

D.LAW, INC.
Emil Davtyan (SBN 299363)
Emil@d.law
Alvin B. Lindsay (SBN 220236)
a.lindsay@d.law
Enoch Kim (SBN 261146)
e.kim@d.law
Melissa Rodriguez (SBN 352716)
m.rodriguez@d.law
450 N. Brand Blvd. Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Fax: (818) 962-6469

DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian (SBN 226337)
david@yeremianlaw.com
450 N. Brand Blvd. Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Fax: (818) 962-6469

UNITED EMPLOYEES LAW GROUP,
PC Walter Haines (SBN 71075)
whaines@uelglaw.com
8605 Santa Monica Blvd., #63354
West Hollywood, CA 90069
Telephone: (562) 256-1047
Facsimile: (562) 256-1006

Attorneys for Plaintiff Abdolla Kowighadoush,
on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ABDOLLA KOWIGHADOUSH, an individual,
on behalf of himself and others similarly
situated,

Plaintiff,

vs.

NKSFB, LLC, a Delaware limited liability
company; and DOES 1 through 50, inclusive,

Defendants.

Case No. 23STCV23689

Assigned To:
Dept.: 14

**DECLARATION OF ENOCH J. KIM IN
SUPPORT OF MOTION FOR
APPROVAL OF PAGA SETTLEMENT
AGREEMENT**

Hearing Date: October 29, 2025
Time: 11:00 a.m.
Department: 14

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1. I am an attorney licensed and admitted to practice before all courts of the State of California and the United States District Court for the Central, Southern, Eastern, and Northern Districts of California.

3. All of 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 Plaintiff's Motion for Approval of the Parties' PAGA Settlement Agreement ("Settlement Agreement") under California Labor Code 2698 *et seq.* The Parties' Settlement Agreement is attached hereto as **Exhibit 1**.

4. On September 29, 2023, Plaintiff Kowighadoush filed his proposed class action complaint against Defendant, asserting the following causes of action: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal Period Liability Labor Code § 226.7; (4) Rest-Break Liability Labor Code § 226.7; (5) Violation of Labor Code § 226; (6) Violation of Labor Code § 221; (7) Violation of Labor Code § 204; (8) Violation of Labor Code § 203; (9) Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5; (10) Failure to Produce Requested Records under §§ 226 and 1198; (11) Failure to Reimburse Necessary Business Expenses under Labor Code § 2802; and (12) Violation of Business & Professions Code § 17200 *et seq.* (“the Action”);

5. On September 29, 2023, Plaintiff filed a claim online with the California Labor & Workforce Development Agency (the “LWDA”) pursuant to Labor Code § 2699.3(a)(1) and gave notice to Defendant (“PAGA Notice”). The PAGA Notice is attached hereto as **Exhibit 2**. The PAGA Notice sought civil penalties and alleged claims against Defendant for failure to pay

1 minimum wages, failure to pay wages and overtime, failure to provide meal and rest breaks,
2 unlawfully collecting or receiving wages in violation of Labor Code § 221, failure to issue accurate
3 wage statements, failure to issue semimonthly payments in violation of Labor Code § 204, failure
4 to maintain records in accordance with Labor Code § 1174, failure to pay waiting time penalties,
5 failure to provide paid sick days and COVID-19 supplemental sick leave, and failure to reimburse
6 business expenses Labor Code § 2802. The LWDA did not respond to the PAGA Notice and did
7 not notify Plaintiff that it intended to investigate Plaintiff's allegations.

8 6. On April 8, 2024, 65 days after Plaintiff's submission of the PAGA Notice, Plaintiff
9 filed a First Amended Complaint, alleging a thirteenth cause of action for civil penalties under
10 PAGA ("Operative Complaint").

11 7. The Parties mediated this matter before Lynne Frank, a well-respected employment law
12 mediator, on August 27, 2024 and reached a settlement.

13 8. Before filing the lawsuit, PAGA Counsel investigated and researched the facts and
14 circumstances underlying the pertinent issues and the law applicable thereto. This required
15 thorough discussions and interviews between PAGA Counsel and Plaintiff, as well as preliminary
16 research into the various legal issues involved in the case. After conducting our initial
17 investigation, we determined that Plaintiff's claims were well-suited to proceed on a representative
18 basis owing to what appeared to be a common course of conduct affecting a similarly situated
19 group of employees.

20 9. After initiating the Action, the Parties met and conferred about the claims and issues in
21 this case, including the existence of an arbitration agreement between the Parties, and agreed to
22 explore resolution of this case through mediation with a highly respected mediator. Prior to
23 mediation, Defendant provided data, numbers, and documents, including an Aggrieved Employee
24 List (by employee number), a company handbook entitled "Timekeeping Policies and
25 Expectations: California Non-Exempt Employee", a sampling of Aggrieved Employee's
26 timekeeping and payroll data, Plaintiff's wage statements, and an excel sheet containing records
27 of meal period premiums paid to Aggrieved Employees. Defendant also provided information
28 relating to the number of Aggrieved Employees and PAGA Pay Periods.

1 10. The information and data exchanged by Plaintiff and Defendant prior to and during
2 mediation and settlement negotiations were sufficient to reliably assess the merits of the Parties’
3 respective positions, to compromise the issues on a fair and equitable basis, and to devise a formula
4 for distribution of civil penalties among the Aggrieved Employees that took into consideration the
5 strength of the PAGA claims.

6 **SETTLEMENT NEGOTIATIONS AND TERMS**

7 11. On August 27, 2024, the Parties attended an all-day mediation with Lynne Frank.
8 During mediation, the Parties exchanged further information and discussed all aspects of the case,
9 including Plaintiff’s claims, Defendant’s defenses, procedural challenges in this case, and the
10 prospects of further litigation. The Parties recognized that the issues presented in the Action are
11 likely only to be resolved with extensive and costly pretrial and trial proceedings and that further
12 litigation would lead to inconvenience, distraction, disruption, delay, and expense disproportionate
13 to the potential benefits of litigation. The Parties took into account the risk and uncertainty of the
14 outcome inherent in any litigation in representative actions such as this one.

15 12. With the assistance of a highly respected wage and hour mediator, the Parties agreed to
16 the general terms for settling this Action and finalized the long-form PAGA Settlement
17 Agreement. The Parties also entered into a separate individual settlement agreement (the “Separate
18 Individual Agreement”), addressing the general release Plaintiff is providing to Defendant and the
19 related consideration.

20 13. The Parties believe and agree that the PAGA Settlement provides for a fair, adequate,
21 and reasonable resolution of the Action and have arrived at the Settlement after extensive, arm’s
22 length negotiations, considering all relevant factors, present and potential. PAGA Counsel believes
23 that the Settlement confers real benefits upon the State and Aggrieved Employees and that an
24 independent review of the Settlement by the Court in the approval process will confirm this
25 conclusion.

26 14. For purposes of the Settlement, “Aggrieved Employees” are defined as: all persons who
27 are employed or were previously employed by Defendant in California and classified as non-
28 exempt employees at any time during the PAGA Period. (Exhibit 1, ¶ 1.4.) The PAGA Period is

defined as the period from September 29, 2022, through and including June 23, 2024. (Exhibit 1, ¶¶ 1.23.) Based on its records, Defendant represents that there are approximately 394 Aggrieved Employees who collectively worked a total of approximately 9,700 PAGA Pay Periods in the aggregate from September 29, 2022, through and including June 23, 2024. (Exhibit 1, ¶ 1.23.) Should the total number of PAGA Pay Periods within that timeframe increase by more than 10% (i.e., by more than 970 PAGA Pay Periods, i.e., 10,670), Defendant shall increase the Gross Settlement Amount, on a pro-rata basis equal to the percentage increase in the number of PAGA Pay Periods worked by Aggrieved Employees greater than 10%. For example, if the number of PAGA Pay Periods during the PAGA Period increases by more than 12%, then Plaintiff shall request a 2% increase to the Gross Settlement Amount. (Exhibit 1, ¶ 8.) “Release Period” means the period from September 29, 2022, through October 26, 2024. (Exhibit 1, ¶ 1.27.)

