

**LIDMAN LAW, APC**

Scott M. Lidman (SBN 199433)

slidman@lidmanlaw.com

Milan Moore (SBN 308095)

mmoore@lidmanlaw.com

2155 Campus Drive, Suite 150

El Segundo, California 90245

Tel: (424) 322-4772

Fax: (424) 322-4775

Attorneys for Plaintiffs

GERARDO TORO and USMAN LOPEZ ESCOBAR

**HAINES LAW GROUP, APC**

Paul K. Haines (SBN 248226)

phaines@haineslawgroup.com

2155 Campus Drive, Suite 180

El Segundo, California 90245

Tel: (424) 292-2350

Fax: (424) 292-2355

Attorneys for Plaintiffs

GERARDO TORO and USMAN LOPEZ ESCOBAR

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

GERARDO TORO, as an individual, USMAN  
LOPEZ ESCOBAR, as an individual, and on  
behalf of all others similarly situated,

Plaintiff,

vs.

L.A. PROPERTIES HEFFESSE LLC, a  
California limited liability company; and DOES  
1 through 10,

Defendants.

Case No.: 23STCV26332

*[Assigned for all purposes to the Hon. Laura A.  
Seigle, Dept. SSC-17]*

**DECLARATION OF SCOTT M. LIDMAN  
IN SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: November 18, 2024

Time: 9:00 a.m.

Dept.: SSC-17

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel for the  
3 named Plaintiffs Gerardo Toro and Usman Lopez Escobar (“Plaintiffs”) and the proposed Settlement  
4 Class in the above-captioned matter. I am a member in good standing of the bar of the State of California  
5 and am admitted to practice in this Court. I have personal knowledge of the facts stated in this  
6 declaration and could testify competently to them if called upon to do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*  
8 *cum laude*. During law school, I worked as a summer associate for the international employment law  
9 firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment  
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of  
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm  
13 in the world exclusively devoted to representing management in employment, employee benefits and  
14 labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which  
16 was at the time one of the largest international firms in the world. During my employment at Jones  
17 Day, I worked exclusively in the labor and employment department. In or around 2003, I went to work  
18 at the law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In  
19 2008, I returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the  
20 end of 2017, I practiced exclusively labor and employment law, with a strong emphasis and most of my  
21 time working on wage and hour class actions venued in both state and federal courts. During that time  
22 and my legal career in general, I also worked on a number of single and multi-plaintiff wage and hour  
23 matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class  
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In  
26 particular, I received a wide-array of wage and hour class action experience performing the following  
27 types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions from state court  
28

1 to federal court; drafting and responding to written discovery; drafting and opposing discovery related  
2 motions; arguing discovery related motions; drafting motions to consolidate related matters;  
3 interviewing putative class members and obtaining declarations in connection with class certification;  
4 drafting oppositions to motions for class certification; drafting motions for decertification following  
5 class certification; conducting exposure analyses to assess the strengths and weaknesses of asserted  
6 claims, the likelihood of prevailing at class certification and potential damages resulting from such  
7 claims; drafting mediation briefs; serving as the primary contact to in-house counsel; deposing named  
8 plaintiffs and putative class members; deposing retained expert witnesses; and defending the depositions  
9 of corporate witnesses. I also was involved in the negotiations and settlements of many large wage and  
10 hour class actions. In short, I played an integral role in all aspects of litigation from the inception of a  
11 matter through and beyond class certification. I also supervised the work of several junior attorneys  
12 who were staffed on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA  
14 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United  
16 States District Court, Central District of California, Honorable Gary Klausner,  
17 presiding<sup>1</sup>.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California  
19 Superior Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 20 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior  
21 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 22 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California  
23 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.
- 24 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,  
25 United States District Court, Central District of California, Honorable Percy  
26 Anderson, presiding.

---

27 <sup>1</sup> My work on this matter including proceedings not only in District Court, but also work before the United States Court of  
28 Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California  
2 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.<sup>2</sup>
- 3 ► *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United  
4 States District Court, Central District of California, Honorable Percy Anderson,  
5 presiding.
- 6 ► *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United  
7 States District Court, Central District of California, Honorable Percy Anderson,  
8 presiding.
- 9 ► *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California  
10 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.<sup>3</sup>
- 11 ► *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California  
12 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 13 ► *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-  
14 KSC, United States District Court, Southern District of California.<sup>4</sup>
- 15 ► *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County  
16 of Solano, Honorable Paul Berman, presiding.
- 17 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California  
18 Superior Court, County of Orange, Honorable William Claster, presiding.
- 19 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California  
20 Superior Court, County of Orange, Honorable William Claster, presiding.
- 21 ► *Sierra v. Oakley, Inc.*, Case No. 13-cv-00319-AG-JPR, United States District  
22 Court, Central District of California, Honorable Andrew Guilford, presiding.<sup>5</sup>
- 23  
24  
25

26 <sup>2</sup> My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal  
27 and the California Supreme Court.

28 <sup>3</sup> This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

<sup>4</sup> The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

<sup>5</sup> The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.



- 1           ▶     *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United  
2                     States District Court, Central District of California, Honorable Margaret Morrow,  
3                     presiding.
- 4           ▶     *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United  
5                     States District Court, Central District of California, Honorable Margaret Morrow,  
6                     presiding.
- 7           ▶     *Khelghatian v. Comerica Bank, et al.*, Case No. 11-cv-7689-DSF-FFMx, United  
8                     States District Court, Southern District of California, Honorable John A.  
9                     Houston, presiding.
- 10          ▶     *Babasa v. Comerica Bank, et al.*, Case No. 11-cv-0595-JAH-BGS, United States  
11                    District Court, Central District of California, Honorable Margaret Morrow,  
12                    presiding.
- 13          ▶     *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United States  
14                    District Court, Central District of California, Honorable Margaret Morrow,  
15                    presiding.
- 16          ▶     *Khalili v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United  
17                    States District Court, Northern District of California.
- 18          ▶     *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-CTL,  
19                    California Superior Court, County of San Diego, Honorable Jeffrey B. Barton,  
20                    presiding.
- 21          ▶     *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California Superior  
22                    Court, County of Santa Clara.
- 23          ▶     *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior  
24                    Court, County of Los Angeles, Honorable Terry Green, presiding.
- 25          ▶     *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior  
26                    Court, County of San Francisco.

1                   ►     *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District  
2                             Court, Northern District of California, Honorable Richard Seeborg, presiding.

3             7.       In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own  
4 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily  
5 wage and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder  
6 of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the  
7 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-  
8 five (65) wage and hour class actions filed in State courts throughout California, with several of them  
9 having been removed to Federal courts. I believe that my professional experience renders me more than  
10 qualified to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum  
11 wages, meal and rest period violations, and derivative penalty claims. Not only have I litigated dozens  
12 of wage and hour cases throughout my career involving similar claims, including the wage and hour  
13 class actions identified above, I have litigated similar claims from both plaintiff and defense  
14 perspectives. As a result, I am able to realistically assess and evaluate the facts and legal arguments  
15 that can be made in pursuit and defense of similar wage and hour claims, as well as those facts and  
16 arguments in support and in opposition to class certification. Consequently, I am able to appreciate the  
17 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

18             8.       I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.  
19 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl  
20 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los  
21 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-  
22 2017-00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge  
23 William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412,  
24 California Superior Court, County of San Bernardino, Honorable Judge David Cohn presiding; *Molina*  
25 *v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los Angeles,  
26 Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case  
27 No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge William F.

Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al. v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*, Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District of California, the Honorable Judge Philip S. Gutierrez presiding.

9. As co-lead counsel for Plaintiffs and the proposed Settlement Class, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is a favorable result for the Settlement Class Members under the circumstances presented.

