failure to provide rest periods; failure to pay hourly wages and overtime; failure to provide accurate written wage statements; failure to timely pay all final wages; and failure to indemnify, as well as all other claims and allegations alleged in the Action, throughout the PAGA Period ("Released PAGA Claims").

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $7,500 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated on the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You can submit your

challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or PAGA Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or PAGA Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Bernettia Williams et al. v. Empire Transportation, Inc.*, and include your identifying information (full name, address, and email address or telephone number). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must receive your request to be excluded by _____, or it will be invalid**. Section 9 of the Notice has the Administrator's contact information. Class Members who worked during the PAGA Period that submit a valid Request for Exclusion will still be deemed Aggrieved Employees, will still receive their Individual PAGA Payments, and will be bound by the Released PAGA Claims.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to

approve. At least 16 business days before the _____ Final Approval Hearing, Class Counsel or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees and Litigation Expenses, and Class Representatives Service Payments stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Court's website or the Administrator's Website _____. Class Members who worked during the PAGA Period are not permitted to object to the Released PAGA Claims or any portion of the Settlement pertaining to the Released PAGA Claims.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval or Motion for Attorneys' Fees and Litigation Expenses, and Class Representatives Service Payments may wish to object. **The deadline for sending written objections to the Administrator is _____**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Bernettia Williams et al. v. Empire Transportation, Inc.* and include your name, current address, email address, telephone number, approximate dates of employment, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department 15 of the Los Angeles County Superior Court, located at the Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via CourtConnect. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand, contact Class Counsel, or check the Superior Court's website by going to Superior Court of Los Angeles County | Home entering the Case Number for the Action, Case No. 23STCV21618 to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment, or any other Settlement documents is to go to _____ website at _____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to Superior Court of Los Angeles County | Home entering and entering the Case Number for the Action, Case No. 23STCV21618. You can also make an appointment to personally review court documents in the Clerk's Office at the Los Angeles County Superior Court.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:
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Defense Counsel:
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Cynthia J. Emry
Cynthia.Emry@jacksonlewis.com
725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017
Telephone: (213) 698-0404
Fax:

Administrator:
Name of Company: XPand Legal
Email Address: _____
Mailing Address: _____
Telephone: _____
Fax: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it if you request a replacement before the void date on the face of the original check.

If your check is already void (180 days after issuance), you should consult the Unclaimed Property Fund at ucpi.sco.ca.gov or (916) 445-5361 for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

David Keledjian, Esq. (SBN 309135)
Norayr Zakaryan, Esq. (SBN 356913)
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Attorneys for Plaintiffs BERNETTIA CLARA WILLIAMS and DAVID HERNANDEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BERNETTIA CLARA WILLIAMS, on behalf of herself and all others similarly situated,

Plaintiffs,

v.

EMPIRE TRANSPORTATION, INC., a California corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 23STCV21618

Assigned for All Purposes To:
Hon. Timothy Patrick Dillon
Dept.: 15

DECLARATION OF JONATHAN PAUL IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Hearing Date: February 9, 2027
Time: 10:00 a.m.
Dept.: 15

Action filed: September 7, 2023
First Amended Complaint: November 16, 2023
Second Amended Complaint: June 3, 2024
Trial: none set

DECLARATION OF JONATHAN PAUL

I, Jonathan Paul, declare as follows:

1. I am a resident of the United States of America and am over the age of 21. I am the CEO for Xpand Legal Consulting LLC ("Xpand"), a legal administration service provider. I am preparing this declaration at the request of Plaintiffs' Counsel. I have personal knowledge of the facts contained herein, and, if called upon to testify, I could testify accordingly.

2. Xpand has extensive experience in disseminating class action notices and administering class action settlements. This includes direct mail, telephone and online support, foreign language translation, database management, form processing and fund distribution. The cases our team has administered have ranged from 17 to 350,000 Class Members. Attached as **Exhibit A**, is a true and correct copy of Xpand's CV, outlining our core competencies in legal administration. Xpand maintains the highest level of confidentiality of class member data. The data and communication received by Xpand will be held confidential, and Xpand will set up a secure folder to allow Defense Counsel to upload class or representative member information. Xpand is insured with E&O and Cyber Insurance policies in excess of the gross settlement value for this matter.

3. Xpand has no financial interest in or affiliation with either Party in this matter.

4. If selected by the Parties and appointed by the Court to handle the administration of this case, Xpand understands its duties will include but are not limited to: (a) performing address location services to locate class member addresses; (b) mailing English and Spanish notices to class members; (c) establishing a toll-free number for class members and handling inquiries concerning the class notice; (d) maintaining a static website to post case-specific information, including posting the final order and judgement; (e) resolving disputes; and (f) performing other such duties as the parties and/or the Court may direct.

5. Once appointed, Xpand will provide a mailing address, website, and toll-free telephone number to receive correspondence and inquiries from class members. After receiving the class data file from Defendant, which should contain the class members' names, last known addresses, and Social Security numbers, Xpand will upload the data into

a database and check for duplicates and other potential inconsistencies.

6. Prior to sending out the notice, Xpand will translate the notice into Spanish, fill in the specific date for the deadline so that all class members will know when any applicable forms, if any, will be due. At the expiration of the deadline, Xpand will inform the parties of the number and name of those individuals who filed a timely opt-out, dispute or objection.