15. The Settlement Agreement requires Defendant to pay the total sum of Two Hundred and Forty-Two Thousand and Five Hundred Dollars and Zero Cents (\$242,500.00) (the “Gross Settlement Amount”). The Gross Settlement Amount will be allocated as follows, pending Court approval:

- a) Attorneys’ fees in the amount of \$84,875.00 (“PAGA Counsel Fees Payment”) and litigation costs in the amount of \$22,556.39 (“PAGA Counsel Litigation Expenses Payment”) (\$17,000 “not-to-exceed” amount allocated in the Settlement Agreement) D.Law, Inc.’s cost log is attached hereto as Exhibit 3;
- b) Administration costs of no more than \$7,000.00 to be paid to the Administrator, Apex Class Action Administration, for sending notices and for calculating settlement shares and preparing all checks and mailings (“Administration Expenses Payment”); and
- c) The remainder of the Gross Settlement Amount after deducting the above costs (“Net Settlement Amount”) is approximately \$128,068.61 and shall be designated as “PAGA Penalties” to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% (\$96,051.46) being paid to the LWDA (“LWDA PAGA Payment”) and 25%

1 (\$32,017.15) being paid to the Aggrieved Employees on a pro-rata basis
2 (“Individual PAGA Payment”). The average payment to the Aggrieved
3 Employees will be approximately \$325.07 (\$32,017.15 divided by 394
4 Aggrieved Employees, which is the approximate number of Aggrieved
5 Employees based on the data given at the time of mediation) as their share of the
6 Individual PAGA Payment.

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

17 **THE STRENGTH OF CASE IN LIGHT OF THE SETTLEMENT AMOUNT**

18 17. Plaintiff alleges that Defendant violated various provisions of California law and seeks
19 civil penalties for the foregoing violations pursuant to Labor Code § 2699 *et seq.* Under Labor
20 Code § 2699, specifically, Plaintiff alleges that Defendant:

- 21 • Failed to pay Aggrieved Employees minimum wages and overtime for “off-the-clock”
22 work, including requiring Aggrieved Employees to clock out from their shifts at their
23 scheduled times and close out and clean up their workstations and work through their
24 meal periods to ensure billable goals were met, and failing to require
25 contemporaneously recorded meal period in and out punches.
- 26 • Failed to provide Aggrieved Employees with compliant meal periods because their
27 meal periods, when provided, were frequently interrupted by managerial demands,
28 client inquiries, and other job responsibilities and were provided after the fifth hour of

1 their shift. Moreover, Plaintiff and the Aggrieved Employees were often compelled to
2 clock out prior to the fifth hour of work but continue working so their time records will
3 reflect a timely and compliant meal period. Meal periods, if they were provided at all,
4 were generally cut short to ensure that daily billable hours were met.

- 5 • Failed to provide Aggrieved Employees with compliant rest periods as they frequently
6 received interrupted, shortened, or no rest periods at all. Specifically, Defendants
7 provided rest periods untimely or for shortened durations due to the work demands
8 placed upon them by Defendants' management. Additionally, Defendants' policy
9 discouraged and effectively prevented Aggrieved Employees from leaving Defendants'
10 premises.
- 11 • Failed to issue accurate wage statements, including the failure to include all hours
12 worked by Aggrieved Employees.
- 13 • Failed to timely pay Aggrieved Employees on a semimonthly basis.
- 14 • Failed to pay all wages earned by and owed to Aggrieved Employees at the time of
15 their termination within seventy-two hours of their resignation.
- 16 • Failed to provide Aggrieved Employees paid sick days and COVID supplemental sick
17 leave.
- 18 • Failed to reimburse Aggrieved Employees for business expenses, including the cell
19 phone-related expenses Plaintiff incurred in responding to identity verification requests
20 received through text and accessing the company email account. Defendants also failed
21 to pay for business expenses incurred by Aggrieved Employees who were required to
22 work remotely, including office-related expenses, phone coverage, and the like.

23 18. Defendant denied and continues to deny all of the claims made by Plaintiff in this Action
24 and contends that they acted at all relevant times in conformance with the law. Defendant contends
25 that Plaintiff and Aggrieved Employees were paid for all hours worked; that Defendant provided
26 Plaintiff and the Aggrieved Employees with compliant meal periods and rest breaks; that
27 Defendant paid all wages due on a timely basis; that Defendant paid all wages due on a timely
28 basis and using Labor Code compliant instruments; that Defendant's wage statements complied

1 with the law; and that neither Plaintiff nor any Aggrieved Employees incurred reasonable business-
2 related expenses for which they were not reimbursed. As a result, PAGA Counsel had to
3 appropriately discount the amount recoverable from Defendant in a settlement.

4 **PAGA Penalties**

5 19. The Private Attorneys General Act, Labor Code § 2699 *et seq.*, allows Plaintiff to obtain
6 civil penalties on behalf of himself and other aggrieved employees for Defendant's violation of
7 any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties
8 are provided in the statute, those civil penalties are recoverable; where no civil penalties are
9 recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars (\$100) for
10 each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200)
11 for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code
12 § 2699(i), seventy-five percent (75%) of the penalties recovered must be allocated to the LWDA,
13 with the remaining twenty-five percent (25%) allocated to the affected employees. However, under
14 *Amaral v. Cintas*, 163 Cal. App. 4th 1157, 1207-09 (2008), the Court held that a lower penalty
15 amount of \$100 per violation applies in the absence of a determination that a violation actually
16 occurred.

17 20. Plaintiff estimated that the maximum potential exposure on the PAGA claim is
18 \$970,000.00, calculated by multiplying the total number of PAGA Pay Periods (9,700) by \$100
19 per violation. Plaintiff's calculation of the total potential exposure on the PAGA claim was based
20 on one PAGA penalty per PAGA Pay Period (i.e., Plaintiff did not stack the PAGA penalties in
21 their damages calculation).

22 21. Case law supports the notion that it is inappropriate to "stack" penalties for multiple
23 violations, particularly when those violations all stem from the same alleged "injury" *Aguirre v.*
24 *Genesis Logistics*, 2015 U.S. Dist. LEXIS 78748 (citing *Villacres v. ABM Indus., Inc.*, 189
25 Cal.App.4th 562, 577 (2010)). ("One injury gives rise to only one claim for relief...The violation
26 of one primary right constitutes a single cause of action."; *Crowley v. Katleman*, 8 Cal. 4th 666,
27 681-82) (1994); *Li v. A Perfect Day Franchise, Inc.*, 2012 WL 2236752, *17 (N.D. Cal.2012)
28 ("There is no authority that "would permit double recovery of essentially the same penalties.")

22. 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 *Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision) (emphasis added); see also *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018) (affirming penalty reduction of 90% for practice that resulted in meal periods occasionally starting minutes after the fifth hour of work); *Sanchez v. McDonald’s Corp.* (2017), LASC Case No. No. BC 499888 (98% reduction from \$41 million to \$775,000); *Ghrdilyan v. RJ Financial* (2012), LASC Case No. BC430633 (94% reduction from \$5.4 million to \$325,000); *Fleming v. Covidien, Inc.* (2011), USDC Case No. ED CV 10-01487-RGK (OPx) (87% reduction from \$2.8 million to \$375,000).). In departing from the \$100/pay period calculation to arrive at the \$242,500.00 Gross Settlement Amount in this case, Plaintiff considered various reasons why the Court may reduce any eventual recovery at its discretion and considered that PAGA penalties are not mandatory but permissive.

23. The Gross Settlement Amount of \$242,500.00 is approximately 25.00% of the maximum potential exposure of \$970,000.00. The Gross Settlement Amount therefore represents a strong value at approximately \$25.00 per PAGA Pay Period. From PAGA Counsel’s review of the facts, strengths, and weaknesses of the case, and the risks and delays posed by further litigation, PAGA Counsel believes that the recovery for the State and Aggrieved Employee is fair and reasonable.

REQUEST FOR ATTORNEYS’ FEES AND COSTS

24. PAGA Counsel is requesting a PAGA Counsel Fees Payment in the amount of **\$84,875.00** for attorneys’ fees and a PAGA Counsel Litigation Expenses Payment of **\$22,556.39** for litigation costs incurred. D.Law, Inc.’s cost log for this matter is attached hereto as **Exhibit 3**. The Parties, in their Settlement Agreement, agreed to an amount of up to \$17,000.00 for PAGA Counsel Litigation Expenses Payment, which Defendant does not oppose. The lion’s share of these costs were incurred in connection with mediation, and the others listed were all reasonably incurred

1 and necessary to the prosecution of this Action.

2 25. This request is fair, reasonable, and adequate to compensate PAGA Counsel for the
3 substantial work they have put into this case and the risk they assumed by taking it in the first
4 place. The attorneys' fees award is intended to reimburse PAGA Counsel for all uncompensated
5 work that they have already done and for all the work they will continue to do in carrying out and
6 overseeing the notification to the Aggrieved Employees, communicating with Aggrieved
7 Employees regarding their claims, and assisting in the administration of the Settlement if it is
8 approved.

9 26. Throughout this case, PAGA Counsel have borne, and continue to bear, the entire risk
10 and cost of litigation associated with this Action on a pure contingency basis. As a result, PAGA
11 Counsel have yet to receive any compensation for the amount of time and money invested in the
12 case to date.