10. On October 6, 2023, Plaintiff Gerardo Toro commenced an action by filing a Complaint against Defendant L.A. Properties Heffesse LLC alleging individual causes of action against Defendant for: (i) failure to pay all overtime wages owed; (ii) failure to pay all minimum wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods; (v) unlawful deductions from wages; (vi) failure to provide accurate, itemized wage statements; (vii) failure to timely pay all wages upon separation of employment; (viii) failure to reimburse necessary business expenses; and (ix) unfair competition. On October 27, 2023, Plaintiffs commenced this Action by filing a class action Complaint against Defendant L.A. Properties Heffesse LLC alleging class-wide causes of action against Defendant L.A. Properties Heffesse LLC for: (i) failure to pay all overtime wages owed; (ii) failure to pay all minimum wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods; (v) unlawful deductions from wages; (vi) failure to provide accurate, itemized wage statements; (vii) failure to timely pay all wages upon separation of employment; (viii) failure to reimburse necessary business expenses; and (ix) unfair competition. On October 31, 2023, the Court, at Plaintiff Gerardo Toro's request, dismissed his individual lawsuit without prejudice. Pursuant to Labor Code section 2699.3, subd.(a), on October 30, 2023, Plaintiffs gave timely written notice to Defendant L.A. Properties Heffesse LLC and the LWDA by sending the PAGA Notice. A *true and correct copy of the PAGA letter is attached hereto as Exhibit 1*. On January 4, 2024, Plaintiffs filed a First Amended Complaint in the Action which added a claim for civil penalties under the PAGA. *Id.* 2.8. On May 22, 2024, Plaintiffs filed a DOE Amendment in the Action substituting Joseph Heffesse, as an individual, in as a named defendant in place of DOE 1.

11. Prior to mediation, Defendants took the depositions of Plaintiffs. Additionally, Defendants produced the payroll data for the entire putative class as well as other relevant documents and information relevant to the claims alleged.

In addition to the representative sampling, Defendants produced key data points. Specifically, Plaintiffs were provided with the following:

- Plaintiffs' personnel files and payroll documents;
- Key data points, including total number of employees, workweeks, and pay periods during the relevant time period;

- Exemplars of the wage statements provided during the relevant time period.

This information coupled with the data for the entire putative class, aided in Plaintiffs’ creation of a class-wide exposure model for all the claims at issue, including unpaid wages and penalties potentially owed for alleged overtime wages, and meal and rest and unpaid wages violations. Ultimately, this discovery allowed the parties to assess the merits and value of Plaintiffs’ claims and Defendants’ defenses thereto.

12. On May 21, 2024, a mediation was held with Steven G. Mehta, a well-respected wage and hour class action mediator. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs’ claims, and the legal basis for the claims and defenses. Ultimately, the Parties agreed on a class-wide resolution. In the weeks that followed, the parties finalized the terms of settlement and executed the class Action and PAGA Settlement Agreement and Class Notice (“Settlement”). A true and correct copy of the Settlement is attached hereto as **Exhibit 2**. The proposed Class Notice is attached as Exhibit A to the Settlement. A true and correct copy of a redlined comparison of the LASC’s model agreement with the Settlement in this matter is attached hereto as **Exhibit 3**.

13. The monetary terms of the Settlement are summarized below:

|                                                              |                     |
|--------------------------------------------------------------|---------------------|
| <b>Gross Settlement Amount (“GSA”):</b>                      | <b>\$500,000.00</b> |
| Minus Court-approved attorneys’ fees (update to 1/3 of GSA): | \$166,666.67        |
| Minus Court-approved, verified costs (up to \$25,000.00):    | \$25,000.00         |
| Minus Court-approved Class Representative Service Awards:    | \$20,000.00         |
| Minus Settlement Administration Costs:                       | \$5,750.00          |
| Minus PAGA payment to the LWDA:                              | \$15,000.00         |
| <b>NSA:</b>                                                  | <b>\$267,583.33</b> |
| Settlement Class Members                                     | 48                  |
| <b>Average Individual Payment: NSA/Settlement Class</b>      | <b>\$5,574.65</b>   |

1 Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary  
2 to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later  
3 than thirty (30) days after the Effective Date.<sup>6</sup> See Settlement, ¶ 4.3.

4 After deducting amounts for the Court-approved attorneys' fees and verified costs, Service  
5 Awards to Plaintiffs, Settlement Administrator costs, and the PAGA payment to the LWDA the  
6 Settlement results in a Net Settlement Amount ("NSA") of at least \$267,583.33 to be paid out to all  
7 Settlement Class Members who do not timely opt out.

8 14. According to Defendants, there were approximately 48 total Class Members as of the  
9 date of mediation defined as: all individuals whom Defendant L.A. Properties Heffesse LLC and/or  
10 Joseph Heffesse employed in the positions of maintenance, handyman, administrative, and/or all  
11 individuals who assist in business operations and who worked for Defendants in California at any time  
12 during the Class Period. Class Period shall mean the time period between October 6, 2019 through the  
13 date the Court preliminarily approves the Settlement. Thus, the average Individual Class Payment is  
14 \$5,574.65.

15 Additionally there are approximately 39 Aggrieved Employees. Aggrieved Employee is defined  
16 as "all individuals whom Defendant L.A. Properties Heffesse LLC and/or Joseph Heffesse employed in  
17 the positions of maintenance, handyman, administrative, and/or all individuals who assist in business  
18 operations and who worked for Defendants in California at any time during the PAGA Period. PAGA  
19 Period means the period from October 6, 2022 through the date the Court preliminarily approves the  
20 Settlement. Thus, the average Individual PAGA Payment is projected to be approximately **\$128.21**.

21 15. Here, Plaintiffs allege Class Members' claims arise from Defendants' common, uniform  
22 policies and practices that applied to Settlement Class Members during the class period. Specifically,  
23 Plaintiffs alleged that Defendants' common and uniform policies and practices resulted in the following  
24 violations: (1) failure to pay all overtime wages owed; (2) failure to provide all legally required meal  
25

26 <sup>6</sup> "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order  
27 Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the  
28 following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment;  
or (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of  
appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the  
Judgment and issues a remittitur. Settlement, ¶ 1.18.

1 periods; (3) failure to authorize and permit all legally required rest periods; (4) failure to provide  
2 accurate, itemized wage statements; (5) failure to pay all necessary business expenses; (6) failure to  
3 pay all wages upon termination; (7) engagement in unlawful business practices; and (8) liability for  
4 civil penalties under PAGA. As a result of the common and uniform policies and practices that applied  
5 to all Class Members, their claims involve common questions of law and fact as to whether in fact  
6 Defendants committed these alleged violations.

7         16. Plaintiffs allege that Defendants failed to properly compensate their employees for all  
8 time worked. Specifically, Plaintiffs allege that as a result of Defendants' misclassification as exempt,  
9 Plaintiffs and the other Settlement Class Members were not paid for their overtime hours worked.  
10 Defendants paid Plaintiffs and the other Settlement Class Members a flat salary which was not based  
11 on the number of hours actually worked. Plaintiffs and the other Settlement Class Members regularly  
12 worked more hours than scheduled and on average worked in excess of 8.0 to 10.0 hours per day.  
13 Accordingly, based on 5 hours of unpaid overtime hours, Plaintiffs estimate Defendants' exposure at  
14 a total of \$1,149,885 (6,900 workweeks x 5 OT hours/week x \$33.33 average overtime rate).

15         17. Defendants contend that they compensated Settlement Class members for all of their  
16 time worked. Specifically, Defendants contend that they properly classified Settlement Class Members  
17 as exempt and therefore did not have to pay overtime wages. Defendants further assert that Plaintiffs  
18 would be unable to certify this class given the individualized inquiries that would be required, including  
19 without limitation how many hours each Settlement Class Member was working, which would be  
20 difficult because contemporaneous timekeeping records were not maintained. In light of these  
21 defenses, Plaintiffs discounted the maximum exposure by 50% for the risk of non-certification, and an  
22 additional 40% to account for Defendants' defenses on the merits to arrive at an estimated exposure of  
23 approximately \$344,965.50.

24         18. Plaintiffs allege that as a result of the work demands imposed by Defendants, the  
25 Settlement Class Members were not provided a full uninterrupted 30-minute meal period before the  
26 end of the fifth hour of work. Additionally, Defendants did not require Settlement Class Members to  
27 track the start and stop time of meal periods when they remained on the work premises. *Id.* Therefore,  
28

1 Plaintiffs calculated Defendants' maximum exposure for the alleged meal period violations at \$766,590  
2 (6,900 workweeks x 5 shifts/week x \$22.22 average hourly rate).

