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9 Attorneys for Plaintiff FRANCISCO AMEZQUITA
10 and all other Aggrieved Employees

11 **SUPERIOR COURT OF CALIFORNIA**
12 **COUNTY OF IMPERIAL – EN CENTRO COURTHOUSE**
13

14 FRANCISCO AMEZQUITA, on behalf of
15 himself and all other aggrieved employees,

16 Plaintiff,

17 vs.

18 KAIZEN RESOURCES, INC., a Delaware
19 corporation; and DOES 1 through 100,
inclusive,

20 Defendants.
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Case No. ECU003568

[Hon. Jeffrey B. Jones, Dept. 5]

**DECLARATION OF JOHN A. VAN HOOK
IN SUPPORT OF PLAINTIFF’S MOTION
FOR APPROVAL OF REPRESENTATIVE
PAGA SETTLEMENT [& EXHIBITS 1-3]**

Date: February 20, 2025

Time: 8:30 a.m.

Dept.: 5

I, John A. Van Hook, declare as follows:

2. I am the owner of the Van Hook Law Firm. Along with my co-counsel Adrian Byrne of The Byrne Law Group, I have represented Plaintiff throughout this litigation. I make this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement (the "Motion"). I am a member of the Bar of the State of California (SBN 205067) and am admitted to practice before all courts of the State of California.

3. Kaizen owns and operates automobile dealerships in El Centro, California. As part of its dealerships, Kaizen operates service centers, which provide repair and maintenance services.

4. Plaintiff worked for Kaizen as a non-exempt employee. According to Kaizen's records, he was employed from approximately May 10, 2019, through August 2, 2023, and he was paid a combination of hourly and incentive pay.

5. Plaintiff and other non-exempt employees recorded their work hours, including unpaid breaks, through Defendants' electronic timekeeping system. Plaintiff alleges that he and other non-exempt employees worked off the clock, including work before clocking in, work after clocking out, and work during meal periods.

6. Plaintiff made allegations of a number of a Labor Code violations against himself and the other allegedly aggrieved employees, including:

- that he was denied legally compliant meal periods, including meal periods that were too late, too short, and/or were interrupted by work;

- that he was denied legally compliant rest periods; and
- that he incurred business expenses, including cellular telephone expenses (to communicate with his supervisors during the workday) and tools and equipment, and that these expenses were not reimbursed by Kaizen.

7. Throughout this case, and during all settlement negotiations, Kaizen has denied and continues to deny all of the allegations made by Plaintiff. Kaizen denies that it violated applicable employment laws as to Plaintiff and as to the allegedly aggrieved employees and denies that it is liable to Plaintiff or the allegedly aggrieved employees in any manner.

8. Kaizen's records at the time of mediation reflected a total of 82 allegedly aggrieved employees during the PAGA period, working a total of approximately 2,100 pay periods.

Procedural Overview

9. On September 5, 2023, Plaintiff filed a notice with the Labor and Workforce Development Agency ("LWDA"), giving notice of Plaintiff's potential claims under PAGA. Plaintiff defined the "aggrieved employees" as all of Defendant's non-exempt employees (including those working on an hourly basis, piece-rate, and/or other compensation system) beginning September 5, 2022 (one year prior to the LWDA notice).

10. Plaintiff did not immediately file his PAGA lawsuit because the Parties were exploring informal settlement discussions. These discussions were unsuccessful, and Plaintiff filed this representative PAGA action in Imperial County Superior Court on June 13, 2024, No. ECU003568.

11. Separately, pursuant to an arbitration agreement entered into between the Parties, Plaintiff initiated an arbitration action with ADR Services regarding his individual claims.

12. Plaintiff promptly began formal discovery in the representative PAGA action, including service of Requests for Production of Documents and a Notice of Person Most Knowledgeable ("PMK") Deposition on July 1, 2024, and service of Special Interrogatories on July 30, 2024.

The Mediation and Settlement

13. After Defendant responded to these discovery requests, the Parties again discussed possible settlement. The Parties ultimately scheduled a private mediation with experienced employment law mediator, Steven Kruis, Esq. The Parties agreed to postpone further formal discovery, including the PMK deposition, until after the mediation.

14. To prepare for the mediation, the Parties engaged in substantial informal discovery. Defendant provided Plaintiff with a list of allegedly aggrieved employees, including their positions, dates of employment, and relevant pay periods. Kaizen also provided 925 pages of sample time and payroll records for the allegedly aggrieved employees, as well as the relevant policies and employee handbook. In addition to this sample of records for the allegedly aggrieved employees, Kaizen produced 923 pages of documents specific to Plaintiff, including his schedules, time and payroll records, among other personnel records relevant to these claims.

15. In addition to these records from Kaizen, Plaintiff and his counsel conducted their own investigation. Plaintiff participated in multiple conferences with counsel to gather and analyze information in preparation for the mediation.

16. On November 20, 2024, the Parties participated in a full-day private mediation with Steven Kruis, Esq. Although the Parties did not reach a settlement during the mediation, the Parties ultimately accepted a mediator's proposal shortly thereafter.

17. In addition, the Parties reached a confidential agreement for the resolution of all Plaintiff's individual claims pending in arbitration. If requested by the Court, Plaintiff will submit the confidential individual settlement agreement for *in camera* review.

18. Although the mediator's proposal outlined the general terms of the settlement, the Parties subsequently negotiated the terms of the Settlement Agreement. The Settlement Agreement was fully executed on January 22, 2025. Attached as **Exhibit 1** to this declaration is a true and correct copy of the PAGA Settlement Agreement.

19. As required by PAGA, concurrently with the filing of this Motion, I will submit the Settlement Agreement to the LWDA for its review.

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21. The “Aggrieved Employees” for purposes of the PAGA Settlement are all of Kaizen’s non-exempt employees that worked in California at any time during the PAGA Period. The PAGA Period shall run from September 5, 2022, through the earlier of: (1) date of settlement approval by the Court, or (2) the date that the total number of pay periods of the Aggrieved Employees does not exceed 2,205.