7. While preparing to mail the class notice, Xpand will utilize the National Change of Address ("NCOA") database, maintained by the United States Postal Service ("USPS") to update or confirm the mailing addresses of class members. If an updated address is found, Xpand will use the new address to mail the class notice. If Xpand does not locate an updated address, it will use the original address provided by Defendant to mail the class notice.

8. If any class notices are returned to Xpand's office as undeliverable, Xpand will attempt to locate an updated address using industry standard skip trace databases and will quickly remail the class notice.

9. Prior to Final Approval Hearing, Xpand will provide the parties with copies of exclusions, objections received by class members.

10. Xpand's distribution process will include; (a) applying for case specific Employer Identification Number (“EIN”); (b) establishing Qualified Settlement Fund (“QSF”); (c) reconciling the QSF; (d) calculating payment amounts and applicable taxes, if any; (e) distributing payments to eligible class members, attorneys’ fees and costs; class representative enhancement awards; (f) providing applicable tax forms, if any (e.g. W2, 1099-MISC, 1099-INT, etc.); (g) performing other duties directed by the parties or Court.

11. The services above are included in Xpand's cost estimate, which is attached to this declaration as **Exhibit B** and reflects a not to exceed amount of $8,000.00. The fees/costs are broken down by category and outlined as hourly or transactional, but the cost above is a flat fee.

///

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this 26th day of October 2026, at Laguna Hills, California.



Jonathan Paul

EXHIBIT “A”

ABOUT XPAND

Xpand is a fast-growing legal administration firm. With over 20 years of industry experience, CEO, Jonathan Paul, leverages his subject matter expertise to ensure excellence is at the core of all we do. Starting his legal administration career as a Project Manager, he later advanced into positions such as Senior Vice President at one of the largest administrators in the country and President of Sales & Marketing for a long-standing boutique firm. He now works closely with the project and case teams to ensure best in class processes are followed.

COO, Tiffany Paul, comes with over a decade of experience at one of the largest consumer goods companies in the world. Coupled with the successful launch and scale of her own startups, Tiffany brings creative solutions to a field that has a tendency to be stuck in its ways and has improved dozens of processes during her tenure running legal administration projects.

The case management team has been involved in projects spanning several practice areas, including:

- Data Breach
- Consumer Protection
- Discrimination
- Mass Tort
- PAGA
- Personal Injury
- Product Liability
- Wage and Hour
- ERISA
- Antitrust

ABOUT OUR STRATEGY

Xpand's taking a fresh look at the processes and procedures that have dominated the legal administration space for decades and quickly finding there is plenty of opportunity to innovate.

We've partnered with industry leaders in HR, IT, printing, telecom, banking, and tax reporting to build solutions that meet the needs of any project. Whether it's a small wage & hour case in need of cost effective administration or a multi-tiered mass tort case in need of sophisticated implementation, Xpand has the solution. We spend the time understanding the clients' needs before deploying the right resources in as quickly as 24 hours, allowing law firms to continue their day to day without disruption.

XPAND LEGAL
Mass Tort • Class Action • Mass Arbitration

ABOUT OUR SERVICES

Xpand is growing quickly and regularly adding services to our repertoire, but currently offers:

- Notification
- Project Management
- Print & Mail
- Call Center
- Legal Advertising
- Website Development
- Forms Processing
- Client Intake
- Address Location
- Data Management
- Qualified Settlement Fund (QSF) Management
- Fund Distribution
- Tax Reporting
- Medical Record Review
- Lien Resolution

ABOUT OUR EXPERIENCE

Some of the cases Xpand has managed:

- *Ramirez, et al. v. S&E Gourmet Cuts, Inc., Superior Court of California, County of San Bernardino, Case No. CIVSB2201247*
- *Johnson v Investment Concepts, Superior Court of CA, County of San Diego, Case No. 37-2022-00018300-CU-NP-CTL*
- *Chavis v. Grocery Outlet, Superior Court of California, County of Sacramento, Case No. 34-2021-00309003-CU-OE-GDS:*
- *Busby v. Mission Loans, LLC, et al., Superior Court of California, County of Los Angeles, Case No. 23STCV07682*
- *Barton v. United Development Group, Inc., Superior Court of CA County of SD, Case No. 37-2021-00039885-CU-OE-CTL*
- *Fleschert v. Cedars-Sinai Medical Center, Superior Court of California, County of Los Angeles, Case No. 19STCV05681*
- *Cruz, et al. v. Los Compadres Restaurant, Inc., Superior Court of CA, County of Los Angeles*
- *Aguero, et al. v. SR Long Beach FD, et al., Superior Court of CA, County of Los Angeles, Case No. BC650977*
- *Arizmendi v. Diamond Environmental, Superior Court of CA, County of San Diego, Case No. 37-2023-00051655-CU-OE-CTL*
- *Ascencio v. Kumar Hotels, Superior Court of CA, County of Tehama, Case No. 23C1-00020*
- *Betancur v. Pride Conveyance Systems, Inc., Superior Court of CA, County of San Benito, Case No. CU-21-000022*
- *Britton v. Rice Wings, LLC, Superior Court of Washington, County of King at Kent, Case No. 23-2-09301-1 KNT*
- *California Truck Centers, Superior Court for the State of California, San Joaquin County Superior Court, Case No. STK-CV-UOE-2023-0006967*
- *Calkins v. United Security, Superior Court of CA, County of Los Angeles, Case No. 20STCV35391*