3 19. Defendants counter that they have always maintained a lawful meal period policy and  
4 provided employees with an opportunity to take legally compliant meal periods, and any non-compliant  
5 meal periods were solely the result of employee choice, rather than any policy or practice of  
6 Defendants. Further, Defendants point out that they are only required to "provide" the opportunity to  
7 take meal periods, not "ensure" meal periods are taken, and that they have always done so. Finally,  
8 Defendants contend Plaintiffs' meal period claim is not suited for class certification, since individual  
9 inquiries would be required to assess which employees took non-compliant meal periods, how many  
10 meal periods were non-compliant or missed, and the reasons why a particular employee took a non-  
11 compliant meal period or missed a meal period during a particular shift. Accordingly, Plaintiffs  
12 discounted the maximum exposure by 50% for the risk of non-certification, and an additional 45% to  
13 account for Defendants' defenses on the merits to arrive at an estimated exposure of \$210,812.25.

14 20. Plaintiffs allege that as a result of the work demands imposed by Defendants, Settlement  
15 Class Members were not authorized and permitted to take duty-free net 10-minute rest periods.  
16 Specifically, Plaintiffs allege that employees experienced at least one rest period violation on every  
17 shift in excess of 3.5 hours given the work demands. Therefore, Plaintiffs calculated Defendants'  
18 maximum exposure for the alleged rest period violations at approximately \$766,590 (6,900 workweeks  
19 x 5 shifts/week x \$22.22 average hourly rate).

20 21. Defendants contend that their policies and procedures authorized and permitted  
21 Settlement Class Members to take all off-duty rest periods in compliance with California law.  
22 Defendants also argue that Plaintiffs' rest period claim is inherently unsuited for class treatment as it  
23 requires an individualized inquiry into whether each Settlement Class Member was in fact authorized  
24 and permitted to take a compliant rest period, which would evolve into an unmanageable series of  
25 mini-trials. Accordingly, Plaintiffs discounted the maximum exposure by 50% for the risk of non-  
26 certification, and an additional 40% to account for Defendants' defenses on the merits to arrive at an  
27 estimated exposure of \$229,977.00.



1           22.     Plaintiffs further alleges that Defendants issued inaccurate wage statements in violation  
2 of Labor Code section 226 as a result of the alleged unpaid overtime wages, and meal and rest period  
3 premium wages described above. Plaintiffs calculated Defendants' maximum exposure for wage  
4 statement violations at approximately \$71,600 (\$50.00 x 28 current employees + \$100 x 702  
5 subsequent wage statements).

6           23.     Defendants argue that their alleged wage statement violations could not be shown to be  
7 "knowing and intentional," and that Plaintiffs cannot show that they or any other employee "suffer[ed]  
8 injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for  
9 imposition of penalties. As such, Plaintiffs discounted the calculated exposure by 35% for a risk of  
10 non-certification and an additional 35% for a risk of being unsuccessful on the merits, to arrive at an  
11 estimated total of \$30,251.00.

12           24.     Plaintiffs allege that Defendants failed to reimburse Settlement Class members for  
13 necessary business expenditures, including the use of their personal cellular phones for work activities  
14 and drive their personal cars, as required under Labor Code section 2802 and by *Cochran v. Schwan's*  
15 *Home Service, Inc.* (2014) 228 Cal.App.4th 1137. Plaintiffs contend that Defendants required them to  
16 use their personal cellular phones and/or vehicles for work-related purposes but Defendants did not  
17 reimburse the putative class members for the cell phones and/or the data usage and/or cars.  
18 Accordingly, Plaintiffs calculate Defendants' maximum exposure for this claim at approximately  
19 \$342,450 ((Approximately 55 months x \$50/month x 48 employees = \$132,000 for cellular phones +  
20 6,900 workweeks x 50 miles/week x .61 average mileage rate during relevant time period = \$210,450)).

21           25.     Defendants argue that any expenses incurred were minimal given the affordability of  
22 cellular usage plans and Settlement Class members did not have to travel between sites each shift. L  
23 Defendants also argue that this claim is not suitable for class treatment because it would require  
24 individualized determinations as to whether each employee used a personal cellular phone and how  
25 often. Additionally, individual determinations is required to determine miles driven for work purposes  
26 Accordingly, Plaintiffs discounted the maximum exposure by 35% for the risk of non-certification, and  
27  
28

1 an additional 40% to account for Defendants' defenses on the merits, to arrive at an estimated exposure  
2 of \$133,555.50.

3 26. Plaintiffs alleges that Defendants are also liable for waiting time penalties under Labor  
4 Code section 203 as a result of its failure to pay all overtime wages upon separation of employment.  
5 Based on the data provided by Defendants, there were approximately 18 Settlement Class Members  
6 who have separated their employment with Defendants during the relevant time period who could be  
7 entitled to waiting time penalties. Therefore, Plaintiffs calculated Defendants' maximum exposure for  
8 waiting time penalties at approximately \$95,990 ( $\$22.22/\text{hour} \times 8 \text{ hours/day} \times 30 \text{ days} \times 18 \text{ formers}$ ).

9 27. Defendants assert they have strong defenses to the waiting time claim because there  
10 exist good-faith disputes as to Plaintiffs' underlying claims, precluding imposition of penalties.  
11 Accordingly, Plaintiffs discounted the maximum exposure by 35% for the risk of non-certification, and  
12 an additional 30% to account for Defendants' defenses on the merits to arrive at an estimated exposure  
13 of approximately \$43,675.45.

14 28. Plaintiffs also seek civil penalties under the PAGA as a result of the foregoing alleged  
15 Labor Code violations. Plaintiffs calculated Defendants' maximum exposure at \$73,000 ( $730 \text{ pay}$   
16  $\text{periods} \times \$100 \text{ initial violation rate}$ ).

17 29. Defendants argue that Plaintiffs' PAGA claim will fail for the same reasons that their  
18 underlying claims will fail. Defendants also maintain that, given their good faith defenses, this Court  
19 would exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendants  
20 liable for any of Plaintiffs' claims. Therefore, Plaintiffs discounted the maximum exposure figure by  
21 30% for a risk of being unsuccessful on the merits, and an additional 30% to account for the possibility  
22 of this Court reducing penalties, to arrive at an estimated exposure of \$35,770.

23 30. Using these estimated figures for each of the claims described above, Plaintiffs predicted  
24 the realistic total recovery for the Settlement Class would be approximately \$1,029,006.70. The  
25 proposed settlement of \$500,000.00 therefore represents approximately 49% of the reasonably  
26 forecasted recovery for the Settlement Class. Preliminary approval is appropriate as the settlement will  
27 provide tangible monetary relief to Settlement Class Members and will still provide an average recovery  
28

1 to Settlement Class Members of over \$5,500.00.

2 31. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the  
3 GSA, which is currently estimated to be \$166,666.67, and up to \$25,000.00 in verified costs  
4 reimbursement. Class Counsel has incurred substantial attorney fees conducting pre-filing  
5 investigation, analyzing Plaintiffs' claims, conducting legal research, preparing for and defending the  
6 depositions of Plaintiffs, analyzing payroll records, preparing for and attending mediation, negotiating  
7 and revising the long-form Settlement, preparing this Motion, and otherwise litigating the case.  
8 Lidman Decl., ¶ 29. Class Counsel expect to expend additional attorney time in attending the hearing  
9 on this Motion, overseeing the Notice process and fielding questions from Settlement Class Members,  
10 preparing the final approval papers, and attending the Final Approval hearing.

11 32. Plaintiffs have provided written approval of the split of attorneys' fees in this action.

12 33. Plaintiffs will seek service payments of \$10,000.00 each at the time of seeking final  
13 approval, and I believe this is reasonable given Plaintiffs' efforts in this case and the risks they  
14 undertook on behalf of the Settlement Class members, including the risk that they could be liable for  
15 Defendants' costs if this case was unsuccessful. Plaintiffs were integral in the prosecution of this  
16 action, by, among other things, providing substantial factual information and documents to Class  
17 Counsel, attending multiple meetings with Class Counsel to discuss the claims and theories at issue in  
18 the litigation, and otherwise actively participating in the prosecution of their claims. Plaintiffs also  
19 each prepared for and sat for their depositions prior to mediation.

20 34. Although the parties engaged in informal discovery throughout this action, the parties  
21 still had significant discovery to complete in formal litigation had the matter not settled. Moreover,  
22 Plaintiff still had to file for class certification, and faced the prospect of appeals in the wake of a  
23 disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. This is  
24 especially true in light of SES's contention that it is facing financial hardship. Even if the classes were  
25 certified, the parties would incur considerably more attorneys' fees and costs through a possible  
26 decertification motion, trial, and possible appeal. This Settlement avoids those risks and the  
27 accompanying expense. Thus, this factor supports preliminary approval.