- Plaintiff's Counsel's attorney's fees of 1/3 of the PAGA Settlement Sum (\$26,300.00) in connection with the PAGA claims;
- Plaintiff's Counsel's out-of-pocket litigation expenses of \$4,800 arising out of the PAGA Claims (including the mediation fee); and
- PAGA Settlement administration expenses of \$2,750.
- This results in an estimated Net PAGA Settlement Sum of \$45,050) (i.e., the PAGA Settlement Sum minus requested fees, costs, and PAGA settlement administration expenses).

23. As required by PAGA, 75% of the Net PAGA Settlement Fund will be paid to the LWDA and the remaining 25% of the Net PAGA Settlement Fund will be distributed among the aggrieved employees on a pro rata basis according to their pay periods during the relevant time period. Data produced in connection with the mediation indicates 82 current and former Aggrieved Employees (including Plaintiff) and a total of approximately 2,100 pay periods. Recognizing that these figures may vary somewhat, the Parties agreed that the 2,100 pay periods shall be subject to a 5% buffer, meaning that the settlement will cover a maximum of 2,205 pay

periods. If the total number of pay periods through the date of Settlement approval is greater than 2,205, then the PAGA period shall end on such that date that the number of pay periods does not exceed 2,205. See Ex. 1, § IV.E.

24. Payments will be made to the Aggrieved Employees by check to their last known home address, and Aggrieved Employees will not be required to submit a claim form or take any other steps to receive their payment. As this is a PAGA-only settlement, non-PAGA individualized claims (such as claims for alleged unpaid wages, or wrongful termination) of other aggrieved employees are not being released by virtue of the PAGA Settlement.

25. Subject to the Court’s approval, the settlement administration, including calculation and issuance of payments, will be performed by Phoenix Settlement Administrators (“Phoenix”), a nationally recognized settlement administrator. I have worked with Phoenix on numerous class and/or PAGA settlements, and have found Phoenix to be competent and more cost-effective than many other settlement administrators. Attached as **Exhibit 3** to this declaration is a true and correct copy of Phoenix’s quote in the amount of \$2,750 for administration of the PAGA Settlement.

26. The PAGA Settlement Agreement releases all PAGA Claims “that arose from Plaintiff’s PAGA Notice and operative complaint in this Action for the period of September 5, 2022, up to and including the Approval Date.” See Ex. 1, § V.A.

27. Within 10 business days after the Effective Date of the PAGA Settlement, Defendants shall deposit the Gross PAGA Settlement Fund with the Settlement Administrator (the “Funding Date”). Within 10 business days after funding, the Settlement Administrator shall issue all settlement payments, including the payment to the LWDA, the payment to the Aggrieved Employees, and the payments to Plaintiff’s Counsel for the approved attorney’s fees and costs.

28. Accompanying the payments to the Aggrieved Employees the PAGA Settlement Administrator shall mail a letter explaining the reason for the payment. Attached as **Exhibit 2** to this declaration is a true and correct copy of the Notice of Settlement of PAGA Action.

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recently, I was appointed class counsel in *Sanchez v. Agro Pack, LLC*, Imperial County Case No. ECU002547 (final approval granted January 25, 2024).

34. There were numerous risks, uncertainties, and defenses that were properly considered in valuing and discounting the potential PAGA penalties in this case. Plaintiff faced risk that he would not be able to prove some or all of his claims on the merits, or that violations would be found for only some of the allegedly aggrieved employees and pay periods. This case also faced risks and uncertainties in how penalties would be calculated (including potential “stacking” of penalties) and the discretionary discounts that might be applied by the Court in the event that liability were determined.

35. Based on my experience litigating similar cases, I believe this PAGA settlement is fair, reasonable, and an outstanding result for the State of California and the Aggrieved Employees. A gross settlement of approximately \$37.57 per pay period is an excellent result based on my experience with similar cases. In light of all of the risks and uncertainties of continued litigation, and the substantial benefits of this settlement, I fully support this settlement and Plaintiff’s request for approval.

Attorney’s Fees and Costs

36. I use billing software to accurately and contemporaneously track my billable time. I have kept accurate records of my billable time devoted to this PAGA action.

37. My hourly rate for employment matters is \$650. This rate has been approved by numerous courts and arbitrators in comparable litigation.

38. In litigating and settling this PAGA representative action, I expended 44.5 hours of billable time, for a lodestar of \$28,925.00 (not including additional work that will be performed relating to the approval and administration of the settlement). This does not include the hours billed by my co-counsel, Adrian Byrne, on this matter.

39. From the outset of the case to the present, prosecution of this action has involved significant financial risk. My co-counsel and I undertook this matter on a contingent basis, investing significant time, resources, and out-of-pocket costs, with no guarantee of recovery, and at the expense of other work that we could have performed.

40. In litigating this case, I incurred out of pocket litigation costs. These costs were reasonably necessary to successfully litigate and resolve this case.

41. The following is a summary of the out-of-pocket litigation costs I have advanced in the litigation and settlement of this PAGA action.

Cost Type	Amount
PAGA notice to LWDA	\$75.00
PAGA complaint filing	\$465.23
Filing fees – proof of service of summons	\$17.40
Mediation fee (Plaintiff’s portion)	\$4,013.10
Filing fees - CMS	\$22.15
Filing fees – Notice of remote appearance	\$19.05
Remote appearance fee	\$50.00
Anticipated fees for approval motion and remote appearance fees	\$150.00
Costs total	\$4,811.93

42. Plaintiff is seeking reimbursement of only \$4,800.00 in litigation costs.

43. For all the reasons set forth in Plaintiff's Motion and as described herein, I strongly support this settlement and Plaintiff's Motion.

44. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 24, 2025.


John A. Van Hook

Exhibit 1:

Settlement Agreement

PAGA SETTLEMENT AGREEMENT AND GENERAL RELEASE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff, Francisco Amezcuita ("Plaintiff"), on behalf of the State of California and all Private Attorneys General Act ("PAGA") Settlement Employees, and Defendant, Kaizen Resources, Inc., a Delaware corporation ("Defendant") (collectively, the "Parties"), subject to the approval of the Court in accordance with California Labor Code section 2699(1)(2), that the Settlement of this Action shall be effectuated upon and subject to the terms and conditions below.