13 27. Contingent-fee cases present the very real risk of working hundreds if not thousands of
14 hours that may never be entirely compensated. Moreover, while the case is being litigated, counsel
15 must pay overhead (salaries, rent, etc.), provide for their own expenses, and in most cases pay the
16 out-of-pocket expenses incurred on the Plaintiff's behalf. And the prospect of a court-awarded fee
17 does not greatly reduce the risk posed by these cases. In many cases, the prospect is nothing more
18 than a potential that never materializes. First, you must win the case to get a court-awarded fee;
19 even those cases that seem strongest at the onset can be lost and sometimes are lost. Second, there
20 are always pitfalls and unforeseen obstacles that arise along the way, such as settlement offers that
21 the client may accept without ensuring that we receive a reasonable fee or changes in the law that
22 substantially affect the merits of the case, or other uncertainties involving the client. Finally, there
23 is the great risk inherent in advancing tens if not hundreds of thousands of dollars in out-of-pocket
24 expenses. If that money were to be invested in some sort of financial investment, one would expect
25 a reasonable rate of return on that investment. Here, however, the best we can hope to recover is
26 our money, and then only if we are substantially successful; if we are not, all or part of this
27 "investment" can be lost.

28 28. PAGA Counsel is well acquainted with the contingent fee market throughout California,

1 particularly as it pertains to PAGA and class action litigation. PAGA Counsel has negotiated
2 numerous contingency-fee agreements with plaintiffs, both as individuals and as representatives
3 in class-action and PAGA suits. Many of those agreements required that counsel receive a fee
4 under certain scenarios that exceed thirty-five percent of the recovery. PAGA Counsel's recent
5 attorneys' fees awards in similar wage-and-hour class and PAGA actions have been 35% of the
6 recovery.

7 29. PAGA counsel in contingency-fee cases have received attorneys' fees equal to or greater
8 than forty percent of the gross settlement amount. See *Crandall v. U-Haul* (Los Angeles County
9 Super. Ct., Case No. BC178775), the Honorable Steven Czuleger awarded a 40% attorney fee
10 request in an overtime-exemption class action; in *Bushnell v. Cremer, Inc.* (Orange County Super.
11 Ct., Case No. 657778), the Honorable Donald E. Smallwood awarded attorneys' fees in the amount
12 of 38%; in *Abzug v. Kerkorian* CA000981 (Los Angeles County Super. Ct., November 1990), the
13 Honorable R. William Schoettler awarded a 45% fee; in *Haitz v. Meyer, et al.*, Alameda County
14 Super. Court, 8-20-1990 No. 572968-3, the court awarded a 40% fee; in *Elliott v. Clothestime*
15 (Orange County Super. Ct., Case No. 01-CC00333) the Honorable Jonathan Cannon awarded a
16 40% fee in a wage-and-hour class action which had not yet proceeded to the class certification
17 stage; in both *Rippee v. Boston Market Corporation*, Case No.: 05 CV 1359 BTM (JMA) and
18 *Barile v. Boston Market Corporation*, Case No.: 05 CV 1360 BTM (JMA), the Honorable Judge
19 Barry T. Moskowitz awarded a 40% fee to Plaintiff's counsel in wage-and-hour class actions that
20 had not proceeded to the class-certification stage.

21 30. Moreover, PAGA Counsel spent substantial time on this matter. Aside from drafting the
22 initial complaint, PAGA Counsel conducted informal discovery, reviewed and analyzed time and
23 pay records, employment handbooks, Plaintiff's personnel file, relevant policies, and other
24 documentation, researched the applicable law and potential defenses, constructed damage models
25 based on interpretations of California law, reviewed information provided by Defendant at the
26 mediation, engaged in meet and confer efforts with Defendant, drafted and revised the settlement
27 agreement, and drafted this Motion. PAGA Counsel conservatively estimates that it invested at
28 least **141.10** hours of attorney time in this matter. I have invested at least **12.00** hours for a total of

\$9,000.00 in attorneys' fees (\$750/hr x 12.0 hours = \$9,000.00). Senior Attorney Alvin B. Lindsay invested approximately **30.00** hours for a total of **\$24,000.00** (\$800/hr x 30.00 hours = \$24,000.00). Associate Attorney Melissa Rodriguez invested approximately **89.10** hours for a total of **\$35,640.00** in attorneys' fees (\$400/hr x 89.1 hours = \$35,640.00). Managing Attorney David Yeremian an invested at least **10** hours for a total of **\$8,500.00** (\$850/hr x 5 hours = \$8,500.00). Therefore, PAGA Counsel has collectively incurred **141.10** hours and **\$77,140.00** in fees.

31. The below table summarizes PAGA Counsel's total hours, billables, and costs:

Attorney/Firm	Total Hours	Total Billables	Costs
Enoch Kim (D.LAW)	12	\$9,000.00	
David Yeremian (DYA)	10	\$8,500.00	
Alvin B. Lindsay (D.LAW)	30	\$24,000.00	
Melissa Rodriguez (D.LAW)	89.10	\$35,640.00	
Total:	141.10	\$77,140.00	\$22,556.39

See Declaration of David Yeremian in Support of Plaintiff's Motion for Approval of PAGA Settlement ("Yeremian Decl., ¶ 15).

32. In light of the foregoing, the PAGA Counsel Fees Payment request in an amount equal to 35% of the settlement in this case is well within the bounds that have been established by the above-cited authority.

33. The contingent nature and complexity of this case as well as the significant benefit that the Settlement confers upon the State and Aggrieved Employees strongly support the application of a modest multiplier of approximately 1.10 to the lodestar amount. As such, PAGA Counsel respectfully request the Court grant their request for \$84,875.00 in fees.

EXPERIENCE AND VIEWS OF COUNSEL

34. D.Law (formerly known as Davtayan 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

1 cases pending in both state and federal court.

2 35. D.Law is well-qualified and has ample experience, knowledge, and resources to act as
3 counsel and represent Plaintiff and the allegedly Aggrieved Employees in this action. Our practice
4 is exclusively focused on employment matters and representing plaintiffs in wage and hour actions
5 with the same or similar causes of actions brought forth in the matter pending before this Court.

6 36. D.Law has litigated and successfully resolved many wage and hour class action cases
7 involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. De La
8 Rosa v. The Coca Cola Company et al. (Superior Court of California in Napa, 17CV000787),
9 Harvey v. Bed Bath & Beyond of California Limited Liability Company (Superior Court of
10 California in Alameda, RG17885153), Paredes v. Bottling Group LLC et. al. (Superior Court of
11 California in Kern), Ramirez v. Harris Ranch Beef Company (Superior Court of California in
12 Fresno, 16CECG04103), Gates v. Gate Gourmet, Inc. et. al. (Southern District of California, 16-
13 cv-01084-L-AGS), Hargrave v. Antelope Valley Hospital (Superior Court of California in Los
14 Angeles, BC663252), Ramirez v. Milton Roy et. al. (Superior Court of California in Los Angeles,
15 BC 632 276), Hawkins v. AvalonBay Communities (Superior Court of California in Santa Clara,
16 17CV316492), Jones Tharpe et al. v. Sprint Corporation et al. (Superior Court of California in Los
17 Angeles, BC644645), Ortega et al. v. Nestle Waters North America, Inc. et al. (Superior Court of
18 California in Los Angeles, BC623610), Schultz v. Jimbo's Natural Family, Inc. (Superior Court
19 of California in San Diego, 37-2017-00022348-CUE-OE-CTL), Ambrose v. Victor Valley Global
20 et al. (Superior Court of California in San Bernardino, CIVDS1709289), Puerta-Gildardo v. Real
21 Time Staffing Services LLC et. al. (Superior Court of California in Los Angeles, BC565445),
22 Vargo v. Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836),
23 Conlin v. Aegis Senior Communities LLC (Northern District of California, 17-cv-05534-LHK),
24 Galarza v. Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO),
25 Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA),
26 Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v.
27 The Claremont Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau
28 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), Viridi 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.

37. I am Senior Counsel at D.Law, where I manage the class action and PAGA settlement department. I was admitted to the California Bar in December 2008. I received my J.D. from

1 Pepperdine University School of Law and B.S. from University of Southern California. Since
2 graduating from law school, I have dedicated virtually my entire career on the practice of
3 employment law. I have practiced employment law from the plaintiff's side, defense side, and
4 from an in-house position. I have significant experience specifically working on wage and hour
5 class actions from the plaintiff's side as well as the defense side, with the majority of my
6 experience coming from the plaintiff's side.