35. I do not have any conflicts of interest with the class. I have also made reasonable inquiry of other members of my firm and my co-counsel's firm, Haines Law Group, APC, and no one have any conflicts of interest with the class.

36. Plaintiff will serve the Motion for Preliminary Approval and proposed Settlement Agreement on the LWDA on the same date she files her Motion for Preliminary Approval.

37. Defendants and their counsel also confirmed that they are not aware of any other pending lawsuits asserting claims against Defendants that may be adversely affected by this settlement. My firm and co-counsel's firm are not aware of any pending matters either.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 4, 2024 at El Segundo, California.

  
Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

**LIDMAN LAW**  
2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245  
OFFICE: (424) 322-4772  
FAX: (424) 322-4775

October 30, 2023

**VIA LWDA WEBSITE**

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

**VIA U.S. CERTIFIED MAIL – RETURN  
RECEIPT REQUESTED**

LA Properties Heffesse LLC  
c/o Cyril Heffesse  
8383 Wilshire Blvd., Suite 302  
Beverly Hills, CA 90211

Re: *Gerardo Toro & Usman Lopez Escobar v. L.A. Properties Heffesse LLC*

To Whom It May Concern:

Please be advised that this law firm represents Gerardo Toro (“Mr. Toro”) and Usman Lopez Escobar (“Mr. Escobar”) (collectively “Plaintiffs”) in claims arising from their employment with L.A. Properties Heffesse LLC (“Defendant”). Plaintiffs are “aggrieved employees” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former employees of Defendants in California who were classified as exempt during the one year immediately preceding the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Plaintiffs file a civil lawsuit seeking civil penalties.

Defendant does business as a real estate agency that also manages properties. Mr. Toro, a current employee, has been employed by Defendant since approximately February 5, 2001 through approximately March 10, 2023, at which time he began a medical leave of absence. Mr. Toro has worked as a Building Maintenance and Repair employee and was classified as an exempt employee. Mr. Escobar, a former employee, was employed by Defendant from approximately 2004 through approximately September 25, 2023. During his employment with Defendant, Mr. Escobar held the position of Maintenance and Painter and was classified as an exempt employee.

During their employment with Defendant, Plaintiffs and other employees classified as exempt, were paid solely by way of annual salary, paid semi-monthly, which for most of their employment was less than two (2) times the state minimum wage for full-time employment. Plaintiffs’ main job duties during the relevant time period included, among other things, installing flooring, painting units, and responding to emergency repairs. During their employment with Defendant, Plaintiffs and other

employees classified as exempt, were not employed in an executive, administrative, or professional capacity; were not primarily engaged in the duties that meet the exemptions for executive, administrative, or professional workers in Wage Order 5; and did not customarily and regularly exercise discretion and independent judgment in performing the aforementioned duties. During their employment with Defendant, Plaintiffs and other employees classified as exempt, also did not have the authority to hire and fire other employees. Further, Plaintiffs and other employees classified as exempt, did not make any suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees nor would any of their suggestions, if made, were given any particular weight.

During Plaintiffs' employment with Defendant, Plaintiffs and other employees classified as exempt, routinely worked in excess of 8.0 hours per workday and/or more than 40.0 hours per workweek, but due to Defendant's misclassification of Plaintiffs and other employees as exempt, they did not receive any overtime compensation for these hours. Upon information and belief, Defendant did not track the actual hours that Plaintiffs and other employees classified as exempt worked. Instead, Defendant paid them a flat salary which was not based on the number of hours actually worked. Plaintiffs' weekly schedule were generally Monday through Saturday, 8:00 a.m. until 5:00 p.m. However, Plaintiffs and other employees classified as exempt, regularly worked more hours than scheduled and on average worked in excess of 8.0 to 10.0 hours per day. Indeed, prior to their scheduled shift, Plaintiffs and other employees classified as exempt were required to go and pick up materials and then travel to each jobsite. Additionally, Defendant required Plaintiffs and other employees classified as exempt, to be on call for one (1) week each month and they would have to report to the jobsite immediately upon receiving a call. Due to Defendant's misclassification of Plaintiffs and other employees as exempt, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or 40.0 hours per workweek and have therefore deprived Plaintiffs and other employees classified as exempt of earned wages. Defendant also failed to pay Plaintiffs and other employees classified as exempt any double-time wages for hours worked in excess of 12.0 in a day.

Defendant has also failed to provide Plaintiffs and other employees classified as exempt with all required meal periods due to Defendant's meal period policies and practices. Specifically, due to the work demands imposed by Defendant and Defendant's failure to keep track of Plaintiffs' and other employees classified as exempt actual hours worked, they were often not allowed to take their first meal period before the end of the fifth hour of work, resulting in meal periods that were untimely or otherwise unlawful. Moreover, Plaintiffs and other employees classified as exempt were often interrupted during their meal periods by their supervisors and/or managers, which resulted in short or otherwise unlawful meal periods. Further, Defendant did not require Plaintiffs and other employees classified as exempt to clock in or out for their meal periods and Defendant did not keep records of their meal periods. In addition, Plaintiffs and other employees classified as exempt were not provided a second meal period when they worked shifts in excess 10.0 hours.

Despite failing to provide all legally-required meal periods to Plaintiffs, Defendant never paid Plaintiffs and other employees classified as exempt one hour of meal period premium wages for each day that they experienced a meal period violation as required by Labor Code § 226.7.

In addition, throughout Plaintiffs' employment with Defendants, Plaintiffs and other employees classified as exempt were not authorized and permitted to take legally required rest periods due to Defendant's unlawful rest period policies and practices. Specifically, as a result of the work demands imposed by Defendant, Defendant did not authorize and permit one rest period for every four hours

worked, or *major fraction thereof*. Indeed, Defendant failed to authorize and permit Plaintiffs and other employees classified as exempt, to take any rest periods during their shifts.

Although Plaintiffs and other employees classified as exempt were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate them with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all overtime wages, and all meal and rest period premium wages due to Defendant's misclassification of Plaintiffs and other employees, the wage statements issued to them were facially deficient. Specifically, the wage statements did not include the actual total hours they worked and all applicable hourly rates in effect during the pay period along with the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226(a). Additionally, the wage statements issued to Plaintiffs and other employees classified as exempt did not include the legal entity of the employer in violation of Labor Code § 226.

Defendant also failed to reimburse Plaintiffs and other employees classified as exempt for necessary business expenses incurred during the relevant time period. Specifically, Defendant required them to use their personal vehicles to travel to Defendant's clients. Further, Defendant also required them to use their personal cellular phones to communicate with their supervisor and other employees. Accordingly, despite Plaintiffs and other employees classified as exempt, being required to use their personal vehicles and/or use their personal cellular phones, Defendants did not reimburse them for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties, or of their obedience to the directions of the employer in violation of California law.

As a further result of Defendant's failure to pay all overtime wages, and all meal and rest period premium wages due to Defendant's misclassification of Plaintiffs and other employees classified as exempt, Defendant failed to pay all wages owed to Mr. Escobar and other former employees classified as exempt upon their separation of employment from Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

#### Overtime Violations

Defendant was required to pay Plaintiffs and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. See Labor Code §§ 1194(a) and 1198; the Wage Order 5, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee." As alleged above, Defendant's unlawful misclassification of Plaintiffs and other aggrieved employees as exempt resulted in unpaid overtime wages earned. Additionally, Defendant required Plaintiffs and other employees classified as exempt, to be on call for one (1) week each month and they would have to report to the jobsite immediately upon receiving a call. Due to Defendant's misclassification of Plaintiffs and other employees as exempt, Defendant failed to pay any overtime wages for hours worked in excess of 8.0 hours per workday and/or



40.0 hours per workweek and have therefore deprived Plaintiffs and other employees classified as exempt of earned wages. Defendant also failed to pay Plaintiffs and other employees classified as exempt any double-time wages for hours worked in excess of 12.0 in a day.