The Parties agree that the Action (as defined in Section I below) against Defendant shall be, upon approval by the Court, ended, settled, resolved, and concluded without any admission of fault or liability, as set forth in this Agreement and for the consideration set forth herein, including a release of claims by Plaintiff and the PAGA Settlement Employees.

I. DEFINITIONS

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- A. "Action" means the civil action, including the operative complaint, entitled *Amezquita v. Kaizen Resources, Inc., et al.*, Case No. ECU003568, pending in the Superior Court of California, Imperial County.
- B. "Agreement" means this Settlement Agreement.
- C. "Approval Date" means the date the Court grants approval of this Agreement by signing and filing the Final Order.
- D. "Arbitration" means the civil arbitration, including the operative demand, entitled *Amezquita v. Kaizen Resources, Inc., et al.*, ADR Case No. 24-0730-MAM, pending before ADR Services, Inc., located at 225 Broadway, Suite 1400, San Diego, California 92101.
- E. "Court" means the Superior Court of California, County of Imperial.
- F. "Defendant" means Kaizen Resources, Inc. ("Kaizen Resources"), a Delaware corporation.
- G. "Defense Counsel" means:

Steven E. Boehmer (SBN 144817)
Matthew A. Thurmer (SBN 298523)
McDOUGAL BOEHMER FOLEY
LYON MITCHELL & ERICKSON
8100 La Mesa Blvd., Suite 200
La Mesa, CA 91942

- H. "Effective Date" means the date the Court has approved the Settlement.
- I. "Final Order" means the final Court order entered in this Action in accordance with the terms herein, the Court adopting and approving this Agreement (and the terms of Settlement described herein), entering judgment consistent with the terms of the Agreement, and the Court retaining jurisdiction over the enforcement, implementation, construction, administration, and interpretation of the Settlement pursuant to Civil Code section 664.6.
- J. "LWDA" means the State of California Labor and Workforce Development Agency.
- K. "Named Plaintiff" or "Plaintiff" means Francisco Amezcuita.
- L. "PAGA" means the Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.*
- M. "PAGA Claims" means claims for PAGA penalties, pursuant to Labor Code section 2699 *et seq.* that: (1) arose or may be alleged to have arisen at any time from September 5, 2022, up to and including the Approval Date, and (2) are based on or arise from any and all violations of the Labor Code or Industrial Welfare Commission ("IWC") Orders, including but not limited to, all claims for wages, overtime pay, pay for all time allegedly worked but not compensated, and all other claims of any kind for wages, penalties, interests, costs and attorneys' fees arising from the alleged violation of any provision of common law, California law and/or Federal law which were or could have been raised in the Action, including but not limited to claims under California Labor Code sections 201, 202, 203, 204, 210, 218, 226, 226.7, 503, 510, 512, 551, 552, 558, 1182, 1194, 1197, 1198, 1199, and 2698 and Business and Professions code sections 17200 *et seq.*
- N. "PAGA Payment" is the payment amount as defined in Section III.C.c below.
- O. "PAGA Settlement Employee(s)" means Plaintiff and all current and former non-exempt employees employed by Defendant at any time from September 5, 2022, through the Approval Date. There were approximately 82 such current and former employees as of on or about November 20, 2024, the date that the Parties participated in mediation.
- P. "Plaintiff's Counsel" means:

John A. Van Hook, Esq.
VAN HOOK LAW FIRM
14156 Magnolia Blvd, Suite 200,
Sherman Oaks, CA 91423

Adrian Byrne
THE BYRNE LAW GROUP
8605 Santa Monica Blvd., Suite 48497
West Hollywood, CA 90069

- Q. “Putative Aggrieved Employee(s)” means, with respect to the PAGA Claims, Plaintiff and all current and former non-exempt employees employed by Defendant at any time from September 5, 2022, through the Approval Date.
- R. “Putative Aggrieved Employee Penalty Payment” means the portion of the Settlement Sum that shall be paid to each PAGA Settlement Employee per the terms and conditions of this Agreement.
- S. “Released Parties” means Defendant and any and all subsidiaries of Defendant and each of its past, present, and future parents, affiliated companies, subsidiaries, divisions, predecessors, successors, partners, joint venturers, shareholders, consultants, advisors, insurers, reinsurers and assigns, and each of their past, present and future officers, investors, directors, executives, trustees, agents, employees, attorneys, representatives, benefit plans sponsored or administered by the Released Parties, and any other persons or entities acting on behalf of or in concert with any of the foregoing.
- T. “Settlement” means the Parties’ agreement, as detailed herein, to dispose of the Action as to Defendant.
- U. “Settlement Sum” means the total gross settlement amount of Seventy-Eight Thousand Nine Hundred Dollars and Zero Cents (\$78,900.00) to be paid by Defendant as provided by this Agreement to fully and finally settle, resolve and conclude this Action as to Defendant, as provided under this Agreement, without any admission of fault or liability.

II. FACTUAL BACKGROUND

- A. Defendant, a car dealership located in El Centro, California, employed Plaintiff as a service technician for approximately four years from May 10, 2019, to August 2, 2023.
- B. On August 2, 2023, Defendant terminated Plaintiff’s employment.
- C. On September 5, 2023, Plaintiff served a letter to the LWDA and Defendant (“PAGA Notice”), in accordance with the requirements of Labor Code section 2699.3(a), to notify the LWDA of alleged violations of the California Labor Code by Defendants arising from Plaintiff’s alleged employment with Defendant. The LWDA declined to investigate the alleged violations, permitting Plaintiff to initiate a PAGA action in court.
- D. On December 29, 2023, Plaintiff filed a demand for arbitration with ADR Services, Inc., for individual claims of (1) unpaid minimum wages, (2) unpaid overtime, (3) failure to provide meal periods, (4) failure to authorize and permit rest periods, (5) failure to provide accurate itemized wage statements (Lab. Code §226), (6) waiting time penalties (Lab. Code §203), and (7) failure to reimburse business expenses (Lab. Code §2802).
- E. On June 13, 2024, Plaintiff initiated the Action by filing a complaint in the Superior Court of California, County of Imperial, asserting the same claims stated in the Arbitration demand plus violation of Industrial Welfare Commission (“IWC”) Order 4-2001.