- *Clayton v. Soho House, LLC, et al., Superior Court of CA, County of Los Angeles, Case No. 24SMCV02114*
- *Flores v. JR & MRP, Superior Court of CA, County of Los Angeles, Case No. 56-2021-00557205-CU-OE-VTA*
- *Gatica-Castro v. Specialty Team Plastering, Inc., Superior Court of CA, County of Santa Barbara, Case No. 22CV01120*
- *Guinto v. C&K Market, Superior Court of CA, County of Siskiyou, Case No. SCCV-CVCV-2021-964*
- *Hawkins, et al. v. Ontel Security Services, Inc., Superior Court of CA, County of Stanislaus, Case No. CV-20-005404*
- *Horowitz v. Skywest Airlines, Inc. United States District Court Northern District of CA – San Francisco, Case No, 21-CV-04674-MMC*
- *Huffman v. K&M Casinos, Inc., Superior Court of CA, County of Sacramento, Case No. 34-2021-00300960*
- *Kaiser v. Equity Residencial Management, Superior Court of CA, County of Los Angeles, Case No. 21STCV42487*
- *Lambert v. Dual Diagnosis PAGA, Superior Court of CA, County of Los Angeles – Spring Street Courthouse, Case No. BC616149*
- *Laninovich v. Bear Valley Springs, Superior Court of CA for the County of Kern, Case No. BCV-21-102750-BCB*
- *LaVia v. Curaleaf Holdings, Inc., Supreme Court of the State of NY, County of Nassau, Case No. 610309/2024*
- *Lopez v. DH Long Point Management LLC, Superior Court of CA, County of Los Angeles – Spring Street Courthouse, Case No. 21STCV35029*
- *Mayorga, et al. v. Qualawash Holding, LLC, et al., Superior Court of CA, County of Los Angeles, Case No. 23STCV00914 and 23NWCV00148*
- *McLane v. GoPlus Corp, Superior Court of CA, County of San Bernadino- Civil Division-Complex, Case No. C1VDS1819150*
- *Mireles v. Lodi Memorial Hospital, Superior Court of CA, County of San Joaquin, Case No.STK-CV-UOE-2020-0004458*
- *Moreno, et al. v. Infiniti Group, LLC, et al., Superior Court of CA, County of San Bernadino, Case No. C1VSB2223551*
- *Norfleet v. RevCore Recovery Center, Supreme Court of the State of New York, Case No. 617754/2023*
- *Norris v. CG Hospitality Group, Inc., Superior Court of CA, County of Los Angeles, Case No. 23STCV12946*
- *Pascual v. Heritage on the Marina, Superior Court of CA, County of San Francisco, Case No. CGC-23-607790*
- *Pipich, et al. v. O'Reilly Auto Enterprises, LLC, et. al., United States District Cour for the Southern District of CA, Case No. 3:21-cv-00120-L-JLB*
- *Sanchez v. JR Pierce Plumbing, Superior Court of CA, County of Sacramento, Case No. 34-2021-00300960-CU-OE-GDS*
- *Sanchez v. MiTac Information Systems Corp., et al., Superior Court of CA, County of Alameda, Case No. 22CV005940*
- *Santos v. Replanet Packaging, Superior Court of CA, County of Tulare, Case No. VCU285878*
- *Sim v. Maddox Resources, Inc., Superior Court of CA, County of Los Angeles, Case No. 22STCV20798*

- *Sorensen v. P.F. Automotive, Superior Court of CA, County of San Diego, Case No. 37-2023-0025169-CU-OE-CTL*
- *Sproul v. IKEA, Superior Court of CA, County of Kern, Case No. BCV-20-101600*
- *Tellez v. Mercy Housing Management, Superior Court of CA, County of Alameda, Case No. 23CV031003*
- *Touch v. Cox Automotive, United States District Court Eastern District of CA, Case No. 2:23-cv-09145-TLN-CSK*
- *Trimmer, et al. v. Barclay Water Management, Inc., Supreme Court of the State of New York, New York County, Case No. 653139/24*

- *Vasquez v. PJ Farm Labor, Superior Court of CA, County of Kings, Case No. 22C-0382*
- *Wolff v. Enterprise Fleet Management, Inc., Superior Court of CA, County of Los Angeles, Case No. 23STCV16885*
- *Wright v. Home Box Office, Inc., et al, Superior Court of CA, County of Los Angeles, Case No. 21STCV19636*
- Mass Tort: Several medical device, pharmaceutical cases, natural disaster, fire and sexual abuse cases which are confidential.

EXHIBIT “B”

XPAND LEGAL
Mass Tort · Class Action · Mass Arbitration

LEGAL ADMINISTRATION SERVICES

PROPOSAL

CASE NAME	**Williams and Hernandez v Empire Transportation**
DATE	October 12, 2026
CLIENT	Jonathan Morataya · j.morataya@d.law
XPAND CONTACT	Dan Stone · dan@xpandlegal.com · 858.752.4576

TOTAL COST NOT TO EXCEED $8,000.00

KEY ASSUMPTIONS

Class Size	**566**
Undeliverable Mail (estimated %)	**10.0%**
Forwarded Mail (estimated %)	**5.0%**
Toll Free Telephone Support	**Yes**
Website	**Yes**
Spanish Translation	**Yes**
NCOA	**Yes**
Wage Tax Reporting	**Yes**
Number of States for Tax Reporting	**1**
Number of Payment Distributions	**1**
Tax Reporting Years	**1**
Remaining Funds After Distribution	**Unclaimed Property**