#### Meal Period Violations

As alleged above, Defendant failed to provide the aggrieved employees with all required and compliant meal periods. See Labor Code §§ 226.7 and 512; Wage Order 5, § 11. As described above, Defendant failed to provide Plaintiffs and other aggrieved employees with all legally compliant meal periods due to Defendant's meal period policies/practices, which have frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed meal periods. In addition, Defendant failed to provide Further, Defendant did not require Plaintiffs and other employees classified as exempt to clock in or out for their meal periods and Defendant did not keep records of their meal periods. In addition, Plaintiffs and other employees classified as exempt were not provided a second meal period when they worked shifts in excess 10.0 hours. Therefore, the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... 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."). Although Plaintiffs and other aggrieved employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate them with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

#### Rest Period Violations

Defendant also failed to authorize and permit their aggrieved employees to take all required rest periods. See Labor Code §§ 226.7 and 516; Wage Order 5, § 12. Specifically, Plaintiffs and other aggrieved employees were not authorized and permitted to take all required rest periods due to Defendant's rest period policies/practices, which upon information and belief, fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Additionally, Defendant has often failed to authorize and permit a third rest period when Plaintiffs and other aggrieved employees worked a shift in excess of 10.0 hours. As a result, Plaintiffs and the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, 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 period is not provided.")

#### Wage Statement Violations

As a result of the misclassification of Plaintiffs and the other aggrieved employees as exempt, Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiffs and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all overtime wages earned, meal and rest period premiums, total gross wages earned, and total net wages earned, in violation of Labor Code § 226 *et seq.* Defendant's

failure to furnish Plaintiffs and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all overtime wages earned and meal and rest period premiums, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

#### Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Escobar and other aggrieved employees all of their final wages at the time of separation, which included, among other things, underpaid overtime wages, and meal and rest period premium wages.

#### Failure to Reimburse Business Expenses

During Plaintiffs' employment with Defendant, Plaintiffs and other aggrieved employees were required to use their personal cellular phones and personal vehicles to discharge their duties. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 5 § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.") Plaintiffs and the other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

As "aggrieved employees," Plaintiffs will initiate a civil action on behalf of themselves and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Plaintiffs' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Plaintiffs and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiffs and the aggrieved employees;
- c) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Plaintiffs and the aggrieved employees;
- d) Defendant violated Labor Code § 226 by failing to furnish Plaintiffs and other aggrieved employees with accurate and compliant itemized wage statements;
- e) Defendant violated Labor Code §§ 204 and 210 by failing to pay Plaintiffs and other aggrieved employees all earned wages at least twice during each calendar month;
- f) Defendant violated Labor Code § 2802 by failing to reimburse Plaintiffs and other aggrieved employees for all necessary expenditures incurred;

- g) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Escobar and other aggrieved employees; and
- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiffs and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,  
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Gerardo Toro (“Toro”) and Usman Lopez Escobar (“Escobar”) (Toro and Escobar are collectively referred to herein as “Plaintiffs”), and Defendants L.A. Properties Heffesse LLC and Joseph Heffesse (collectively, “Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

### 1. **DEFINITIONS:**

1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendants captioned *Gerardo Toro and Usman Lopez Escobar v. L.A. Properties Heffesse LLC, et al.*, Case No. 23STCV26332, initiated on October 27, 2023, and pending in Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means Phoenix Class Action Administration Solutions, 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 submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. “Aggrieved Employee” means all individuals whom Defendant L.A. Properties Heffesse LLC and/or Joseph Heffesse employed in the positions of maintenance, handyman, administrative, and/or all individuals who assist in business operations and who worked for Defendants in California at any time during the PAGA Period.

1.5. “Class” means all individuals whom Defendant L.A. Properties Heffesse LLC and/or Joseph Heffesse employed in the positions of maintenance, handyman, administrative, and/or all individuals who assist in business operations and who worked for Defendants in California at any time during the Class Period.

1.6. “Class Counsel” means Scott M. Lidman and Milan Moore of Lidman Law, APC and Paul Haines of Haines Law Group, APC.

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means

including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from October 6, 2019 through the date the Court preliminarily approves the Settlement.

1.13. “Class Representatives” means Gerardo Toro and Usman Lopez Escobar, the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.

1.14. “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.

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

1.16. “Defendants” means the named Defendants L.A. Properties Heffesse LLC and Joseph Heffesse.

1.17. “Defense Counsel” means Jennifer M. Misetich and Ronald J. Arias of Buchalter, A Professional Corporation.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. “Gross Settlement Amount” means \$500,000.00 which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments and the Administrator’s Expenses.

1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

- 1.24. “Individual PAGA Payment” means each Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled to monitor Labor Code compliance, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants, or either of them, for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from October 6, 2022 through the date the Court preliminarily approves the Settlement.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. “PAGA Notice” means Plaintiffs’ October 30, 2023 letter to Defendant L.A. Properties Heffesse LLC and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties (\$20,000.00) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiffs” means Gerardo Toro and Usman Lopez Escobar, the named plaintiffs in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.41. "Released Parties" means: Defendants and their respective former, current and future parent companies, subsidiaries, affiliates, shareholders, managers, members, agents, principals, heirs, representatives (including, without limitation, any investment bankers, accountants, auditors, consultants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns.

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

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

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

1.45. "Workweek" means any week during which a Class Member worked for Defendants, or either of them, for at least one day, during the Class Period.

## **2. RECITALS:**

2.1. On October 6, 2023, Plaintiff Gerardo Toro commenced an action by filing a Complaint against Defendant L.A. Properties Heffesse LLC alleging individual causes of action against Defendant for: (i) failure to pay all overtime wages owed; (ii) failure to pay all minimum wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods; (v) unlawful deductions from wages; (vi) failure to provide accurate, itemized wage statements; (vii) failure to timely pay all wages upon separation of employment; (viii) failure to reimburse necessary business expenses; and (ix) unfair competition.

2.2. On October 27, 2023, Plaintiffs commenced this Action by filing a class action Complaint against Defendant L.A. Properties Heffesse LLC alleging class-wide causes of action against Defendant L.A. Properties Heffesse LLC for: (i) failure to pay all overtime wages owed; (ii) failure to pay all minimum wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods; (v) unlawful deductions from wages; (vi) failure to provide accurate, itemized wage statements; (vii) failure to timely pay all wages upon separation of employment; (viii) failure to reimburse necessary business expenses; and (ix) unfair competition.

2.3. On October 31, 2023, the Court, at Plaintiff Gerardo Toro's request, dismissed his individual lawsuit without prejudice.

2.4. Pursuant to Labor Code section 2699.3, subd.(a), on October 30, 2023, Plaintiffs gave timely written notice to Defendant L.A. Properties Heffesse LLC and the LWDA by sending the PAGA Notice.

2.5. On January 4, 2024, Plaintiffs filed a First Amended Complaint in the Action which added a claim for civil penalties under the PAGA.

2.6. On May 21, 2024, the Parties participated in an all-day mediation presided over by Steve Mehta, Esq. which led to this Agreement to settle the Action.



2.7. Prior to mediation, Plaintiffs obtained, through informal discovery, Defendants' timekeeping and payroll data, workweek and class member totals, as well as Defendants' wage and hour policies and other relevant documents and information relevant to the claims alleged. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.8. On May 22, 2024, Plaintiffs filed a DOE Amendment in the Action substituting Joseph Heffesse, as an individual, in as a named defendant in place of DOE 1.

2.9. Defendants deny the allegations in the operative First Amended Complaint in the Action, deny any failure to comply with the laws identified in in the operative First Amended Complaint in the Action and deny any and all liability for the causes of action alleged.

2.10. The Court has not granted nor ruled on class certification.

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

### **3. MONETARY TERMS:**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay \$500,000.00 as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$10,000.00 to each of the Plaintiffs (for a total of \$20,000.00) (in addition to any Individual Class Payments and any Individual PAGA Payments the Class Representatives are entitled to receive as a Participating Class Members). Defendants will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$166,666.67 and a Class Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation

Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$5,750.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$5,750.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.5. Tax Allocation of Individual Class Payments. Ninety Percent (90%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Ten Percent (10%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.7. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments.

3.2.7.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$5,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

#### **4. SETTLEMENT FUNDING AND PAYMENTS:**

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate that the Class Members collectively worked a total of 6,900 Workweeks from October 6, 2019 through May 21, 2024, and the Aggrieved Employees collectively worked a total of 1,095 PAGA Pay Periods from October 6, 2022 through May 21, 2024.