7 38. Attorney Alvin B. Lindsay received his Juris Doctorate from Whittier Law School.
8 Upon graduating from law school, he exclusively focused his practice on representing employees
9 including in wage-and-hour class actions. During his career, he has represented employees in over
10 100 wage-and-hour class action lawsuits as lead or co-lead counsel (including in the Central,
11 Southern, Eastern, and Northern Districts of California), and he has obtained six and seven-figure
12 settlements against a range of defendants, including Fortune 500 companies. These cases have
13 involved the gamut of wage-and-hour claims, including claims for failure to pay minimum wages,
14 unpaid wages and overtime, inaccurate pay statements, and failure to pay timely wages - similar
15 to claims at issue in the present matter.

16 39. The collective experience of the D.Law attorneys in litigating employment wage and
17 hour matters has been integral in identifying legal issues, evaluating the strengths and weaknesses
18 of a case, and generally negotiating fair and reasonable class and representative action settlements.
19 This experience is helpful in assessing the reasonableness of settlements such as the one at issue
20 here.

21 40. In sum, PAGA Counsel are experienced in employment class action and PAGA
22 litigation and are adequate to represent the Aggrieved Employees in the instant action.

23 **SETTLEMENT ADMINISTRATION AND NOTICE**

24 41. The Parties agreed to use Apex Class Action Administration as the third-party
25 settlement administrator in this case. Apex will be responsible for updating Aggrieved Employees'
26 addresses, mailing a notice of Settlement, and calculating and distributing the settlement checks,
27 among other duties. Apex capped its fees at \$7,000.00 for administering the Settlement and based
28 on PAGA Counsel's experience in other class and PAGA settlements, Apex's costs for

administering this Settlement are fair and reasonable.

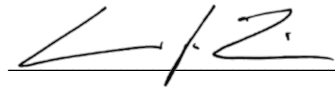
42. The Administrator will mail the Individual PAGA Payment along with a letter providing notice of the Settlement and release of claims to Aggrieved Employees (“Notice of PAGA Settlement and Release of Claims”). The Notice of PAGA Settlement and Release of Claims includes, among other things, a description of the allegations in the Action and the scope of released claims. The Notice of PAGA Settlement and Release of Claims, which will also be translated into Spanish, is attached hereto as **Exhibit 4**.

43. On April 29, 2025, my office submitted the proposed Settlement and the Motion to the LWDA. Attached hereto as **Exhibit 5** is a true and correct copy of the confirmatory email my office received from the LWDA after the submission of the Settlement.

44. The Parties are not aware of any class or other representative action in any other court that asserts claims similar to those alleged in the action being settled.

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

Executed this 29th day of April, 2025 at Glendale, California.



Enoch J. Kim

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement/Stipulation of Settlement (the “Agreement”) is made by and between plaintiff Abdolla Kowighadoush (“Plaintiff”) and NKSFB, LLC (“Defendant” or “NKSFB”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as a “Party.”

1. DEFINITIONS.

1.1 “Action” means Plaintiff’s lawsuit against Defendant captioned *Abdolla Kowighadoush v. NKSFB, LLC*, Case No. 23STVC23689, initiated on September 23, 2023, and pending in the Superior Court of the State of California, County of Los Angeles, including the Complaint.

1.2 “Administrator” means Apex Class Action (also referred to as “Apex”), the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 “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 of Seven Thousand Dollars and Zero Cents (\$7,000.00) submitted to the Court in connection with approval of this Settlement.

1.4 “Aggrieved Employee” means all persons who are employed or were previously employed by Defendant in California and classified as non-exempt employees at any time during the PAGA Period.

1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession, including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee 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 Aggrieved Employees.

1.7 “Approval Order” means the Court Order Granting Approval of PAGA Settlement.

1.8 “Complaint” shall refer to the original class-action complaint that Plaintiff filed in the Action on September 29, 2023.

1.9 “Court” means the Superior Court of California, County of Los Angeles.

1.10 “Defense Counsel” means Attorneys David A. Wimmer and Meghan E. O’Kane at Swerdlow Florence Sanchez Swerdlow & Wimmer, A Law Corporation.

1.11 “Effective Date” means the date by when all of the following have occurred: (a) the final approval by the Court of the settlement; (b) any appeal period has been exhausted; (c) the occurrence of all other conditions precedent as set forth in this Agreement as approved by the Court, provided all such conditions occur prior to the Effective Date; and (d) the Court granting entry of the dismissal without prejudice of all class-action claims in the Action. The Judgment becomes final as of the latest of the following occurrences: (a) the day the Court entered Judgment assuming no appeal is filed; or (b) if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for writs of certiorari) resulting in final judicial approval of the Settlement.

1.12 “FAC” shall refer to the First Amended Complaint that Plaintiff filed in the Action on April 8, 2024.

1.13 “Gross Settlement Amount” means Two Hundred Forty-Two Thousand Five Hundred Dollars and Zero Cents (\$242,500.00), 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 PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment.

1.14 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.15 “Judgment” means the judgment entered by the Court based upon the Approval Order.

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

1.17 “LWDA Letter” means Plaintiff’s September 29, 2023, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a). (LWDA Case No. LWDA-CM-984525-23)

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

1.19 “Net Settlement Amount” or “NSA” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The estimated NSA, if all allocations are approved as requested, is \$133,625.00. The NSA is to be paid to Aggrieved Employees as Individual PAGA Payments (25% of the NSA) and to the LWDA in the LWDA PAGA Payment (75% of the NSA).

1.20 “PAGA Counsel” means Attorneys Alvin B. Lindsay, and Melissa Rodriguez of D.Law, Inc., David Yeremian of David Yeremian & Associates, and Walter Haines and Peggy Reali of United Employees Law Group, PC, the attorneys representing the Plaintiff in the Action.

1.21 “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for their reasonable attorneys’ fees and for reimbursement of their reasonable expenses, respectively, incurred to prosecute the action. Defendant will not oppose a PAGA Counsel Fees Payment of 35% of the GSF (i.e. \$84,875.00) and reimbursement of PAGA Counsel Litigation Expenses Payment of up to \$17,000.00 to Class Counsel, which consists of the attorneys from D.Law and United Employees Law Group.

1.22 “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.23 “PAGA Period” means the period from September 29, 2022, through and including June 23, 2024.

1.24 “PAGA” means the California Labor Code Private Attorneys General Act (Labor Code §§ 2698 *et seq.*)

1.25 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid and shall equal the Net Settlement Amount (\$133,625.00). The PAGA Penalties are allocated 25% to the Aggrieved Employees (approximately \$33,406.25) as to their Individual PAGA Payments and the 75% to LWDA (approximately \$100,218.75) as the LWDA PAGA Payment in settlement of all PAGA claims.

1.26 “Plaintiff” means Abdolla Kowighadoush, the named plaintiff in the Action.

1.27 “Release Period” means the period from September 29, 2022, through October 26, 2024.

1.28 “Released PAGA Claims” means any and all claims for civil penalties under PAGA arising from the pleaded claims in the Action and the LWDA Letter

for the Release Period, and from all other claims for civil penalties arising from, related to, or otherwise connected with the underlying factual allegations contained in the LWDA Letter and in the Action, that Plaintiff, on behalf of himself, the LWDA and the Aggrieved Employees, alleged or could allege against Defendant and the Released Parties. The Released PAGA Claims include, without limitation, all claims for civil penalties arising under California Labor Code Sections 2698 *et seq.* based on the facts set forth in Plaintiff's September 9, 2023, LWDA Letter and Plaintiff's Action, and further includes all claims seeking civil penalties for (1) failure to pay minimum wage, (2) failure to pay wages and overtime under Labor Code Section 510, (3) failure to provide meal periods, (4) failure to provide rest periods, (5) violation of California Labor Code Section 226, (6) Violation of California Labor Code Section 221, (7) Violation of California Labor Code Section 204, (8) Violation of California Labor Code Section 203, (9) failure to maintain records under California Labor Code Sections 1174 and 1174.5, (10) failure to produce requested records under California Labor Code Sections 226 and 1198, and (11) failure to reimburse necessary business expenses under California Labor Code Section 2802, and further including all claims for civil penalties pursuant to California Labor Code Sections 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2810.5, 2698, 2699 *et seq.*, and 2802, as well as any applicable IWC Orders, arising at any time during the Release Period.

1.29 "Released Parties" means Defendant and each of its divisions, subsidiaries, partnerships, parents, affiliated companies, trusts, or other related entities, past and present, and each of them, as well as each of their directors, officers, shareholders, partners, members, representatives, executors, trustees, fiduciaries, administrators, beneficiaries, assignees, successors, business managers, agents, contractors, insurers, attorneys, and employees, past and present, and each of them and their marital community.

1.30 "Settlement" means the disposition of the Action effectuated by this Agreement and the Judgment.