** Cost estimate for legal administration services only.*
** Pricing good for 90 days from date of proposal.*
** Assumes scope within stated assumptions — additional services priced accordingly.*

CASE SETUP

SERVICE	TYPE	COST / UNIT	VOLUME	TOTAL
Project Manager – Case Setup, Document Review & Timeline	Hourly	$125.00	1	$125.00
Data Analyst – Data Analysis, Formatting, Uploading to Database	Hourly	$125.00	1	$125.00
NCOA (Includes CASS & LACS)	Flat Fee	$150.00	1	$150.00
Spanish Translation	Flat Fee	$750.00	1	$750.00
Toll Free Telephone Support	Flat Fee	$500.00	1	$500.00
Static Website	Flat Fee	$500.00	1	$500.00
			SUBTOTAL	**$2,150.00**

** Assumes mailing data in Excel or usable format. Additional manipulation billed at $125/hr.*

NOTIFICATION

SERVICE	TYPE	COST / UNIT	VOLUME	TOTAL
Print & Mail Notice Package	Per Piece	$1.00	566	$566.00
USPS First Class Mail – 1oz	Per Piece	$0.70	566	$396.20
Submission Processing (Opt Outs, Disputes, Objections)	Hourly	$75.00	2	$150.00
Undeliverable Mail Processing	Per Piece	$3.00	57	$171.00
Address Trace – Undeliverable Mail	Per Piece	$3.00	57	$171.00
Remail Notice Package (Undeliverables & Forwards)	Per Piece	$3.00	74	$222.00
			SUBTOTAL	**$1,676.20**

PROJECT MANAGEMENT

SERVICE	TYPE	COST / UNIT	VOLUME	TOTAL
Project Manager – Client Inquiries, General Oversight & Management	Hourly	$125.00	2	$250.00
Status Reporting (Ongoing & Final)	Hourly	$75.00	2	$150.00
Declaration (Final Approval & Payment)	Hourly	$125.00	2	$250.00
Executive Oversight	Hourly	200	1	*Waived*
			SUBTOTAL	**$650.00**

DISTRIBUTION

SERVICE	TYPE	COST / UNIT	VOLUME	TOTAL
Project Manager – Setup & Preparation	Hourly	$125.00	2	$250.00
Data Analyst – Payment File Production & Quality Review	Hourly	$125.00	2	$250.00
Print & Mail Payments	Per Piece	$1.00	566	$566.00
USPS First Class Mail – 1oz	Per Piece	$0.70	566	$396.20
Undeliverable Payment Processing	Per Piece	$3.00	57	$171.00
Address Trace – Undeliverable Mail	Per Piece	$3.00	57	$171.00
Remail Payments (Undeliverables & Forwards)	Per Piece	$3.00	74	$222.00
Tax ID Setup & Shutdown	Flat Fee	$500.00	1	$500.00
Qualified Settlement Fund – Creation, Reporting & Closure	Hourly	$125.00	3	$375.00
QSF Monthly Fees & Account Reconciliation	Per Piece	$75.00	3	$225.00
Process Remaining Funds	Flat Fee	$397.60	1	$397.60
			SUBTOTAL	**$3,523.80**

TOTAL COST NOT TO EXCEED $8,000.00

TERMS & CONDITIONS

All services to be provided by Xpand Legal Consulting LLC (hereinafter, "Xpand") to you (hereinafter, the "Client") shall be subject to the following terms and conditions (these "Terms and Conditions") of this Agreement

1. SERVICES

Subject to the terms hereof, Xpand agrees to provide the Client with administration services (hereinafter, "Services") as specified in the Proposal provided to the Client to which these Terms and Conditions are referenced (the "Proposal" and together with these Terms and Conditions, this "Agreement"). The Services do not constitute legal services or advice.

2. INDEPENDENT CONTRACTOR STATUS

Xpand is performing the Services to the Client as an independent contractor for the purposes of federal, state, and local law, and neither it nor its employees shall be deemed to be employees of the Client. Xpand shall have full control over the methods, techniques, sequences, and procedures of the Services, is free to perform services for other clients, and is not subject to the supervision or control of the Client in the performance of the Services, except as to the results to be achieved.

3. FEES FOR SERVICES

Fees to the Client for Services, including all fees and expenses in accordance with Section 4 below ("Fees") shall be on a time and materials basis at our prevailing rates and are subject to change. Any estimates of Fees set forth in the Proposal are estimates only, based on information provided by the Client to Xpand and the Services referenced in the Proposal, and do not cover any applicable taxes nor third-party fees. Actual Fees payable by the Client may be greater or less than such estimates. Expenses incurred related to 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 such expenses. The Client acknowledges and agrees that Xpand may derive financial benefits from financial institutions in connection with the deposit and investment of relevant funds with such institutions, including without limitation, income proceeds derived therefrom, discounts on eligible banking services and fees, and loans at favorable rates.