4.2. Class Data. Not later than 20 days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

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

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 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 Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a

replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

**5. RELEASES OF CLAIMS:** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and fully fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiffs' Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the operative First Amended Complaint; and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the operative First Amended Complaint and Plaintiffs' PAGA Notice ("Plaintiffs' Release"). Plaintiffs also agree to release, in addition to the Released Class Claims and Released PAGA Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties for the time period October 6, 2019 through the date Plaintiffs execute this Agreement. Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. Notwithstanding the foregoing, the waiver and release in this Agreement does not apply to: (i) those rights as a matter of law that cannot be waived, including, but not limited to, workers' compensation claims; (ii) rights or claims arising out of this Agreement after this Agreement is executed by Plaintiffs; and (iii) rights or claims arising of this Agreement. The Agreement in no way affects Plaintiffs' entitlement and/or benefits to be received by Plaintiffs in workers' compensation pursuant to the jurisdiction of workers' compensation. Plaintiffs also agree to not request an exclusion from this settlement. Any Class Representative Service Payments approved by the Court will result in the issuance of a Form 1099 to the Class Representatives, who shall assume full responsibility and liability for the payment of taxes due on such award.

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

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if

known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the operative First Amended Complaint and/or ascertained in the course of the Action and which occurred during the Class Period. The claims released include, without limitation: (1) failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized wage statements; (5) failure to timely pay all wages upon separation of employment; (6) failure to reimburse necessary business expenses; and (9) unfair business practices in violation of Business and Professions Code section 17200, et seq. premised on the above claims; and violation of or liability under California Labor Code under sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1194, 1198, 2802 and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees: All Aggrieved Employees release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the operative First Amended Complaint and/or the PAGA Notice and/or ascertained in the course of the Action and which occurred during the PAGA Period. The claims released include, without limitation: (1) failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized wage statements; (5) failure to timely pay all wages upon separation of employment; (6) failure to reimburse necessary business expenses, and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs.

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

6.1 Defendants' Declarations in Support of Preliminary Approval. Within 5 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel signed Declarations from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiffs' Responsibilities. Plaintiffs will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed"

bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), operative First amended Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (vii) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members, and the Administrator. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Preliminary Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Preliminary Approval.

**6.3 Responsibilities of Counsel.** Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

## **7. SETTLEMENT ADMINISTRATION:**

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

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

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

#### 7.4 Notice to Class Members.

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

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

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

7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

#### 7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the Class Member’s name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept

any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

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

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

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

#### 7.7 Objections to Settlement.

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

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

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



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

7.9 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

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

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

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

7.9.4 Administrator’s Declaration. Not later than seven (7) days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

7.9.5 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 10 days before any deadline set by the Court, the Administrator will prepare, and submit to Class

Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE:** Based on its records, Defendant estimates that there were 48 Class Members who worked a total of 6,900 Workweeks during the period of October 6, 2019 through May 21, 2024. If the number of workweeks during the Class Period increases by more than 10% above 6,900 (*i.e.*, if there are 7,591 or more workweeks during the Class Period), Defendants agree to increase the Gross Settlement Amount on a proportional percentage basis (*i.e.*, if there was a 11% increase in the number workweeks during the Class Period, Defendants would agree to increase the Gross Settlement Amount by 11%).
9. **MOTION FOR FINAL APPROVAL:** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
  - 9.1 **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
  - 9.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
  - 9.3 **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 and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
  - 9.4 **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

11. **ADDITIONAL PROVISIONS:**

11.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the operative First Amended Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendants' 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).

11.2 Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

11.3 No Publicity. Plaintiffs and Plaintiffs' counsel agree not to publicize the Settlement. This provision shall not apply to the filing of any documents with the Court which are necessary to

effectuate the Settlement, nor is it intended to interfere with or restrict: (1) the third-party administrator from distributing the notice packets and otherwise complying with its obligation to provide information to affected Class Members; or (2) the third-party administrator from posting any judgment on its website. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. This provision shall not apply to limit Plaintiffs and Class Counsel's ability to effectuate their duties to the Class Members or limit their ability to communicate with Class Members as contractually required to effectuate the terms of the Settlement Agreement as set forth herein.

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

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

11.6 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, 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.

11.7 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

11.8 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.

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

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

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

11.12 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.

11.13 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.

11.14 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.

11.15 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants 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. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

11.16 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.

11.17 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.

11.18 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 Plaintiffs:

Scott M. Lidman  
Milan Moore  
Lidman Law, APC  
2155 Campus Drive, Suite 150  
El Segundo, California 90245  
Telephone: (424) 322-4772  
Facsimile: (424) 322-4775  
Email: [slidman@lidmanlaw.com](mailto:slidman@lidmanlaw.com)  
[mmoore@lidmanlaw.com](mailto:mmoore@lidmanlaw.com)

Paul K. Haines  
Haines Law Group, APC  
[phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)  
2155 Campus Drive, Suite 180  
El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355  
Email: [phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)

To Defendants:

Jennifer M. Misetich  
Ronald J. Arias  
Buchalter, A Professional Corporation  
1000 Wilshire Boulevard, Suite 1500

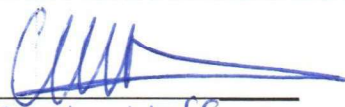
Los Angeles, California 90017-1730  
Telephone: (213) 891-0700  
Facsimile: (213) 896-0400  
Email: jmisetich@buchalter.com  
rarias@buchalter.com

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

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

DATED: June 17, 2024

DEFENDANT L.A. PROPERTIES HEFFESSE LLC

  
By: Cynthia Heffesse  
Its: \_\_\_\_\_

DATED: June 17, 2024

DEFENDANT JOSEPH HEFFESSE

  
By: \_\_\_\_\_  
Defendant

DATED:

PLAINTIFF GERARDO TORO

By: \_\_\_\_\_  
Plaintiff and Settlement Class Representative

DATED:

PLAINTIFF USMAN LOPEZ ESCOBAR

By: \_\_\_\_\_  
Plaintiff and Settlement Class Representative

Los Angeles, California 90017-1730  
Telephone: (213) 891-0700  
Facsimile: (213) 896-0400  
Email: jmisetich@buchalter.com  
rarias@buchalter.com

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

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

DATED:

DEFENDANT L.A. PROPERTIES HEFFESSE LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

DATED:

DEFENDANT JOSEPH HEFFESSE

By: \_\_\_\_\_  
Defendant

DATED: Jun 20, 2024

PLAINTIFF GERARDO TORO

By: Gerardo Toro  
Gerardo Toro (Jun 20, 2024 15:06 PDT)

Plaintiff and Settlement Class Representative

DATED:

PLAINTIFF USMAN LOPEZ ESCOBAR

By: \_\_\_\_\_

Plaintiff and Settlement Class Representative

Los Angeles, California 90017-1730  
Telephone: (213) 891-0700  
Facsimile: (213) 896-0400  
Email: jmisetich@buchalter.com  
rarias@buchalter.com

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

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

DATED:

DEFENDANT L.A. PROPERTIES HEFFESSE LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

DATED:

DEFENDANT JOSEPH HEFFESSE

By: \_\_\_\_\_  
Defendant

DATED:

PLAINTIFF GERARDO TORO

By: \_\_\_\_\_  
Plaintiff and Settlement Class Representative

DATED: Jun 20, 2024

PLAINTIFF USMAN LOPEZ ESCOBAR

By:  \_\_\_\_\_  
Usman Lopez (Jun 20, 2024 12:43 PDT)

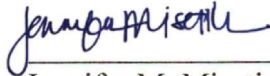
Plaintiff and Settlement Class Representative



**APPROVED AS TO FORM:**

DATED: June 17, 2024

BUCHALTER, A PROFESSIONAL CORPORATION

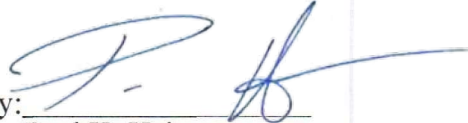


Jennifer M. Misetich

Attorney for Defendants

DATED: June 20, 2024

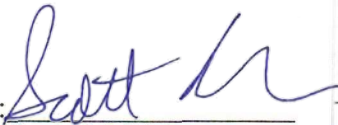
HAINES LAW GROUP, APC

By: 

Paul K. Haines  
Attorneys for Plaintiffs

DATED: June 20, 2024

LIDMAN LAW, APC

By: 

Scott M. Lidman  
Attorneys for Plaintiffs

EXHIBIT A

EXHIBIT A

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

*Gerardo Toro and Usman Lopez Escobar v. L.A. Properties Heffesse LLC, et al.* Case No.  
23STCV26332

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

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Defendants L.A. Properties Heffesse LLC and Joseph Heffesse (collectively, “Defendants”) for alleged wage and hour violations. The Action was filed by employees Gerardo Toro and Usman Lopez Escobar (collectively, “Plaintiffs”) and seeks payment of (1) unpaid overtime wages, missed meal and rest period premiums, wage statement penalties, waiting time penalties, reimbursement of business expenses, and restitution under California Business and Professions Code section 17200 for a class of individuals who held the positions of maintenance, handyman, administrative, and/or who assist in business operations (“Class Members”) who worked for Defendants during the period of October 6, 2019 through [insert date of preliminary approval] (“Class Period”); and also seeks (2) civil penalties under the California Private Attorney General Act (“PAGA”) for the same group of employees (“Aggrieved Employees”) who worked for Defendants during the period of October 6, 2022 through [insert date of preliminary approval] (“PAGA Period”).