2. RECITALS.

2.1 Pursuant to Labor Code Section 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the LWDA Letter. Specifically, on September 29, 2023, Plaintiff filed the LWDA Letter (LWDA Case No. LWDA-CM-984525-23) with the LWDA on behalf of himself and all Aggrieved Employees, alleging that Defendant committed various wage and hour violations under the California Labor Code and that he and all Aggrieved Employees were entitled to civil penalties under PAGA.

2.2 On September 29, 2023, Plaintiff commenced this Action in the Superior Court of California, Los Angeles by filing the Complaint against Defendant.

2.3 On April 8, 2024, Plaintiff filed the FAC adding a thirteenth cause of action for civil penalties under PAGA.

2.4 Prior to Defendant responding to the FAC in the Action, the Parties agreed to attend an early mediation with Lynn Frank, Esq., an experienced mediator. Prior to mediation, Plaintiff obtained, through informal discovery, among other things, electronic payroll and timekeeping data for all alleged Aggrieved Employees, as well as emails and documents regarding Defendant's wage and hour policies, and Plaintiff's personnel records.

2.5 On August 27, 2024, the Parties participated in an all-day mediation presided over by Lynn Frank, Esq., which led to this Agreement to settle the Action. The Parties executed a Memorandum of Agreement on August 27, 28 & 30, 2024, memorializing that settlement.

2.6 The Parties, PAGA 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, except as to the settlement and general release of Plaintiff's individual claims against Defendant that are all resolved in the concurrently executed Individual Settlement and General Release Agreement.

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Two Hundred Forty-Two Thousand and Five Hundred Dollars and Zero Cents (\$242,500.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount until forty-five (45) days after the Effective Date, as stated in Paragraph 4.2 of this Agreement, except as otherwise noted in Paragraph 9.1. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring 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 Approval Order:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 35% of the Gross Settlement Amount (i.e. \$84,875.00) and PAGA Counsel Litigation Expenses Payment of not more than 17,000.00. Defendant will not oppose requests for Court approval of

these payments provided that they do not exceed these amounts and/or percentage of the Gross Settlement Amount. Plaintiff will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the unincurred balance shall be included in the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will report the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant and all Released Parties harmless, and hereby indemnifies Defendant and all Released Parties from any dispute or controversy regarding any division or sharing of the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment.

- 3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed \$7,000.00 except for a showing of good cause and as approved by the Court. To the extent the administration expenses are less than \$7,000.00 or the Court approves payment less than the balance, that difference shall be included in the Net Settlement Amount.

3.3 Payment from Net Settlement Amount: The Administrator will make and deduct the following payments from the Net Settlement Amount in the amounts specified by the Court in the Approval Order:

- 3.3.1 To the LWDA and Aggrieved Employees: PAGA Penalties in the estimated amount of \$133,625.00. to be paid to disburse the Net Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying that result by each Aggrieved Employee's PAGA Pay Periods.

3.2.3.2. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.3. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Aggrieved Employee Data. Within thirty (30) calendar days of the Court filing the Approval Order, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. Defendant shall make reasonable and good faith efforts based on Defendant's records to include the name, last known address, and social security number of each Aggrieved Employee on the List. The List will not be provided to PAGA Counsel. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. The Parties and their counsel will expeditiously use good-faith efforts to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.2 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date, except as otherwise noted in Paragraph 9.1.

4.3 Payments from the Gross Settlement Amount. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.3.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees 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 check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.3.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) 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 Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced if requested by the Aggrieved Employee prior to the void date.
- 4.3.3 For any Aggrieved Employee whose 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 Aggrieved Employee.
- 4.3.4 The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those expressly specified in this Agreement.
- 4.3.5 The Individual PAGA Payments shall not adjust or effect the regular rate of pay in any way for any Aggrieved Employee.
- 4.3.6 Whereas the Parties agree that there is no statutory obligation to provide notice of the Settlement to Aggrieved Employees, at the same time that the Administrator distributes the Individual PAGA Payments to the Aggrieved Employees, every Aggrieved Employee will be provided with the letter attached hereto as Exhibit A in the form evidenced by Exhibit A, which shall be addressed to the Aggrieved Employee and reference the Aggrieved Employee's Individual PAGA Payment.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the Gross Settlement Amount, Plaintiff, on behalf of the Aggrieved Employees, will release claims against all Released Parties as follows:

5.1 **Release by Aggrieved Employees and the LWDA:**

Plaintiff, standing in the shoes of the Labor Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and all

Aggrieved Employees, for themselves and for their respective spouses, domestic partners, children, estates, heirs, trusts, and representatives, forever and completely releases and discharges the Released Parties from the Released PAGA Claims that have or could have arisen or accrued during the Release Period. It is the intent of the Parties that the Approval Order entered by the Court shall have full equitable and collateral estoppel and res judicata effect and be final and binding upon Plaintiff, the LWDA, and the Aggrieved Employees. Each Aggrieved Employee and the LWDA will be deemed to have made the foregoing Release as if by manually signing it.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

6.1 Within fifteen (15) business days of all Parties executing this Agreement, Plaintiff shall file a Motion for Approval of the Settlement.

6.2 Plaintiff's Responsibilities. No later than seven (7) calendar days before the due date to file the Motion for Approval, Plaintiff will deliver to Defense Counsel near-final drafts of all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2), including (i) a draft, proposed Approval Order; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve, its competency, its operative procedures for protecting the security of Aggrieved Employee Data, its 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 Aggrieved Employees or the LWDA, and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; and (iii) a near-final declaration from PAGA Counsel attesting to its timely transmission to the LWDA of all necessary documents required to be sent to the LWDA regarding the settlement of PAGA claims. PAGA Counsel's declaration shall also attach a copy of this Agreement, and it shall include all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA 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.

6.3 Responsibilities of PAGA Counsel. Consistent with Paragraph 6.1 above, PAGA Counsel is responsible for expeditiously drafting, finalizing and filing the Motion for Approval and obtaining a prompt hearing date for the Motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone or videoconference, and in good faith, to resolve the disagreement. If the Court does not grant the Motion for Approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone or videoconference, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns, provided that Defendant shall not be required to contribute any additional funds to the Gross Settlement Amount.

7. **SETTLEMENT ADMINISTRATION.**

7.1 Selection of Administrator. The Parties have jointly selected Apex Class Action, to serve as the Administrator. PAGA Counsel has verified that, as a condition of appointment, APEX 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 providing reports to state 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 Administrator Duties. The Administrator has a duty to perform or observe all designated tasks contained in this Agreement or otherwise required by law.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE.**

Based on its records, Defendant represents that there are approximately 9,700 pay periods for the Aggrieved Employees during the PAGA Period. Should the total number of PAGA Pay Periods within that timeframe increase by more than 10% (i.e., by more than 970 PAGA Pay Periods, i.e., 10,670), Defendant shall increase the Gross Settlement Fund, as defined below, on a pro-rata basis equal to the percentage increase in the number of PAGA Pay Periods worked by Aggrieved Employees greater than 10%. For example, if the number of PAGA Pay Periods during the PAGA Period increases by 12%, then Plaintiff shall request a 2% increase to the Gross Settlement Fund.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement, the Individual Settlement and General Release Agreement, and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law. If any Party brings an action to enforce this Agreement, the prevailing party shall be entitled to its/her reasonable attorneys' fees and costs.

9.1 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel 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 another individual or entity who is not a Party to this Agreement 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.

10. **ADDITIONAL PROVISIONS.**

10.1 **No Admission of Liability.** 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 allegation in the LWDA Letter or Action has merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right 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).

10.2 **Integrated Agreement.** Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits, if any, 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, as well as the prior Memorandum of Agreement executed by the Parties, except that the Individual Settlement and General Release Agreement shall remain in full force and effect.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff 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 that are consistent therewith.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their good-faith efforts to implement the Settlement by, among other things, modifying the 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 Mediator Lynn Frank, Esq. and/or the Court for resolution.

10.5 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.

10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel is 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 C.F.R. Part 10, as amended) or otherwise.

10.7 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.

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

10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10 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.

10.11 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.

10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Additionally, the Parties are under a continuing obligation to comply with the Court's March 22, 2024 Case Management Order.

10.13 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.

10.14 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.

10.15 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, addressed as follows:

To Plaintiff:

Alvin B. Lindsay, Esq.
Melissa Rodriguez, Esq.
D.Law, Inc.
450 N Brand Blvd., Suite 840
Glendale, CA 91203

To Defendant:

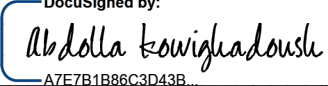
David A. Wimmer, Esq.
Meghan E. O'Kane, Esq.
Swerdlow Florence Sanchez Swerdlow & Wimmer,
A Law Corporation
10877 Wilshire Boulevard, Suite 1650
Los Angeles, CA 90024

10.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign or AdobeSign), 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.