- F. On November 20, 2024, the Parties participated in a private mediation and reached this Settlement after engaging in arms-length negotiations.
- G. This Agreement sets forth the terms and conditions of the resolution of all claims asserted in the Action, including the PAGA Claims asserted on behalf of the State of California and the PAGA Settlement Employees.
- H. The Parties engaged in a substantial exchange of documents and information during discovery and mediation. The Parties reached this Settlement only after extensive discovery and investigation were performed.
- I. The Settlement embodied in this Agreement is contingent on (i) issuance by the Court of a Final Order approving the Settlement, entering judgment consistent with the terms of the Agreement, and retaining jurisdiction pursuant to Civil Code section 664.6, (ii) entry of the Final Order enforcing the terms of the Settlement, and retaining jurisdiction pursuant to Civil Code section 664.6 to ensure compliance with the Court's Final Order only, (iii) discharge of Defendant and the Released Parties from liability for all claims released by this Agreement, (iv) release of the PAGA Claims released by this Agreement against the Released Parties by Plaintiff, the State of California and all PAGA Settlement Employees, (v) submission of the Final Order by Plaintiff's Counsel to the LWDA within ten (10) days of entry of the Final Order pursuant to California Labor Code § 2699(1)(3), (vi) all parties bearing their respective fees and costs except as expressly provided in this Agreement, and (vii) Plaintiff dismissing the Arbitration with prejudice and releasing all known and unknown individual claims pursuant to a separate Individual Settlement Agreement and General Release executed contemporaneously herewith. The foregoing are conditions, not mere recitals.
- J. Defendant disputes and denies Plaintiff's allegations and various causes of action asserted in the Action and Arbitration, including, without limitation, Plaintiff's PAGA Claims, which are resolved by this Agreement.

III. IMPLEMENTATION OF SETTLEMENT

- A. Cooperation. The Parties will cooperate in seeking approval of the Settlement described in this Agreement. The Parties further agree to fully cooperate in the drafting and filing of any further documents or filings reasonably necessary to be prepared or filed, including responding to challenges by any third parties, and shall take all steps that may be requested by the Court relating to the approval and implementation of the Settlement described in this Agreement.
- B. Court Approval.
 - a. Because this Action includes PAGA Claims, this Agreement requires review and approval by the Court. *See* Cal. Lab. Code §2699(1)(2). Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is expressly contingent upon the Court's approval of this Settlement and the terms and material

conditions of this Agreement (including, but not limited to, issuance of and entry of the Final Order in accordance therewith). If Court approval is not given and the Final Order is not entered, under the specific material terms requested, this entire Agreement shall automatically be deemed null and void *ab initio*, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever.

- b. Within ten (10) business days after the execution of this Agreement, Plaintiff's Counsel shall prepare and file a motion for approval of the Settlement Agreement and an order approving this Agreement ("Motion for Approval"). If the Court does not grant the request for approval and issue the Final Order (including, but not limited to, entering judgment consistent with this Agreement, retaining jurisdiction pursuant to Civil Code 664.6, and entering the Final Order in accordance with the terms and conditions of this Agreement), under substantially similar material terms the Parties agree to meet and confer to address the Court's concerns and determine whether resolution of the Action can be obtained in a manner consistent with the Court's concerns. However, under no circumstances may a modified settlement be entered by the Court without a written agreement signed by both Parties.
 - c. Plaintiff will fully cooperate to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties will cooperatively oppose any appeal filed with respect to the Final Order.
 - d. Plaintiff shall submit to the LWDA a copy of the Final Order in this Action and a copy of any other order providing for or denying an award of civil penalties within ten (10) days after entry of the Final Order, in compliance with section 2699(1)(3) of the California Labor Code.
- C. Settlement Sum. In exchange for the releases, obligations, and promises set forth in this Agreement (and subject to the terms and conditions contained in this Agreement) and on condition that Plaintiff dismiss the Arbitration with prejudice and release all known and unknown individual claims pursuant to a separate Individual Settlement Agreement and General Release, Defendant agrees to pay the Settlement Sum, which is the total and all-inclusive amount that Defendant will be obligated to pay under the Settlement embodied by this Agreement. Under no circumstances shall the Settlement Sum exceed \$78,900.00, inclusive of attorneys' fees and costs. Other than payment of that portion of the Settlement Sum specifically allocated to settle the PAGA Claims, there shall be no PAGA Claim payments arising out of or related to Putative Aggrieved Employees' allegations for the time period from September 5, 2022, up to and including the date the Court enters the Final Order asserted against Defendant or any of the Released Parties on behalf of Plaintiff, the State of California, any PAGA Settlement Employee, or any other individual or entity. The Settlement Sum shall be allocated as follows:
- a. Claims Administration Fees: All Claims Administration expenses shall be paid

from the Settlement Sum. Claims Administration expenses paid to an outside Claims Administration service must come out of the Settlement Sum. The Parties agree to retain Phoenix Class Administration Solutions (“Claims Administrator”) to serve as the Claims Administrator in this matter. The estimated cost is \$Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) (“Claims Administration Fees”).

- b. Attorneys’ Fees and Costs: Out of the Settlement Sum, Plaintiff’s Counsel will receive attorneys’ fees and reimbursement of costs (“Fee Amount”) in the amount equal to up to one third (1/3) of the Settlement Sum (\$26,300.00) plus actual costs of litigation pursuant to PAGA (\$4,800.00), which provides for the recovery of attorneys’ fees and costs. Should the Court award a lesser sum for attorneys’ fees and costs, the residual will be included in the PAGA Payment. Any modification of the Fee Amount by the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement Agreement, or (iii) impose any obligation on Defendant to increase the consideration paid in connection with the Settlement. Plaintiff’s Counsel’s entitlement to fees and costs is a material condition of this Settlement, but the Fee Amount awarded is not. Plaintiff may appeal the fee and/or cost amounts awarded by the Court.