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

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

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

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

#### **SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

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

|                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b><br><br><b>Written Objections Must be Submitted by</b><br><div style="background-color: yellow; width: 150px; height: 1.2em; margin-top: 5px;"></div> | All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice. |
| <b>You Can Participate in the</b><br><div style="background-color: yellow; width: 100px; height: 1.2em; margin-top: 5px;"></div> <b>Final Approval Hearing</b>                                                                                         | The Court’s Final Approval Hearing is scheduled to take place on <div style="background-color: yellow; width: 100px; height: 1.2em; display: inline-block;"></div> . You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.                                                                                                                                                               |
| <b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b><br><br><b>Written Challenges Must be Submitted by</b><br><div style="background-color: yellow; width: 150px; height: 1.2em; margin-top: 5px;"></div>                            | The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <div style="background-color: yellow; width: 100px; height: 1.2em; display: inline-block;"></div> . See Section 4 of this Notice.                                                   |

## 1. WHAT IS THE ACTION ABOUT?

Plaintiffs are individuals who worked for Defendants in maintenance/handyman positions and. The Action accuses Defendants of violating California labor laws by misclassifying them as exempt employees and failing to pay overtime wages, failing to pay wages due upon termination, failing to provide meal periods and rest breaks and pay meal and rest period premiums, failing to reimburse necessary business expenses, and failing to provide accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for restitution under California Business and Professions Code section 17200 and a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”). Plaintiffs are represented by attorneys in the Action: Scott M. Lidman and Milan Moore of Lidman Law, APC and Paul Haines of Haines Law Group, APC (“Class Counsel.”)

Defendants deny violating any laws or failing to pay any wages and contend that they complied with all applicable laws.

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

So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the

merits. In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. Defendants Will Pay \$500,000.00 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than thirty (30) days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$166,666.67 (1/3<sup>rd</sup> of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$10,000.00 to each Plaintiff (for a total of \$20,000.00) as Class Representative Service Payments for filing the Action, working with Class Counsel and representing the Class. Class Representative Service Payments will be the only monies Plaintiffs will receive other than Plaintiffs’ Individual Class Payment and any Individual PAGA Payments.
  - C. Up to \$5,750.00 to the Administrator for services administering the Settlement.

D. Up to \$20,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendants are asking the Court to approve an allocation of 90% of each Individual Class Payment to taxable wages (“Wage Portion”) and 10% to interest and penalties (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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

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

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not

receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.
8. Administrator. The Court has appointed a neutral company, Phoenix Class Action Administration Solutions (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Defendants have fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Defendants and their respective former, current and future parent companies, subsidiaries, affiliates, shareholders, managers, members, agents, principals, heirs, representatives (including, without limitation, any investment bankers, accountants, auditors, consultants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns (“Released Parties”) from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the operative First Amended Complaint and/or ascertained in the course of the Action and which occurred during the Class Period. The claims



released include, without limitation: (1) failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized wage statements; (5) failure to timely pay all wages upon separation of employment; (6) failure to reimburse necessary business expenses; and (7) unfair business practices in violation of Business and Professions Code section 17200, et seq. premised on the above claims; and violation of or liability under California Labor Code under sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1194, 1198, 2802 and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs. Except as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

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

All Aggrieved Employees release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the operative First Amended Complaint and/or the PAGA Notice and/or ascertained in the course of the Action and which occurred during the PAGA Period. The claims released include, without limitation: (1) failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized wage statements; (5) failure to timely pay all wages upon separation of employment, and (6) failure to reimburse necessary business expenses under Labor Code section 2802, and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs.

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

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

result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

## **5. HOW WILL I GET PAID?**

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as "Gerardo Toro v. L.A. Properties

Heffesse LLC”, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [redacted], or it will be invalid.** Section 9 of the Notice has the Administrator’s contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendants are asking the Court to approve. At least 16 Court days before the [redacted] Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Class Representative Service Payments stating (i) the amount Class Counsel is requesting for attorneys’ fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as a Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator’s Website

(url) or the Court’s website (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Class Representative Service Payments may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [redacted].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as Gerardo Toro v. L.A. Properties Heffesse LLC and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator’s contact information.

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

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don’t have to, attend the Final Approval Hearing on [redacted] (date) at [redacted] (time) in Department SSC-17 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or

hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [redacted] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## 9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to ([specify entity](#))'s website at ([url](#)). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 23STCV26332. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

#### Class Counsel:

Scott M. Lidman  
Milan Moore  
Lidman Law, APC  
2155 Campus Drive, Suite 150  
El Segundo, California 90245  
Telephone: (424) 322-4772  
Facsimile: (424) 322-4775  
Email: [slidman@lidmanlaw.com](mailto:slidman@lidmanlaw.com)  
[mmoore@lidmanlaw.com](mailto:mmoore@lidmanlaw.com)

Paul K. Haines  
Haines Law Group, APC  
[phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)  
2155 Campus Drive, Suite 180  
El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355  
Email: [phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)

#### Settlement Administrator:

**Name of Company:**  
**Email Address:**  
**Mailing Address:**  
**Telephone:**  
**Fax Number:**

## 10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds

## **11. WHAT IF I CHANGE MY ADDRESS?**

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

EXHIBIT 3

EXHIBIT 3

# ~~[MODEL]~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE<sup>†</sup>

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Gerardo Toro (“Toroplaintiff” (“Plaintiff”)) and Usman Lopez Escobar (“Escobar”) (Toro and Escobar are collectively referred to herein as “Plaintiffs”), and Defendants L.A. Properties Heffesse LLC and Joseph Heffesse (collectively, “Defendants”).~~defendant XYZ~~

~~\_\_\_\_\_ (“XYZ”).~~ The Agreement refers to Plaintiffs~~Plaintiff~~ and Defendants~~XYZ~~ collectively as “Parties,” or individually as “Party.”

## 1. **DEFINITIONS:**

1.1. “Action” means the Plaintiffs’~~Plaintiff’s~~ lawsuit alleging wage and hour violations against Defendants~~XYZ~~ captioned Gerardo Toro and Usman Lopez Escobar v. L.A. Properties Heffesse LLC, et al., Case No. 23STCV26332,~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ initiated on October 27, 2023,~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ and pending in Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means Phoenix Class Action Administration Solutions~~\_\_\_\_\_~~, 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 submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. ~~\_\_\_\_\_~~ “Aggrieved Employee” means all individuals whom Defendant L.A. Properties Heffesse LLC and/or Joseph Heffesse~~[e.g., a person employed in the positions of maintenance, handyman, administrative, and/or all individuals who assist in business operations and by XYZ in California and classified as a~~  
~~\_\_\_\_\_~~ who worked for Defendants in California at any time~~XYZ~~ during the PAGA Period.~~].~~

1.5. “Class” means all individuals whom Defendant L.A. Properties Heffesse LLC and/or Joseph Heffesse~~[define class e.g., all persons employed in the positions of maintenance, handyman, administrative, and/or all individuals who assist in business operations and by XYZ in California and classified as~~  
~~\_\_\_\_\_~~ who worked for Defendants in California at any time~~XYZ~~ during the Class Period.~~].~~

1.6. “Class Counsel” means Scott M. Lidman and Milan Moore of Lidman Law, APC and Paul Haines of Haines Law Group, APC~~\_\_\_\_\_~~.

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendants’XYZ’s possession including the Class Member’s name, last-known mailing address, Social Security number~~;~~, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

~~1.10.~~ “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available\_



1.10. sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from October 6, 2019 through the date the Court preliminarily approves the Settlement. to \_\_\_\_\_.<sup>ii</sup>

1.13. “Class ~~Representatives~~ Representative” means Gerardo Toro and Usman Lopez Escobar, the named ~~Plaintiffs~~ Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class ~~Representatives~~ Representative.