4. PAYMENT OF FEES

Fees will be invoiced by Xpand and shall be due and payable by the Client upon distribution of the applicable payments to class members and counsel in accordance with the direction of the court in the applicable matter (the "Court"). For all matters where print and postage costs exceed $25,000, such fees shall be due and payable at the time of mailing. For matters that do not involve payment distributions, payment is due within 30 days of completion of mailing. If any invoice remains unpaid for more than thirty (30) days from the invoice date, interest may accrue on the outstanding balance at the rate of 0.8333% per month (10% per annum). The Services are not provided on a contingency fee basis. Xpand's fees are earned as Services are performed and are not contingent upon court approval, settlement approval, settlement funding, distribution of settlement proceeds, recovery by any party, or any other case outcome. For the avoidance of doubt, the Client's obligation to pay for Services rendered shall remain in full force and effect notwithstanding any court order, settlement withdrawal, settlement disapproval, case dismissal, termination of the matter, or other action taken by the Court or any party.

5. INDEMNIFICATION

The Client will indemnify and hold Xpand and its affiliates (and their respective officers, employees, and agents) harmless against any losses, claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) incurred by Xpand, arising out of, in connection with, or related to (i) any breach of the Agreement, including these Terms and Conditions, by the Client; or (ii) the processing and handling of any aspect of the project by Xpand, including but not limited to the Services, in accordance with Client's instructions.

6. CONFIDENTIALITY

Xpand will maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of data provided to Xpand by the Client or another party to the action. In the event Xpand is 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, Xpand will notify the Client, unless prohibited by applicable law. The Client shall have the option to, within ten (10) business days of receipt of such notification, (1) provide legal representation at the Client's expense to avoid such access, or (2) promptly reimburse Xpand 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 the Client does not timely select its option, it shall be irrevocable deemed to have select option (2) and be obligated to reimburse Xpand in accordance therewith. If Xpand 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, Xpand will not be liable for breach of said obligation.

7. DATA RIGHTS

Xpand does not convey nor does the Client obtain any rights in the programs, system data, or materials utilized or provided by Xpand in the ordinary course of business in the performance of this Agreement.

8. DOCUMENT RETENTION

Unless directed otherwise in writing by the Client, Xpand will maintain documents and other correspondence for the later of (a) one (1) year after final distribution of relevant funds or benefits, or (b) until the date that the disposition of the relevant case is no longer subject to appeal or review.

9. LIMITATION OF DAMAGES

Xpand is not responsible to the Client for any special, consequential, or incidental damages incurred by the Client. Any liability of Xpand to the Client shall not exceed the total amount of Fees billed to the Client for the Services that give rise to such liability.

10. TERMINATION

Client's obligation to pay Fees for Services still in progress at the time of notice of termination shall continue throughout that 30-day period. Xpand may terminate this Agreement (i) if the Client has not paid its Fees in accordance with Section 4 of these Terms and Conditions, upon at least ten (10) calendar days' prior written notice; or (ii) in any other event, upon at least three (3) months' prior written notice to the Client. The Client is obligated to pay for all Fees and Services at the time of termination under this paragraph; no deferral period shall take effect.

11. 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 Xpand or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, three (3) business days after the date of deposit in United States mail, or, if sent by courier, two (2) business days after delivery to such courier service.

12. FORCE MAJEURE

To the extent performance by Xpand of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond Xpand's reasonable control, then such performance shall be excused and this Agreement, at Xpand's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

13. WAIVER OF RIGHTS

No failure or delay on the part of either party hereto in exercising any right under these Terms and Conditions will operate as a waiver of, or impair, any 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 writing by the relevant party's authorized representative.

14. JURISDICTION

The parties hereto submit to the jurisdiction of the Court 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.

15. 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.

16. COUNTERPARTS

These Terms and Conditions and the Proposal may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single Agreement. Delivery of an executed counterpart of a signature page of these Terms and Conditions and the Proposal by electronic transmission, including DocuSign, shall be effective as delivery of a manually executed counterpart of these Terms and Conditions and the Proposal, as applicable.

ACCEPTANCE OF TERMS AND CONDITIONS

By commencing services with Xpand, you acknowledge and agree to the terms and conditions outlined above. Your continued use of our services signifies your acceptance of these terms.

EXHIBIT 3

David Keledjian, Esq. (SBN 309135)
Norayr Zakaryan, Esq. (SBN 356913)
Enoch Kim Esq. (SBN 261146)
Marta Manus, Esq. (SBN 260132)
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e.kim@d.law, m.manus@d.law

Attorneys for Plaintiffs BERNETTIA CLARA WILLIAMS and DAVID HERNANDEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BERNETTIA CLARA WILLIAMS, on behalf of herself and all others similarly situated,

Plaintiffs,

v.

EMPIRE TRANSPORTATION, INC., a California corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 23STCV21618

Assigned for All Purposes To:
Hon. Timothy Patrick Dillon
Dept.: 15

DECLARATION OF JARRETT GORLICK IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Dept.: 15

Action filed: September 7, 2023
First Amended Complaint: November 16, 2023
Second Amended Complaint: June 3, 2024
Trial: none set

DECLARATION OF JARRETT GORLICK

I, Jarrett Gorlick, declare:

1. I am over the age of 18 and am not a party to this action. All the facts set forth in this declaration are within my personal knowledge, true and correct, and, if called upon to testify, I could and would competently and truthfully testify to the following:

2. I am a partner at Berger Consulting Group, LLC ("BCG") and have provided data analysis and damage exposure for over 3,500 cases. I have reviewed and analyzed data provided in numerous formats for multiple business types, including but not limited to retail, hospitals, logistics, finance, hospitality, technology, and manufacturing. My curriculum vitae is attached hereto as **Exhibit 1**. BCG was founded in 2013 and has been hired to provide expert analysis for more than 10,000 cases. BCG provides data and statistical analysis based on timekeeping records and other types of employee data.