As part of Plaintiff’s motion for approval of the Settlement, Plaintiff will request an award of Plaintiff’s Counsel’s fees and costs consistent with this Agreement. Defendant will not oppose a fee request of up to one third (1/3) of the Settlement Sum (\$26,300.00) plus actual costs of litigation.

- c. PAGA Payment: The total sum available for payment of PAGA penalties shall be calculated by deducting the Claims Administration Fees and Fee Amount from the \$78,900.00 Settlement Sum (this will yield the “Net Settlement Amount”). Of the Net Settlement Amount, for each PAGA Settlement Employee, seventy-five percent (75%) of his or her allocated share of the Net Settlement Amount shall be distributed to the LWDA (“LWDA Penalty Payment”) and the remaining twenty-five percent (25%) shall be distributed to the PAGA Settlement Employees (“Putative Aggrieved Employee Penalty Payment”) on a pro-rata basis based on the number of pay periods they worked during the PAGA Period.

The “Putative Aggrieved Employee Penalty Payment” for each PAGA Settlement Employee shall be determined based on a formula taking into account the number of each PAGA Settlement Employee’s “Pay Periods.” A “Pay Period” shall be defined as any instance when a Putative Aggrieved Employee received a wage statement between September 5, 2022, and the Approval Date.

The amount paid to each PAGA Settlement Employee will be determined as follows: The Net Settlement Amount will be divided by the total number of Pay Periods for all PAGA Settlement Employees during the relevant time period (September 5, 2022, up to and including the Approval Date) (“Pay Period

Amount”). Each PAGA Settlement Employee will then be paid an amount equal to the Pay Period Amount multiplied by that PAGA Settlement Employee’s total number of Pay Periods.

Plaintiff will also be eligible for the Putative Aggrieved Employee Penalty Payment as PAGA Settlement Employee.

Defendant shall be responsible for providing all the Pay Periods information and calculations necessary for Defendant to determine the Putative Aggrieved Employee Penalty Payment for each PAGA Settlement Employee.

D. Funding and Distribution Process.

- a. Within ten (10) business days after the Effective Date and Defense Counsel’s receipt of (i) Form W-9s completed by Plaintiff and Plaintiff’s Counsel, (ii) a fully executed Request for Dismissal with prejudice of the Action as to all parties and all causes of action pursuant to Section V.C below (not to be filed until after Plaintiff’s Counsel confirms receipt of the check for the Fee Amount), and (iii) a fully executed Individual Settlement Agreement and General Release dismissing the Arbitration with prejudice and releasing all known and unknown individual claims pursuant to said agreement, Defendant will transmit to the Claims Administrator the Settlement Sum and provide to the Claims Administrator the list of “Aggrieved Employees,” defined as non-exempt employees who worked at any time between September 5, 2022, and the Approval Date. Within ten (10) business days after transmitting the Settlement Sum to the Claims Administrator, Defendant shall give written notice to Plaintiff’s Counsel that Defendant has satisfied its obligation to transmit the Settlement Sum to the Claims Administrator. This transmittal and notice wholly satisfies Defendant’s obligations with respect to the funding and disbursement process.
- b. Within ten (10) business days of receipt of the Settlement Sum, the Claims Administrator shall issue payments to Van Hook Law Firm and The Byrne Law Group, for the Fee Amount. Plaintiff’s Counsel will provide the Claims Administrator will instructions for issuance of such payments.
- c. Within ten (10) business days of receipt of the Settlement Sum, the Claims Administrator will disburse Putative Aggrieved Employee Penalty Payments to each PAGA Settlement Employee to the last known physical address on file with Defendant in its regularly maintained records. PAGA Settlement Employees who receive their Putative Aggrieved Employee Penalty Payments via U.S. Mail will receive a letter along with their Putative Aggrieved Employee Penalty Payment explaining the reason for the payment, the content of which will be agreed upon by the Parties. Such mailing as described in this paragraph shall be conclusive evidence of payment of the Putative Aggrieved Employee Penalty Payments and shall satisfy any and all due process requirements. All funds not claimed within 180 days of mailing of payment shall be sent to the California State Controller’s

Office Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each PAGA Settlement Employee. If any PAGA Settlement Employee's check is not cashed within 120 days after mailing, the Settlement Administrator will send the PAGA Settlement Employee a letter or postcard informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable. The letter or postcard will also offer to replace the check if it was lost and not cashed.

- d. Within ten (10) business days of receipt of the Settlement Sum, the Claims Administrator shall send a check to the LWDA for the LWDA Penalty Payment in the amount calculated pursuant to the terms of this Settlement, along with a copy of the Final Order, and any other documents required pursuant to California Labor Code section 2699(1).
- e. Within 300 days the Claims Administrator shall provide Plaintiff's Counsel and Defense Counsel and file with the Court a declaration describing how many checks were mailed to the Aggrieved Employees, how many checks were cashed, and for how many employees was money deposited with the State Controller's Office for Unclaimed Property Fund.

E. No Additional Contribution by Defendant.

- a. Based on a review of its records, Defendant estimates that there were approximately 82 Putative Aggrieved Employees who were employed as of the mediation date. Plaintiff's Counsel calculates a total of approximately 2,100 pay periods based on the hire and termination dates of the 82 Putative Aggrieved Employees. These figures were the basis for the Parties' settlement at mediation. If the actual number of total pay periods is more than 5% above this estimate (i.e., if there are more than 2,205 pay periods during the PAGA Period), the PAGA Period shall end as of the first date that the pay period count does not exceed 2,205. Defendant shall have the option to increase the PAGA Settlement Amount by 5%). Except for this escalator clause, Defendant's monetary obligation under this Agreement is limited to the Settlement Sum. Defendant shall not be required to pay more than the Settlement Sum to obtain the relief (including, but not limited to, the Settlement, releases of claims and, issuance of the Final Order) provided in this Agreement or to fully and finally settle and resolve the PAGA Claims.
- b. Notwithstanding the above, in the event that this Agreement is voided or nullified, in whole or in part, however that may occur, or the Settlement of the Action or Arbitration is barred by operation of law, or invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant will cease to have any obligation to pay any portion of the Settlement Sum to anyone under the terms of this Agreement.