10.17 Stay of Litigation. The Parties agree that, upon the execution of this Agreement, the litigation shall continue to be stayed, except to effectuate the terms of this Agreement. The Parties further agree that, upon the signing of this Agreement and, pursuant to CCP Section 583.330, the date to bring a case to trial under CCP Section 583.310 shall be extended for the entire period of this settlement process.

EXECUTED this 18 day of December 2024, at Los Angeles County, California.

PLAINTIFF

DocuSigned by:

A7E7B1B86C3D43B

Abdolla Kowighadoush

EXECUTED this 19/1st day of December 2024, at Los Angeles, California.

DEFENDANT NKSFB, LLC

By: Eric J. Diamond
Eric J. Diamond (Dec 19, 2024 10:23 PST)

Eric J. Diamond
Its: Chief Operating Officer

APPROVED AS TO FORM:

D.LAW, INC.

DAVID YEREMIAN & ASSOCIATES

By: 

David Yeremian, Esq.

Alvin B. Lindsay, Esq.

Melissa Rodriguez, Esq.

Attorneys for Plaintiff, Abdolla Kowighadoush
and Aggrieved Employees

Dated: December 18, 2024

UNITED EMPLOYEES LAW GROUP, PC

By: 

Walter Haines, Esq.

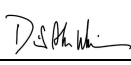
Peggy Reali, Esq.

Attorneys for Plaintiff, Abdolla Kowighadoush
and Aggrieved Employees

Dated: December 18, 2024

SWERDLOW FLORENCE SANCHEZ

SWERDLOW & WIMMER, A LAW CORPORATION

By: 

David A. Wimmer, Esq.

Attorneys for Defendant NKSFB, LLC

Dated: 19/12/24

EXHIBIT 2

September 28, 2023

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128>

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

(by certified mail to NKSFB, LLC)

NKSFB, LLC
875 3rd Avenue,
28th Floor,
New York, NY 10022
Certified Mail Tracking Number:

CT Corporation System
Designated Agent for Service for NKSFB, LLC
330 N. Brand Blvd.
Glendale, CA 91203
Certified Mail Tracking Number:

**Re: Labor Code § 2698, *et seq.* Penalties
PAGA Notice Letter to LWDA
Abdolla Kowighadoush v. NKSFB, LLC
Superior Court for the County of Los Angeles**

Gentlepersons:

This office represents Abdolla Kowighadoush (“Plaintiff”) and other similarly aggrieved employees employed as non-exempt, hourly workers and in related positions at Defendants’ facilities and office locations in California during the relevant period (collectively “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2810.5, 2698, and 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants NKSFB, LLC, and Does 1 through 50 (all defendants being referred to herein collectively as “Defendants”).



Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with a copy of Plaintiff's Class Action Complaint, which is attached to this Notice letter. The Complaint is being concurrently filed in Los Angeles County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff's class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Plaintiff and the Aggrieved Employees were employed as hourly, non-exempt Employees by Defendants, in positions generally pertaining to providing lifestyle management and professional services to Defendants' clients. Plaintiff, and upon information and belief the other similarly situated Aggrieved Employees, were required to perform work tasks based out of Defendants' offices and locations in California. Plaintiff was employed by Defendants as an assistant account executive and Defendants tasked him with duties that included reviewing and processing invoices from vendors, reviewing credit card statements, analyzing discrepancies on invoices, ensuring disbursements were accurate, collecting deposits, preparing cash flow projections and budgets, preparing accounting reports and financial analysis, booking and processing client pay rolls, and the like.

Defendants employed other similarly situated Employees in similar and related positions based out of Defendants' offices and facilities throughout California, including in the cities of Torrance, Encino, Santa Monica, Irvine, and Los Angeles. Plaintiff and the other similarly situated Aggrieved Employees worked at Defendants' behest without being paid all wages due and without being provided all required breaks. More specifically, Plaintiff and the other similarly situated Aggrieved Employees were employed by Defendants and shared similar job duties and responsibilities, were subjected to the same policies and practices, and endured similar violations at Defendants' hands.

Defendants required Plaintiff and the Aggrieved Employees to work off the clock, but failed to accurately record the hours they were on the clock, failed to pay them at the appropriate rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and failed to provide Plaintiff and Aggrieved Employees with accurate itemized wage statements. Defendants also failed to provide Plaintiff and the Aggrieved Employees with lawful meal and rest periods, as Employees were required to remain under Defendants' control and were not provided with the opportunity to take full uninterrupted and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.



Defendant NKSFB, LLC (“NKSFB”) is a Delaware limited liability company which lists its principal address in New York, New York and does not list a principal address in California with the Secretary of State. It lists several registered corporate agents with addresses in Glendale, California. NKSFB, LLC (“NKSFB”) lists its type of business as “Financial Services.” Upon information and belief, NKSFB, LLC is a company that owns and operates various California business management firms throughout California, including in Westwood, Encino, Santa Monica, Irvine, Torrance, and Los Angeles, where Plaintiff worked.

During the course of Plaintiff and the Aggrieved Employees’ employment with Defendants, they were not paid all wages they were owed, including for all hours they were performing work tasks or remaining under Defendants’ control (resulting in “off the clock” work) and for all their overtime hours worked, and they were not paid at the required rates for overtime. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants subjected Plaintiff and the Class members to similar policies and practices which resulted in similar violations as to the other similarly situated non-exempt, hourly employees based out of their locations and offices in California.

Plaintiff was generally scheduled by Defendants to work five days per week for eight to nine hours per shift, with shift times generally spanning from 8:30 a.m. through 5:30 p.m. On many occasions, Plaintiff was also required to work longer shifts only if he was approved by Defendants to be paid at the required overtime premium rates. However, Plaintiff was required by Defendants to endure substantial off the clock work before and after his scheduled shift hours. For example, Plaintiff’s managers would require him to manipulate his timekeeping punches so he did not list hours worked that Defendant was required to pay at the overtime premium rate and accordingly required Plaintiff to clock out and then continue working to close out and clean up his workstation.

Defendants’ policy and practice of requiring systematic off the clock work flowed in part from their unlawful timekeeping procedures. Defendants required Employees to record their time entries by clocking in and out via Defendants’ online payroll and timekeeping services platform. While Defendants required Employees to clock in and out for meal periods, the actual beginning and ending time punches were not contemporaneously recorded. Defendants instead merely instructed Plaintiff to record 30-minute meal compliant lunch periods in the online timekeeping system prior to the fifth hour of work so they would appear compliant under the Labor Code and Wage Orders, without regard to whether they actually were providing a lawful meal period or not.

Plaintiff was concerned of the consequences of failing to comply with Defendants’ timekeeping instructions. Given the on-duty breaks where Defendants’ managers required Employees to perform work tasks and otherwise remain under Defendants’ control, Plaintiff cannot recall a single occasion where he was permitted to take a full 30-minute, duty-free, uninterrupted meal period despite being instructed by Defendants to record timekeeping entries falsely evidencing a fully compliant break. By automatically deducting 30 minutes for a meal period on each of work



shift without regard actual start and end times and the off the clock work Defendants required during breaks, Defendants systematically and unlawfully deducted actual hours worked by Plaintiff and the Aggrieved Employees during each of their daily work shifts from the total hours Defendants listed and paid on their wage statements.

Defendants have either failed to maintain timekeeping records for Plaintiff that would permit Plaintiff to discover the nature and extent of the off the clock work Defendants required and the actual hours Plaintiff worked or the breaks he received or have otherwise declined to produce them to Plaintiff in response to a timely and lawful records request. By failing to pay for all hours worked, and by under-recording regular hours to the detriment of the Aggrieved Employees, Defendants have committed knowing and intentional ongoing violations of the record keeping requirements under the Labor Code, including section 1174, by either failing to maintain records or retaining inaccurate ones.

The failure to pay for all hours worked and underpayment of wages to Plaintiff and the Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which upon information and belief applied uniformly to the Aggrieved Employees working based out of Defendants' locations and offices throughout California. As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked and pay wages at the correct rates, and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week.

As a result of Defendants' unlawful policies and practices, Plaintiff and Aggrieved Employees incurred overtime hours worked for which they were not adequately and completely compensated, in addition to the hours they were required to work off the clock at their regular rates. Additionally, by miscalculating the regular rate of pay used for the overtime rate calculation, Defendants systematically underpaid wages to the Aggrieved Employees. This further resulted in systematic violations of Labor Code § 204 for failure to pay all wages owed twice monthly and for failing to provide wage statements as required under Labor Code § 226.