3. I obtained a Bachelor of Arts degree in Economics and Psychology from the University of California, Santa Barbara in 2013. I received the Outstanding Scholastic Achievement in Economics award for graduating with the highest GPA in the department, graduated with High Honors, and completed the College of Letters and Sciences Honors Program. I hold the Certified Financial Planner designation, which required coursework in financial and data analysis, as well as accounting.

4. I testified as an expert witness in the following:

1. *Rodriguez v. Dynamic Auto Images*, Orange County Superior Court Case No. 30-2019-01092692-CU-OE-CXC, Deposition 9/26/2022
2. *Cruz v. Talent Scale,* Riverside County Superior Court Case No. RIC1821842, Deposition 5/26/2022
3. *Liggins v. GMRI,* Los Angeles Superior Court Case No. BC717321, Deposition 3/31/2022
4. *Ortega v. Carson Wild Wings,* Los Angeles Superior Court Case No. BC677389, Deposition 1/6/2022
5. *Cruz v. Dignity Health,* Sacramento County Superior Court Case No. 34-2018-

00245506, Deposition 11/23/2021

6. *Larson v. Mark Twain Medical Center,* Calaveras County Superior Court Case No. 19CV44062, Deposition 11/18/2021
7. *Powell v. St Joseph's Medical Center,* San Joaquin County Superior Court Case No. STK-CV-UOE-2019-00111555, Deposition 11/4/2021
8. *Johnson v. Bakersfield,* Kern Superior Case No. BCV-19-102016, Deposition 10/25/2021
9. *Dawson v. GoHealth,* San Francisco Superior Case No. CGC-19-577790, Deposition 10/21/2021
10. *Torrez v. Del Taco,* Alameda Superior Court Judicial Counsel Coordination Proceeding No. 4904, Deposition 10/5/2021
11. *Ortega v. Carson Wild Wings,* Los Angeles Superior Case No. BC677389, Deposition 9/9/2021
12. *Haaverson v. Tavistock Freebirds,* Alameda Superior Court Case No. RG19030716, Trial 8/19/2021
13. *Escamilla v. Ono Hawaiian BBQ,* Los Angeles Superior Court Case No. BC651992, Deposition 8/16/2021
14. *Nash v. Horizon Freight Services,* Northern District Court Case No. 3:19-cv-01883-VC, Deposition 8/11/2021
15. *Harris v. Villa Del Rio,* Los Angeles Superior Court Case No. 19STCV28198, Deposition 6/18/2021
16. *Morgan v. Rohr,* Southern District Court Case No. 3:20-CV-00574-GPC-AHG, Deposition 5/24/2021
17. *Fortson v. COMPASS,* Alameda Superior Court Case No. RG16818319, Trial 5/17/2021
18. *Anderson v. Safe Streets,* Eastern District Case No. 2:18-CV-00323-KJM-GGH, Deposition 5/13/2021
19. *Christensen v. Carter's Retail*, Central District of California Case No. 8:20-cv-00776 JLS (KESx), Deposition 4/15/2021
20. *Fortson v. COMPASS,* Alameda Superior Court Case No. RG16818319, Deposition 3/26/2021

21. *Torrez v. Del Taco*, Alameda Superior Court Judicial Counsel Coordination Proceeding No. 4904, Deposition 3/3/2021
22. *McCarty v. SMG,* Northern District of California Case No. 3:17-cv-06232-JD, Deposition 2/4/2021
23. *Chaney v. Select Education Group*, Stanislaus Superior Court Case No. CV-19-002224, Arbitration 12/4/2020
24. *Chaney v. Select Education Group*, Stanislaus Superior Court Case No. CV-19-002224, Deposition 11/24/2020
25. *Zarate v. La Pizza Loca,* Los Angeles Superior Court Case No. BC642655, Deposition 10/2/2020
26. *Cassiano Falero v. Southern California Pizza,* Orange County Superior Court Judicial Counsel Coordination Proceeding No. 4725, Deposition 9/17/2020
27. *Hernandez v. Terminix International,* AAA Case No. 01-18-0000-4288, Arbitration 9/8/2020
28. *Hernandez v. Terminix International,* AAA Case No. 01-18-0000-4288, Deposition 8/12/2020
29. *Martinez v. AA Meat Products,* Los Angeles Superior Court Case No. BC650944, Deposition 6/25/2020
30. *Shi v. J. Filippi Vintage Company,* San Bernardino Superior Court Case No. CIVDS1806156, Trial 3/9/2020
31. *Rosales v. Staples Contract and Commercial,* Los Angeles Superior Court Judicial Counsel Coordination Proceeding No. 4854, Deposition 2/4/2020
32. *Anderson v. Safe Streets,* AAA Case No. 01-18-0004-3136, Arbitration 11/19/2019
33. *Anderson v. Safe Streets,* AAA Case No. 01-18-0004-3136, Deposition 10/30/2019
34. *Kelly v. High Desert Support Services,* San Bernardino Superior Court Case No. CIVDS1616463, Trial 10/1/2019
35. *Kelly v. High Desert Support Services,* San Bernardino Superior Court Case No. CIVDS1616463, Deposition 9/9/2019