F. Taxes.

- a. The Putative Aggrieved Employee Penalty Payments are penalties and shall be

reported on an IRS Form 1099 (to the extent required by law), and will not be subject to local, state, or federal tax withholdings. Plaintiff and each PAGA Settlement Employee shall be responsible for paying all applicable state, local, and federal income taxes on their respective amounts received pursuant to this Settlement, and they shall not seek any indemnification from Defendant or the Released Parties in this regard. Plaintiff and Plaintiff's Counsel shall cooperate with Defendant and provide documentation to the extent possible and as reasonably requested to demonstrate any payment of taxes made by Plaintiff and/or any PAGA Settlement Employee should any taxing authority challenge the allocation or characterization of settlement monies.

- b. In the event any taxing authority asserts that the characterization of Settlement payments hereunder are inappropriate and/or Plaintiff fails to pay any tax liability resulting from the payments made hereunder, and Defendant is made to pay any taxes, settlements, interest, penalties, and/or other sums (hereinafter collectively referred to as "Tax Payments") to a taxing authority as a result of the payments made to Plaintiff, Plaintiff shall fully indemnify and reimburse Defendant for any and all such Tax Payments upon demand and reasonable verification of sums paid.

IV. ADMISSIONS, EVIDENTIARY USE, AND NULLIFICATION

- A. No Admission. Defendant disputes that Plaintiff or any PAGA Settlement Employee is entitled to any additional wages other than those already paid and/or any penalties, disputes the allegations and each and every cause of action and/or claim in the Action and Arbitration, and disputes that the Action may be maintained on a class, collective, or representative basis. This Agreement is entered into solely for the purpose of compromising highly disputed claims. This Agreement and the payment of the Settlement Sum and the other considerations recited herein represent the compromise of disputed claims. Nothing in this Agreement is intended as or may be construed as an admission of liability, unlawful conduct, or wrongdoing by Defendant or any of the Released Parties in any way, shape or form, and Defendant and the Released Parties deny any such liability or wrongdoing.
- B. Non-Evidentiary Use. Except for purposes of effectuating the Settlement pursuant to this Agreement and for Defendant (and/or a Released Party) to establish that a PAGA Settlement Employee has resolved any of his/her claims released through this Agreement, and regardless of whether the Final Order occurs, neither this Agreement nor any of its terms (including, but not limited to, the payment of the Settlement Sum) nor the Settlement itself will be construed as, offered, or admitted in evidence as, received as, or deemed to be evidence, in any further proceeding in the Action, Arbitration, or any other civil, criminal, and/or administrative action or proceeding, for any purpose adverse to Defendant or any of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by Defendant or any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage.
- C. Nullification. If (a) the Court should for any reason fail to approve this Settlement consistent with the material specific terms agreed to by the Parties and set forth herein, (b)

the Court should for any reason fail to enter the Final Order, or (c) the Final Order is reversed, modified, or declared or rendered void, then this Agreement shall automatically be considered null and void *ab initio*. An example of a material change in the terms includes a change in the economic terms of the settlement.

In that instance, (i) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (ii) all Parties to this Agreement and the pleadings in this Action and Arbitration shall stand in the same position they were the day prior to the November 20, 2024, mediation in this Action/Arbitration, without prejudice to either Party; and (iii) Defendant will not have any obligation to pay any portion of the Settlement Sum to anyone under the terms of this Agreement. If this Agreement is invalidated through any proceeding within the Agreement, Plaintiff will return any disbursements from the Settlement Sum under his or his counsel's control to Defendant.

Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety, unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

V. RELEASE, WAIVER OF CLAIMS, AND DISMISSAL

- A. PAGA Settlement Employees Release. Upon entry of the Final Order, Plaintiff, all PAGA Settlement Employees, and the State of California shall be deemed to have fully, finally, and forever waived, released, relinquished, and discharged Defendant and each and all the Released Parties from any and all PAGA Claims as defined herein that arose from Plaintiffs PAGA Notice and operative complaint in this Action for the period of September 5, 2022, up to and including the Approval Date.
- B. No Attorneys' Fees or Costs. Except as expressly provided in this Agreement, the Parties agree to bear their own attorneys' fees and costs related to this Action and Arbitration, and Plaintiff's Counsel waives any and all rights to further attorneys' fees and costs from Defendant in connection with this Action and/or Arbitration.

VI. MISCELLANEOUS PROVISIONS

- A. LWDA Notice. Plaintiff shall give notice of this Settlement to the LWDA pursuant to Cal. Lab. Code §2699(1)(2). Plaintiff will serve a copy of this Agreement to the LWDA on the same day the Settlement is filed with the Court. Additionally, Plaintiff shall submit a copy of the Court's Final Order to the LWDA within ten (10) days after entry of the Final Order, pursuant to California Labor Code §2699(1)(3).
- B. PAGA Settlement Employees Data. All data, if any is required to be provided to the Court, regarding the number of PAGA Settlement Employees and total Pay Periods, and other similar settlement metrics will be filed by Defendant under seal to the extent necessary and permitted under governing legal standards for filing materials under seal.
- C. Voluntariness. This Agreement is executed voluntarily and without duress or undue

influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

- D. Amendments. The terms and provisions of this Agreement may be amended or modified only by an express written agreement that is signed by the Plaintiff and an authorized representative of Defendant.
- E. Assignment. None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Plaintiff's Counsel, or Defense Counsel without the express written consent of each Party. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.
- F. Representation and Warranties. Plaintiff's Counsel and Plaintiff jointly and severally represent and warrant to Defendant that there are no attorneys beyond those named as Plaintiff's Counsel who have claims for fees arising out of the Action, Arbitration, or the Settlement contemplated hereby.
- G. Governing Law. This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.
- H. Entire Agreement. This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings governing the subject matter of this Agreement other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the subject matter hereof, including, without limitation, any memorandum of understanding executed by the Parties, which is incorporated herein by reference, but to the extent any of the terms thereof is inconsistent with this Agreement, it is superseded by this Agreement, and this Agreement controls.
- I. Waiver of Compliance. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.
- J. Counterparts. This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or its/their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. A fax or PDF signature on this Agreement shall be as valid as an original signature.
- K. Meet and Confer Regarding Dispute(s). Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, Plaintiff's Counsel and Defense Counsel shall meet and confer in an attempt to resolve such dispute(s).