Therefore, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wages for all time worked, as required by California law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week for all hours worked in excess of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

Defendants also failed to provide Plaintiff and the Aggrieved Employee with their required meal periods and the at least two ten-minute rest breaks as required at a minimum for Plaintiff's scheduled shift durations. The above described off the clock work contributed to Defendants'



common policy of failing to provide lawful meal periods to Plaintiff and the Aggrieved Employee, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly failed to authorize and permit Plaintiff and the employee Aggrieved Employee to take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

More specifically, Plaintiff worked shifts that entitled him to at least one meal period, but as addressed above, Plaintiff does not recall ever receiving a full 30-minute, duty free, uninterrupted lunch period. In fact, Plaintiff recalls Defendants' managers instructing Plaintiff and other Aggrieved Employees to work through lunches to ensure billable goals were met. Before the fifth hour mark, Defendants' managers would ask Plaintiff whether he had clocked out for lunch. If Plaintiff responded that he had not been able to do so, Defendants' managers would ask Plaintiff to clock out, even if managers did not intend for Plaintiff to stop working. This uniformly applied practice led to systematically late or delayed lunch periods.

On occasions where Plaintiff clocked out for lunch and was able to take a step away from his desk, it went wayside quickly as there always seemed to be a client issue to resolve or management demands to respond to. Plaintiff recalls only ever having enough time to warm up his food in the microwave then having to immediately return to his desk with his food to attend to his work responsibilities. Meal periods, if they were provided at all, were interrupted by client and management demands and required job duties and tasks to be performed and required Employees to remain under Defendants' control during breaks. In fact, it was common practice for Defendants' manager to walk around Plaintiff's and other Aggrieved Employee's worksites and continue supervising them during these alleged meal periods.

Additionally, Defendants instructed Plaintiff and the Aggrieved Employees to input into the timekeeping system that they took a 30-minute meal period and did so before the fifth hour of work as required under the Labor Code and Wage Orders. Defendants instructed Plaintiff and the Aggrieved Employees to thus record compliant meal breaks without regard to whether they were actually taken on time, for the full duration, or interrupted by client and management demands and other work requirements. Plaintiff recalls that any meal period he was able to take generally included no more than 10 minutes of actual duty-free break time, despite the fact that Defendants automatically deducted 30 minutes for meal periods on each work shift without regard to whether it was actually taken or was otherwise unlawful.

Therefore, meal period violations systematically occurred ongoing throughout all of Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or a premium wage payment in lieu thereof, and then also unlawfully deducted 30 minutes from Plaintiff's hours worked for the day. To the extent Defendants ever did pay Plaintiff and the Aggrieved Employees a meal period premium, upon information and belief they failed to pay them a premium pay of one-hour at the regular rate and/or failed to include all forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour premium wage. Upon information and belief, the other Aggrieved Employees were subjected to similar unlawful policies and practices and endured similar violations as Plaintiff.



Defendants thus failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants for more than five hours during a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work in a manner that would impact when Employees were to receive meal periods and rest breaks and required them to respond to work and management demands during breaks, thus leading to further violations.

Labor Code § 226.7 requires that “if an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.” The same requirement is found in Paragraph 11 of the applicable IWC Wage Orders. Defendants did pay any meal period premiums, they failed to pay Plaintiff a premium pay of one hour and did so at the employee’s customary regular rate of hourly compensation without including all forms of remuneration in that hourly rate calculation.

Defendants thus followed uniformly applied policies of not providing all required meal periods to their Employees. Meal periods were often not properly provided, as work and management demands impermissibly shortened their breaks. Even when Plaintiff and the Aggrieved Employees were able to take a meal period, it was generally interrupted by work duties or was taken after the fifth hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

As a result, Defendants’ failure to provide Plaintiff and the Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants’ business records, or lack thereof. As further detailed above, Defendants also failed to pay Employees “premium pay,” i.e., one-hour of wages at each Employee’s effective regular hourly rate of compensation for each meal period or rest break that Defendants failed to provide or deficiently provided.

Similar violations resulted from Defendants’ failure to authorize and permit Plaintiff and the Aggrieved Employees to take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction thereof. Plaintiff and the other similarly situated Aggrieved Employees were either not authorized and permitted the opportunity to take a rest break, or were required to remain under Defendants’ control and respond to calls and instructions from management and job and client demands if and when they even attempted to take one. Upon information and belief, Defendants thus also failed to authorize and permit employees to leave the premises during rest breaks, evidencing Defendants’ policy and practice of requiring Plaintiff and the Aggrieved Employees to remain under their control during what was supposed to be required off-duty rest break times.



Rest breaks for the Aggrieved Employees were neither scheduled nor contemplated by Defendants. During Plaintiff's entire employment duration with Defendants, he cannot recall a shift where he took a break, despite being entitled to receive at least two paid, timely, uninterrupted, and duty-free net ten minute rest breaks during each of his work shifts.

Defendants' uniformly applied policies and practices thus resulted in untimely and shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Aggrieved Employees worked shifts of at least eight hours, which required at least two rest breaks and to the extent they worked shifts over ten hours, they were supposed to be authorized and permitted at least three rest breaks. Plaintiff does not recall ever taking an on-duty rest break and does not recall ever being told he was permitted to do so.

Plaintiff and the Aggrieved Employees were and are under Defendants' control when they are working through rest breaks and remaining under Defendants' control. Plaintiff and the Aggrieved Employees were thus not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks, and were not provided with one-hour's wages in lieu thereof. They were required to remain on-duty during breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and they were also prevented from leaving the premises and otherwise remain under Defendants' control during rest breaks under Defendants' uniformly applied policies and practices.

Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock work and on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest breaks, Defendants unlawfully deducted up to 30 additional minutes for meal periods that were rarely provided or otherwise received without violation. By not compensating Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

Defendants also violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the aggrieved employees. Labor Code § 246 provides that an Employee who "works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their required and earned sick days, in violation of Labor Code § 246. Defendants have failed to provide COVID-19 supplemental sick leave to the Aggrieved Employee during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty."



Defendants also violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the aggrieved employees. Labor Code § 246 provides that an Employee who “works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their required and earned sick days, in violation of Labor Code § 246. Defendants have failed to provide COVID-19 supplemental sick leave to the Aggrieved Employee during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: “If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.”

Defendants also failed to provide Employees such as Plaintiff at the time of his employment and thereafter with written notice complying with all the requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing” specific required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to provide Plaintiff and the aggrieved employee Class Members certain specific information upon hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with any such information when he was hired, or have failed to produce it to do date.

Defendants have also consistently failed to provide Aggrieved Employee with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off the clock work, failure to pay all overtime wages owed and failure to pay them at the appropriate premium rates, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff and the Aggrieved Employees, during the liability period, including to the extent they required off the clock work or automatically deducted hours or failed to pay overtime wages at the overtime rate and to the extent they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders.

Defendants have thus also failed to comply with Labor Code § 226(a) by inaccurately reporting total hours worked and total wages earned by Plaintiff and the Aggrieved Employees, along with the appropriate applicable rates, among other requirements. Plaintiff and Aggrieved Employees



are therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked.

Defendants also required Plaintiff and the Aggrieved Employees to work hours off the clock for which they were not compensated. Additionally, as addressed above, Plaintiff and Aggrieved Employees were required to endure off the clock work during interrupted or otherwise on-duty meal and rest periods and were not provided with sick pay and supplemental sick leave and were subjected to systematic off the clock work. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore, Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to Plaintiff and other similarly situated Employees at the time of their termination or within seventy-two hours of their resignation, as required by California wage-and-hour laws.

Defendants have regularly required Plaintiff and the Aggrieved Employees to incur necessary business expenses in the course of performing their required job duties without reimbursement. These include the cell phone related expenses Plaintiff incurred in responding to messages from Defendants' managers, responding to identity verification request received through text message, and accessing the company email account. Plaintiff and the Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants' control during breaks and due to the work demands placed upon them by Defendants' management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly



rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Aggrieved Employees, including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay. In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a).

Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also violated these



provisions by requiring Plaintiff and other similarly situated non-exempt employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties or to attend and participate in company required activities or remain under Defendant's control. When considered in combination with the unlawful rounding to their detriment, Aggrieved Employees were not properly compensated, nor were they paid overtime rates or the correct overtime rate (addressed above) for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions. Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code § 226.7 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods due to the work demands placed upon them by Defendants' management, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks due to Defendants' policies and practices.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e., one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as



well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations due to the work demands placed upon them by Defendants' management, and Defendants' policy discouraged and effectively prevented Aggrieved Employees from leaving Defendants' premises. Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above, and failed to list accurate rates of pay due to miscalculations of overtime and premium



pay. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved 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.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Unlawfully Collecting or Receiving Wages in Violation of Labor Code § 221

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." As discussed above, Defendants have consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock work and unlawful rounding and overtime miscalculation. By not compensating Employees for all hours worked, Defendant unlawfully deducted wages earned by and owed to Aggrieved Employees, in violation of Labor Code § 221. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558. Under the PAGA, and following exhaustion of the notice period, Plaintiff seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements,



and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due. Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records in Accordance with Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.



Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave

Defendants violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the Aggrieved Employees. Labor Code § 246 provides that an Employee who “works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their required and earned sick days, in violation of Labor Code § 246. Defendants have also failed to provide COVID-19 supplemental sick leave to the Aggrieved Employees during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: “If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.” As also addressed above, Defendants' strict overtime avoidance policy also compelled Plaintiff's manager to add what should have been overtime hours to payroll as Plaintiff's sick days or paid time off days.

Plaintiff accordingly seeks this relief available for Defendants' failure to provide Aggrieved Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work-related expenses they incurred. These include the cell phone related expenses Plaintiff incurred in responding to messages from Defendants' manager, responding to identity verification request received through text message, and accessing the company email account. Upon information and belief, Defendants also failed to pay for business expenses incurred by Aggrieved Employees who were required to work remotely, including office related expenses and phone coverage and the like. Defendants thus uniformly failed to reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the



applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees.

Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2810.5, 2698, and 2699 *et seq.*, including as follows:

(a) **Wage Claims:** For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) **Meal and Rest Period Claims:** For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,



558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Unlawful Deductions and Failure to Reimburse Business Expenses: For Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants' failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code §§ 212, 2810.5, and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2)



and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against NKSFB, LLC and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA investigate Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW INC.

Alvin B. Lindsay

a.lindsay@d.law

Cc: NKSFB, LLC by Certified Mail

EXHIBIT 3

Kowighadoush v. NKSFB, LLC**Litigation Costs**

Service Date	Details	Provider	Amount
9/29/23	Summons and Complaint	Rapid Legal	\$ 1,495.77
9/29/23	LWDA Letter	LWDA	\$ 75.00
9/29/23	LWDA Letter Postage	USPS	\$ 18.20
10/3/23	Proof of Service of Summons	Rapid Legal	\$ 17.72
10/3/23	Process of Service - Summons and Complaint	Rapid Legal	\$ 109.18
10/25/23	Notice of Errata re: Plaintiff's Complaint	Rapid Legal	\$ 17.72
11/28/23	Notice of Initial Status Conference (3.22.24)	Rapid Legal	\$ 17.72
3/15/24	Joint Initial Status Conference Report (3.22.24)	Rapid Legal	\$ 15.66
4/5/24	(Rejected) First Amended Complaint	Rapid Legal	\$ 11.33
4/8/24	First Amended Complaint	Rapid Legal	\$ 15.66
4/9/24	Ntc of Posting Jury Fees, [P] Order re Auth E-Service, POS	Rapid Legal	\$ 170.16
6/5/24	System Access Fee	Case Anywhere LLC	\$ 127.89
7/2/24	Mediation (8.27.24)	Frank & Feder	\$ 11,000.00
9/5/24	System Access Fee	Case Anywhere LLC	\$ 147.00
9/9/24	Expert Fee	Berger Consulting Group	\$ 8,910.00
9/26/24	Notice of Change of Address	Rapid Legal	\$ 15.66
12/9/24	System Access Fee	Case Anywhere LLC	\$ 147.00
3/5/25	System Access Fee	Case Anywhere LLC	\$ 147.00
4/29/25	Motion for Final Approval of Settlement	Rapid Legal	\$ 80.00
FUTURE	Notice of Entry of Judgment	Rapid Legal	\$ 17.72

Total \$ 22,556.39

EXHIBIT 4

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Abdolla Kowighadoush v. NKSFB, LLC

Superior Court of the State of California for the County of Los Angeles

Case No. 23STCV23689

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment from *Abdolla Kowighadoush v. NKSFB, LLC*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit (“Settlement”) entitled *Abdolla Kowighadoush v. NKSFB, LLC*, Los Angeles County Superior Court (“Court”), Case No. 23STCV23689. The Court has approved the settlement and this payment to you.

WHAT IS THE CASE ABOUT?

This case was filed by Plaintiff Abdolla Kowighadoush (“Plaintiff”) against NKSFB, LLC (“Defendant”) (Plaintiff and Defendant collectively referred to herein as “the Parties”), pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (“PAGA”). Plaintiff filed the lawsuit on behalf of himself, the State of California, and all persons who are employed or were previously employed by Defendant in California and classified as non-exempt employees at any time during the “PAGA Period,” which covers the period from September 29, 2022, through and including June 23, 2024. The group of employees referenced above is called the “Aggrieved Employees,” and you have been identified as an Aggrieved Employee.

In this case, Plaintiff alleged that Defendant owed civil penalties under PAGA for certain California Labor Code (the “Labor Code”) violations, including (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal Period Liability Labor Code § 226.7; (4) Rest-Break Liability Labor Code § 226.7; (5) Violation of Labor Code § 226; (6) Violation of Labor Code § 221; (7) Violation of Labor Code § 204; 8. Violation of Labor Code § 203; (9) Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5; (10) Failure to Produce Requested Records under §§ 226 and 1198; (11) Failure to Reimburse Necessary Business Expenses under Labor Code § 2802; and (12) Violation of Business & Professions Code § 17200 *et seq.*

Plaintiff alleged Defendant failed to pay at least minimum wages and overtime wages to Aggrieved Employees for all hours worked, including off-the-clock work, failed to timely pay all wages due to Aggrieved Employees during their employment and timely upon separation from employment,

or could allege against Defendant and the Released Parties. The Released PAGA Claims include, without limitation, all claims for civil penalties arising under California Labor Code Sections 2698 *et seq.* based on the facts set forth in Plaintiff's September 9, 2023, LWDA Letter and Plaintiff's Action, and further includes all claims seeking civil penalties for (1) failure to pay minimum wage, (2) failure to pay wages and overtime under Labor Code Section 510, (3) failure to provide meal periods, (4) failure to provide rest periods, (5) violation of California Labor Code Section 226, (6) Violation of California Labor Code Section 221, (7) Violation of California Labor Code Section 204, (8) Violation of California Labor Code Section 203, (9) failure to maintain records under California Labor Code Sections 1174 and 1174.5, (10) failure to produce requested records under California Labor Code Sections 226 and 1198, and (11) failure to reimburse necessary business expenses under California Labor Code Section 2802, and further including all claims for civil penalties pursuant to California Labor Code Sections 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2810.5, 2698, 2699 *et seq.*, and 2802, as well as any applicable IWC Orders, arising at any time during the Release Period, which is defined as the period from September 29, 2022, through October 26, 2024.

"Released Parties" mean Defendant and each of its divisions, subsidiaries, partnerships, parents, affiliated companies, trusts, or other related entities, past and present, and each of them, as well as each of their directors, officers, shareholders, partners, members, representatives, executors, trustees, fiduciaries, administrators, beneficiaries, assignees, successors, business managers, agents, contractors, insurers, attorneys, and employees, past and present, and each of them and their marital community.

"Operative Complaint" means the First Amended Complaint filed by Plaintiffs on April 8, 2024 in this lawsuit.

"PAGA Notice" means Plaintiff Kowighadoush's PAGA Notice letter to Defendant and the LWDA submitted on September 29, 2023 (LWDA-CM- 984525-23) providing notice pursuant to Labor Code section 2699.3, subd. (a).

This release applies to you, regardless of whether you cash your check, and regardless of whether this letter can be delivered to you. Aggrieved Employees have no right to object to this settlement, and they cannot opt out of this settlement. You will be bound by this release whether you cash your check or not.

QUESTIONS?

If you have any questions, you can contact the Administrator (whose contact information is at the top of this letter) or Plaintiff's counsel, whose contact information is as follows:

Counsel for Plaintiffs:
Emil Davtyan, Esq.
David Yeremian, Esq.
Alvin B. Lindsay, Esq.
Enoch Kim, Esq.

Melissa Rodriguez, Esq
D.Law, Inc.
450 N. Brand Blvd., Suite 840
Glendale, California 91203

David Yeremian, Esq.
David Yeremian & Associates, Inc.
450 N. Brand Blvd., Suite 840
Glendale, California 91203

Walter Haines
United Employees Law Group
8605 Santa Monica Blvd., #63354
West Hollywood, CA 90069

Very Truly Yours,
Apex Class Action Administration
[INSERT CONTACT INFORMATION]

PLEASE DO NOT CONTACT THE COURT ABOUT THIS NOTICE

EXHIBIT 5