36. *Reed & Moore v. Aramark Uniform Services,* Alameda Superior Court Case No. RG168322314, Deposition 8/9/2019
37. *Gamboa v. Nelson Miller,* Los Angeles Superior Court Case No. BC658201, Deposition 4/2/2019
38. *Leyva v. SCPMG,* Los Angeles Superior Court Case No. BC621718, Deposition 7/26/2018
39. *Emard et al. v. Twin Cities Community Hospital,* AAA Case No. 01-17-0000-1313, Arbitration 7/19/2018
40. *McConville v. Renzenberger*, Central District of California Western Division Case No. 17-cv-02972-FMO-JC, Deposition 2/1/2018
41. *Galeano v. Royal Laundry*, San Mateo Superior Court Case No. CIV534888, Deposition 10/12/2017

5. I was retained by Counsel for Plaintiff in the matter *Bernettia Clara Williams v. Empire Transportation,* Los Angeles County Superior Court Case No. 23STCV21618, to assist in evaluating the alleged wage and hour claims based upon putative class member data in preparation for a mediation that occurred in August 2026.

Sample Size and Extrapolation

6. Based on information from Counsel for Plaintiff and the data provided to me, I understand that a random sample was taken from a putative class of approximately 566 individuals. This approximately 23.0% sample containing around 130 individuals is typical in my experience considering the size of the total population, and includes more than 32,500 employee workdays, 6,800 employee workweeks, and 3,300 biweekly or semi-monthly employee pay periods. This quantity of data, including nearly 105,000 individual time entries and more than 280,000 paid hours, is typical in my experience over the last nearly 10 years analyzing employee data for potential wage and hour exposure across thousands of similar matters.

7. The margin of error of this sample based on a 95% confidence level is approximately 7.6%. While this margin of error is larger than the typical 5% sought after in sampling, there is no predetermined sample size or margin of error that unequivocally determines

validity. As stated by professor and statistician David Freedman regarding sample size: "There is no definitive statistical answer to this familiar question. Bigger samples have less sampling error. On the other hand, smaller samples may be easier to manage, and have less non-sampling error. Bigger samples are more expensive than smaller ones: generally, resource constraints will determine the sample size."[1] In addition, the margin of error of this sample based on a 90% confidence level is approximately 6.4%, slightly larger than the typical 5% sought after.

8. I may be asked to develop additional analyses, observations, and queries in connection with any data Counsel for Plaintiff provide after the date this declaration is signed. At that time, if appropriate, I will prepare a supplement to this declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct this 6th day of November 2026 at Los Angeles, California.



Jarrett Gorlick

[1] D.A. Freedman. "Sampling" In the *Encyclopedia of Social Science Research Methods.* Sage Publications (2004) Vol. 3 pp. 986-990, M. Lewis-Beck, A. Bryman, and T.F. Liao, eds.

EXHIBIT 1

Jarrett Gorlick CFP®

(818) 903-8824 jarrett@bergerconsultinggroup.com

Professional Experience

Berger Consulting Group **2016-PRESENT**

Partner

- Create quantitative models and conduct quantitative analyses to assist attorneys prepare for various stages of litigation on more than 3,500 wage and hour lawsuits since 2016
- Analyze data from various industries including retail, healthcare, logistics, finance, hospitality, technology, and manufacturing for both single plaintiff cases and classes with more than 40,000 employees
- Perform data conversion using multiple commercial Optical Character Recognition (OCR) software to transform small to large volumes of documents and image files into Excel or other data formats like Microsoft Access databases
- Recognize patterns within data and automate calculations in order to objectively extract results from datasets
- Produce detailed reports, write case analysis summaries explaining results, and provide expert testimony of my findings

LPL Financial **2013-2017**

Operations Manager

- Analyzed revenue data and created models to segment client base by revenue, Asset Under Management (AUM), and growth potential, facilitating annual AUM growth
- Developed the processes of repeatable, systematic investment research, securities trading, cash and client account management
- Implemented robust financial software, advancing data analysis and enhancing client recommendations via comprehensive financial plans

UCSB Extension **2016-2018**

Instructor of Investment Analysis and Strategic Business Development

- Designed course curricula and materials to facilitate business development and corporate finance education commensurate with the University of California
- Utilized group projects, exams, and both academic and professional experience-based learning to ensure students with varying levels of professional and academic experience attained valuable skills and knowledge

Professional Credentials

- CERTIFIED FINANCIAL PLANNER™

Education

UCSB **2013**

Bachelor of Arts *(Honors Program; Double Major; Cumulative GPA: 3.83)*

- *Economics (Major GPA: 3.95), Psychology (Major GPA: 3.69)*
- *Honors:* Outstanding Scholastic Achievement in Economics for highest GPA in department, High Honors in College of Letters and Sciences, Dean's Honors List (8 quarters), United States Bowling Congress Scholarship

Additional

- *Computer Skills:* Excel/VBA/Pivot, Python/R, STATA/SPSS, SQL, Access, Omnipage PDF Converter, ABBYY FineReader, Adobe Acrobat Pro
- *Volunteer Work:* Support Partners In Education, Santa Barbara Community Environmental Council, Casa Esperanza homeless shelter, UCSB Alumni Association, various UCSB Research Colloquia