The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. The Parties' counsels can agree to non-material changes to this Settlement Agreement and the Parties agree to act in good faith to address any concerns raised by the Court in connection with the approval hearing.

- L. Agreement Binding on Successors. This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.
- M. Cooperation in Drafting. The Parties have cooperated in the negotiation and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement.
- N. Fair Settlement. Plaintiff, Defendant, Plaintiff's Counsel, and Defense Counsel believe that this Agreement reflects a fair, reasonable, and adequate settlement of the Action as to Defendant and have arrived at this Agreement through arms' length negotiation, taking into account all relevant factors, current and potential, and is consistent with public policy, and fully complies with applicable provisions of law.
- O. 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 and shall not be considered in interpreting this Agreement.
- P. Continuing Jurisdiction. The Parties agree that upon the occurrence of the Final Order pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure section 664.6 and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and the PAGA Settlement Employees to the fullest extent to interpret, enforce and effectuate the terms, conditions, intents and obligations of the Agreement.
- Q. No Reliance on Representations. The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other Parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters. No representations, warranties, or inducements have been made to any Party concerning this Agreement.
- R. Confidentiality/Public Statements.

- a. This Settlement and Agreement shall remain confidential in every respect until the Motion for Approval (as defined above in Section III.B.b.) is filed with the Court.
 - b. Plaintiff and Plaintiff's Counsel will not (a) issue any press or other media release, (b) initiate any contact with the press, other media (including social media), or any third party, (c) respond to any inquiry from the press, or media, or (d) have any communication with the press or other media about the Action or Arbitration, including, but not limited to the fact, amount, and terms of the Settlement, either before or after the Court approves this Agreement.
 - c. After the filing of the Motion for Approval, Plaintiff's Counsel agrees to limit any discussion of this case and the Settlement Agreement to reference only information that is contained in the Notice to be sent to the PAGA Settlement Employees, as well as publicly available information about the case (and summaries of same) and the settlement to be posted on Plaintiff's Counsel's website in order to provide additional information to the PAGA Settlement Employees. Plaintiff's Counsel further agrees to provide Defendant's Counsel with a copy of any information specifically referencing this case that will be posted on their website seven days in advance of any such posting, and that such website will be taken down upon conclusion of the case. Plaintiff's Counsel also has the right to respond to inquiries from PAGA Settlement Employees. This section shall not preclude Defendant from sharing the details of this Settlement with opposing counsel in other pending and/or future class and putative class, collective and PAGA actions, as well as mediators and their staff, provided any such disclosure is expressly designated as a "Confidential Settlement Communication."
 - d. To the extent additional limited public disclosures are required to effectuate the Settlement or to notify the court or parties in any pending, related proceeding, such limited and necessary details may be revealed with the consent of all Parties. However, any such disclosures shall not constitute a waiver of confidentiality with respect to any information not publicly disclosed.
- S. No Collateral Attack. The Parties agree that this Agreement may not be subject to collateral attack by any PAGA Settlement Employee or the State of California prior to or after entry of the Final Order, to the fullest extent permitted by law.

[Signatures on next page.]

IN WITNESS WHEREOF, the Parties knowingly and voluntarily executed this Settlement Agreement and Release as of the dates set forth below.

DATED: January 20, 2025


Francisco Amezcuita (Jan 20, 2025 10:13 PST)
Francisco Amezcuita, an individual

DATED: January Catherine Manten, 2025

Catherine Manten
Kaizen Resources, Inc.,
a Delaware corporation
By: Catherine Manten
Its: Chief Administrative Officer

APPROVED AS TO FORM:

DATED: January 20, 2025

VAN HOOK LAW FIRM

By: 
John A. Van Hook
Attorney for Plaintiff, Francisco Amezcuita

DATED: January 20, 2025

THE BYRNE LAW GROUP

Adrian Byrne
By: Adrian Byrne (Jan 20, 2025 10:17 PST)
Adrian Byrne
Attorney for Plaintiff, Francisco Amezcuita

DATED: January 27, 2025

MCDUGAL BOEHMER FOLEY
LYON MITCHELL & ERICKSON

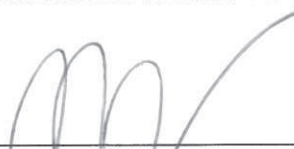
By: 
Steven E. Boehmer
Matthew A. Thurmer
Attorneys for Defendant, Kaizen Resources, Inc., a
Delaware corporation

Exhibit 2:
PAGA Notice

NOTICE OF SETTLEMENT OF PAGA ACTION

Francisco Amezquita v. Kaizen Resources, Inc.

Superior Court for the State of California,

County of Imperial, Case No. ECU003568

Administrator ID

Aggrieved Employee Name

Address

You are receiving this notice in connection with a court-approved settlement (the “Settlement”) in a lawsuit brought on a representative basis under the Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, et seq. (“PAGA”). The Plaintiff in the lawsuit is Francisco Amezquita (“Plaintiff”) and the Defendant is Kaizen Resources, Inc. (“Defendant”). The Settlement provides for a PAGA payment to all individuals who worked for Defendant in California as non-exempt employees during the time period of September 5, 2022, through [REDACTED] (the “PAGA Period”).

Defendant denies all claims and allegations in the lawsuit, denies that it owes any penalties or other amounts, and asserts that it has fully complied with the California Labor Code and all other applicable laws and regulations. Nevertheless, to avoid further costs and uncertainty in litigation, Defendant has agreed to settle the lawsuit. By settling the lawsuit, Defendant does not admit, and expressly denies, any wrongdoing.