Testimony

Berger Consulting Group

1. Rodriguez v Dynamic Auto Images, Orange County Superior Court Case No. 30-2019-01092692-CU-OE-CXC, Deposition 9/26/2022
2. Cruz v Talent Scale, Riverside County Superior Court Case No. RIC1821842, Deposition 5/26/2022
3. Liggins v GMRI, Los Angeles County Superior Court Case No. BC717321, Deposition 3/31/2022
4. Ortega v Carson Wild Wings, Los Angeles County Superior Court Case No. BC677389, Deposition 1/6/2022
5. Cruz v Dignity Health, Sacramento County Superior Court Case No. 34-2018-00245506, Deposition 11/23/2021
6. Larson v Mark Twain Medical Center, Calaveras County Superior Court Case No. 19CV44062, Deposition 11/18/2021
7. Powell v St Joseph's Medical Center, San Joaquin County Superior Court Case No. STK-CV-UOE-2019-00111555, Deposition 11/4/2021
8. Johnson v Bakersfield Memorial Hospital, Kern County Superior Court Case No. BCV-19-102016, Deposition 10/25/2021
9. Dawson v GoHealth, San Francisco County Superior Court Case No. CGC-19-577790, Deposition 10/21/2021
10. Torrez v Del Taco, Alameda County Superior Court Judicial Counsel Coordination Proceeding No. 4904, Deposition 10/5/2021
11. Ortega v Carson Wild Wings, Los Angeles County Superior Court Case No. BC677389, Deposition 9/9/2021
12. Haaverson v Tavistock Freebirds, Alameda County Superior Court Case No. RG19030716, Trial 8/19/2021
13. Escamilla v Ono Hawaiian BBQ, Los Angeles County Superior Court Case No. BC651992, Deposition 8/16/2021
14. Nash v Horizon Freight Systems, United States Northern District of California Case No. 3:19-cv-01883-VC, Deposition 8/11/2021
15. Harris v Villa Del Rio, Los Angeles County Superior Court Case No. 19STCV28198, Deposition 6/18/2021
16. Morgan v Rohr, United States Southern District of California Case No. 3:20-CV-00574-GPC-AHG, Deposition 5/24/2021
17. Fortson v Care Options Management Plans and Support Services, Alameda County Superior Court Case No. RG16818319, Trial 5/17/2021
18. Anderson v Safe Streets, United States Eastern District of California Case No. 2:18-CV-00323-KJM-GGH, Deposition 5/13/2021
19. Christensen v Carter's Retail, United States Central District of California Case No. 8:20-cv-00776 JLS (KESx), Deposition 4/15/2021
20. Fortson v Care Options Management Plans and Support Services, Alameda County Superior Court Case No. RG16818319, Deposition 3/26/2021
21. Torrez v Del Taco, Alameda County Superior Court Judicial Counsel Coordination Proceeding No. 4904, Deposition 3/3/2021
22. McCarty v SMG, United States Northern District of California Case No. 3:17-cv-06232-JD, Deposition 2/4/2021
23. Chaney v Select Education Group, Stanislaus County Superior Court Case No. CV-19-002224, Arbitration 12/4/2020
24. Chaney v Select Education Group, Stanislaus County Superior Court Case No. CV-19-002224, Deposition 11/24/2020
25. Zarate v La Pizza Loca, Los Angeles County Superior Court Case No. BC642655, Deposition 10/2/2020
26. Southern California Pizza Wage and Hour Cases, Orange County Superior Court Judicial Counsel Coordination Proceeding No. 4725, Deposition 9/17/2020
27. Hernandez v Terminix International, AAA Case No. 01-18-0000-4288, Arbitration 9/8/2020
28. Hernandez v Terminix International, AAA Case No. 01-18-0000-4288, Deposition 8/12/2020
29. Martinez v AA Meat Products, Los Angeles County Superior Court Case No. BC650944, Deposition 6/25/2020
30. Shi v J Filippi Vintage Company, San Bernardino County Superior Court Case No. CIVDS1806156, Trial 3/9/2020
31. Rosales v Staples Contract and Commercial, Los Angeles County Superior Court Judicial Counsel Coordination Proceeding No. 4854, Deposition 2/4/2020
32. Anderson v Safe Streets, AAA Case No. 01-18-0004-3136, Arbitration, 11/19/2019
33. Anderson v Safe Streets, AAA Case No. 01-18-0004-3136, Deposition 10/30/2019

34. Kelly v High Desert Support Services, San Bernardino County Superior Court Case No. CIVDS1616463, Trial 10/1/2019
35. Kelly v High Desert Support Services, San Bernardino County Superior Court Case No. CIVDS1616463, Deposition 9/9/2019
36. Reed & Moore v Aramark Uniform Services, Alameda County Superior Court Case No. RG16832314, Deposition 8/9/2019
37. Gamboa v Nelson Miller, Los Angeles County Superior Court Case No. BC658201, Deposition 4/2/2019
38. Leyva v SCPMG, Los Angeles County Superior Court Case No. BC621718, Deposition 7/26/2018
39. Emard v Twin Cities Community Hospital, AAA Case No. 01-17-0000-1313, Arbitration 7/19/2018
40. McConville v Renzenberger, United States Central District of California Case No. 17-cv-02972-FMO-JC, Deposition 2/1/2018
41. Galeano v Royal Laundry, San Mateo County Superior Court Case No. CIV534888, Deposition 10/12/2017

EXHIBIT 4