The settlement resolves all claims seeking the civil penalties available to the California Labor and Workforce Development Agency (“LWDA”) under the California Labor Code based on the PAGA claims that were alleged or could have been alleged in the lawsuit based on the facts alleged therein, during the PAGA Period against Defendant and the Released Parties, including all PAGA claims under California Labor Code sections including but not limited to claims under California Labor Code sections 201, 202, 203, 204, 210, 218, 226, 226.7, 503, 510, 512, 551, 552, 558, 1182, 1194, 1197, 1198, 1199, and 2698 and Business and Professions code sections 17200 et seq. and the IWC Wage Orders (the “Released PAGA Claims”).

By an Order dated _____, 2025, the Superior Court for the County of Imperial approved the PAGA Settlement. By approving the PAGA Settlement, the Court did not decide the merits of Plaintiff’s claims, Defendant’s defenses, or otherwise rule in favor of either Plaintiff or Defendant.

The court-approved settlement contains the following release of claims, to which you are bound:

Upon entry of the Final Order, Plaintiff, all PAGA Settlement Employees, and the State of California shall be deemed to have fully, finally, and forever waived, released, relinquished, and discharged Defendant and each and all the Released Parties from any and all PAGA Claims as defined herein that arose from Plaintiff's PAGA Notice and operative complaint in this Action for the period of September 5, 2022, up to and including the Approval Date.

Pursuant to the settlement, PAGA Claims are defined as:

Claims for PAGA penalties, pursuant to Labor Code section 2699 et seq. that: (1) arose or may be alleged to have arisen at any time from September 5, 2022, up to and including the Approval Date, and (2) are based on or arise from any and all violations of the Labor Code or Industrial Welfare Commission ("IWC") Orders, including but not limited to, all claims for wages, overtime pay, pay for all time allegedly worked but not compensated, and all other claims of any kind for wages, penalties, interests, costs and attorneys' fees arising from the alleged violation of any provision of common law, California law and/or Federal law which were or could have been raised in the Action, including but not limited to claims under California Labor Code sections 201, 202, 203, 204, 210, 218, 226, 226.7, 503, 510, 512, 551, 552, 558, 1182, 1194, 1197, 1198, 1199, and 2698 and Business and Professions code sections 17200 et seq.

According to Defendant's records, you worked for Kaizen Resources, Inc. during the PAGA Period, and are therefore entitled to a share of the PAGA Settlement. Your settlement amount is based on the number of pay periods worked during the PAGA Period.

The payment you are receiving in connection with the Settlement will be considered penalties and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences of your settlement payment. Neither Plaintiff nor Defendant (or their respective attorneys) make any representations or warranties regarding the taxation of your settlement payment. Nothing in this Notice or any other communication shall constitute or be construed or relied upon as tax advice.

PLEASE DO NOT CALL OR WRITE THE COURT OR OFFICE OF THE CLERK TO ASK QUESTIONS ABOUT THE SETTLEMENT. IF YOU HAVE ANY QUESTIONS, YOU MAY CALL OR WRITE TO THE SETTLEMENT ADMINISTRATOR AT:

Phoenix Settlement Administrators

ADDRESS

Telephone:

Exhibit 3:
Settlement Admin. Quote



CASE ASSUMPTIONS

Aggrieved Members	82
Opt Out Rate	N/A
Opt Outs Received	
Total Aggrieved Claimants	82
Subtotal Admin Only	\$2,750.00

Not-to-Exceed Total \$2,750.00

For 82 Aggrieved Members

Pricing Good for Scope of Estimate Only

December 10, 2024

Case: TBD PAGA Administration

Phoenix Contact: Jodey Lawrence

Contact Number: 949.566.1455

Email: Jodey@phoenixclassaction.com

Requesting Attorney: John A. Van Hook

Firm: Van Hook Law Firm

Contact Number: (310) 405-2426

Email: john@vanhooklawfirm.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PHX will need to adjust this Estimate accordingly.

Estimate is based on 82 Aggrieved Members. Class data Must be sent in Microsoft Excel or uploaded in the same format. Class Data Must be sent in one spreadsheet, with no additional programming needed. A rate of \$150 per hour will be charged for any additional analysis or programming. Pricing good for 90 days.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)			
Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	\$125.00	1	\$125.00
Programming Database & Setup	\$125.00	1	\$125.00
Toll Free Setup*	\$50.25	1	\$50.25
Call Center & Long Distance	\$1.75	2	\$3.59
Static Website	\$200.00	1	\$200.00
		Total	\$503.84

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Check & Postage			
Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$125.00	2	\$250.00
Data Merge & Duplication Scrub	\$0.25	82	\$20.50
Notice and Check Packet	\$1.25	82	\$102.50
Estimated Postage (up to 1 oz.)*	\$0.69	82	\$56.58
		Total	\$429.58

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Associate	\$50.00	1	\$50.00
Skip Tracing Undeliverables	\$1.50	8	\$12.30
Remail Notice Packets	\$1.25	8	\$10.25
Estimated Postage	\$0.69	8	\$5.66
Programming Undeliverables	\$50.00	1	\$50.00
Total			\$128.21

Database Programming

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$125.00	1	\$125.00
Case Manager	\$125.00	1	\$125.00
Total			\$250.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$125.00	1	\$125.00
Disbursement Review	\$125.00	1	\$125.00
Programming Manager	\$100.00	2	\$200.00
QSF Bank Account & EIN	\$50.00	1	\$50.00
Check Run Setup & Printing	\$100.00	1	\$100.00
Total			\$600.00

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Supervisor	\$100.00	1	\$100.00
Remail Undeliverable Checks (Postage Included)	\$1.50	16	\$23.37
Case Associate	\$75.00	1	\$75.00
Reconcile Uncashed Checks	\$90.00	1	\$90.00
Conclusion Reports	\$75.00	1	\$75.00
Case Manager Conclusion	\$75.00	1	\$75.00
Final Reporting & Declarations	\$125.00	1	\$125.00
QSF Annual Tax Reporting * (State Tax Reporting Included)	\$275.00	1	\$275.00
Total			\$838.37

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total: \$2,750.00



TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.