1.14. “Class Representative Service ~~Payments~~ Payment” means the ~~payments~~ payment to the Class ~~Representatives~~ Representative for initiating the Action and providing services in support of the Action.

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

1.16. “~~Defendants XYZ~~” means the named Defendants L.A. Properties Heffesse LLC and Joseph Heffesse Defendant \_\_\_\_\_.

1.17. “Defense Counsel” means Jennifer M. Misetich and Ronald J. Arias of Buchalter, A Professional Corporation \_\_\_\_\_.

1.18. “Effective Date” means the date by when both of the following have occurred:  
1.18. (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. “Gross Settlement Amount” means \$500,000.00 which is the total amount ~~Defendants agree XYZ agrees~~ to pay under the Settlement except as provided in

Paragraph 89 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual

1.22. PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service ~~Payments~~Payment and the Administrator's Expenses.

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

1.24. "Individual PAGA Payment" means ~~each~~the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

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

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

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

1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service ~~Payments~~Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

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

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants, or either of them, XYZ for at least one day during the PAGA Period.

1.31. "PAGA Period" means the period from October 6, 2022 through the date the Court preliminarily approves the Settlement. \_\_\_\_\_  
to \_\_\_\_.

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

1.33. "PAGA Notice" means Plaintiffs' October 30, 2023~~Plaintiff's~~ \_\_\_\_\_  
letter to Defendant L.A. Properties Heffesse LLC~~XYZ~~ and the LWDA ~~[and Plaintiff's~~ \_\_\_\_\_  
~~letter to XYZ and the LWDA]~~ providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties (\$20,000.00) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) in settlement of PAGA claims.

(\_\_\_\_\_) and the 75% to LWDA (\_\_\_\_\_) in settlement of PAGA

| ~~claims.~~

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

1.36. "~~Plaintiffs~~Plaintiff" means Gerardo Toro and Usman Lopez Escobar, the named ~~plaintiffs~~plaintiff in the Action.

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

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

1.39. "Released Class Claims" means the claims being released as described in Paragraph ~~56.2~~ below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph ~~5.36.2~~ below.

1.41. "Released Parties" means: ~~Defendants~~XYZ and ~~their respective~~each of its former, current and future parent companies, subsidiaries, affiliates, present directors, officers, shareholders, managers, owners, [members, agents, principals, heirs, representatives (including, without limitation, any investment bankers, accountants, auditors, consultants], attorneys, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns. ~~[subsidiaries] [affiliates].~~

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

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

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

1.45. "Workweek" means any week during which a Class Member worked for Defendants, or either of them, XYZ for at least one day, during the Class Period. <sup>iv</sup>

## 2. **RECITALS:-**

2.1. On October 6, 2023, Plaintiff Gerardo Toro commenced an action by filing a Complaint against Defendant L.A. Properties Heffesse LLC alleging individual causes of action against Defendant for: (i) failure to pay all overtime wages owed; (ii) failure to pay all minimum wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods;

(v) unlawful deductions from wages; (vi) failure to provide accurate, itemized wage statements; (vii) failure to timely pay all wages upon separation of employment; (viii) failure to reimburse necessary business expenses; and (ix) unfair competition.

2.2. On October 27, 2023, Plaintiffs commenced this Action by filing a class action Complaint against Defendant L.A. Properties Heffesse LLC alleging class-wide causes of action against Defendant L.A. Properties Heffesse LLC for: (i) failure to pay all overtime wages owed; (ii) failure to pay all minimum wages owed; (iii) failure to provide meal periods; (iv) failure to authorize and permit all rest periods; (v) unlawful deductions from wages; (vi) failure to provide accurate, itemized wage statements; (vii) failure to timely pay all wages upon separation of employment; (viii) failure to reimburse necessary business expenses; and (ix) unfair competition.

2.3. On October 31, 2023, the Court, at Plaintiff Gerardo Toro's request, dismissed his individual lawsuit without prejudice.

2.1. \_\_\_\_\_ On \_\_\_\_\_, Plaintiff commenced this Action by filing a Complaint alleging causes of action against XYZ for \_\_\_\_\_.  
[The Complaint is the operative complaint in the Action (the "Operative Complaint.")]  
[On \_\_\_, Plaintiff filed a [e.g., First Amended Complaint] alleging causes of action against XYZ for \_\_\_\_\_. The [e.g., First Amended] Complaint is the operative complaint in the Action (the "Operative

Complaint.”)] XYZ denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2.2.4. \_\_\_\_\_ P

ursuant to Labor Code section 2699.3, subd.(a), on October 30, 2023, PlaintiffsPlaintiff gave timely written notice to Defendant L.A. Properties Heffesse LLCXYZ and the LWDA by sending the PAGA Notice.

2.5. On January 4, 2024, Plaintiffs filed a First Amended Complaint in the Action which added a claim for civil penalties under the PAGA.

2.3. On May 21, 2024, On \_\_\_\_\_ (type in additional dates) \_\_\_\_\_, [the Parties

2.6. participated in an all-day mediation presided over by Steve Mehta, Esq. \_\_\_\_\_ which led to this Agreement to settle the Action. (describe alternative means of negotiation). \_\_\_\_\_ (describe alternative means of negotiation) \_\_\_\_\_

2.4. Prior to ☐ mediation, Plaintiffs—☐ negotiating the Settlement, Plaintiff obtained, through

2.7. ☐ formal—☐ informal discovery, Defendants’ timekeeping and payroll data, workweek and class member totals, as well as Defendants’ wage and hour policies and other relevant — (documents, testimony and information relevant to the claims alleged. Plaintiffs’obtained)— Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.8. On May 22, 2024, Plaintiffs filed a DOE Amendment in the Action substituting Joseph Heffesse, as an individual, in as a named defendant in place of DOE 1.

2.9. Defendants deny the allegations in the operative First Amended Complaint in the Action, deny any failure to comply with the laws identified in in the operative First Amended Complaint in the Action and deny any and all liability for the causes of action alleged.

2.5.2.10. \_\_\_\_\_ The Court ☐ has—☐ has not granted nor ruled on class certification.

\_\_\_\_\_ (insert details as needed) \_\_\_\_\_

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

### 3. **MONETARY TERMS**:

3.1. \_\_\_\_\_ Gross Settlement Amount. Except as otherwise provided by Paragraph ~~89~~ below, ~~Defendants promise~~XYZ promises to pay \$500,000.00 \_\_\_\_\_ ~~and no more~~ as the Gross Settlement Amount {and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. ~~Defendants have.~~ ~~XYZ has~~ no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph ~~4.36.1~~ of this Agreement.<sup>\*</sup> The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to DefendantXYZ.

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

3.2.1. \_\_\_\_\_ To Plaintiffs~~Plaintiff~~: Class Representative Service Payments~~Payment~~ to the Class Representatives ~~Representative~~ of not more than \$10,000.00 to each of the Plaintiffs (for a total of \$20,000.00) \_\_\_\_\_ (in addition to any Individual Class Payments ~~Payment~~ [and any Individual PAGA Payments~~Payment~~] the Class Representatives are ~~Representative is~~



3.2.1. \_\_\_\_\_ entitled to receive as a Participating Class ~~Members~~). ~~DefendantsMember~~). XYZ will not oppose ~~Plaintiffs'~~ ~~Plaintiff's~~ request for a Class Representative Service ~~Payments~~ ~~Payment~~ that ~~dodees~~ not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, ~~Plaintiffs~~ ~~Plaintiff~~ will seek Court approval for any Class Representative Service Payments no later than ~~16~~ ~~court~~ days prior to the Final Approval Hearing. If the Court approves a Class Representative Service ~~Payments~~ ~~Payment~~ less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service ~~Payments~~ ~~Payment~~ using IRS Form 1099. ~~Plaintiffs assume~~ ~~Plaintiff assumes~~ full responsibility and liability for employee taxes owed on the Class Representative Service ~~Payments~~ ~~Payment~~.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, —%, which is currently estimated to be \$166,666.67— and a Class Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendants—. XYZ will not oppose requests for these payments provided that they do not exceed these amounts. ~~Plaintiffs~~ ~~Plaintiff~~ and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than ~~16~~ ~~court~~ days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other ~~Plaintiffs'~~ ~~Plaintiff's~~ Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds ~~Defendants~~ ~~XYZ~~ harmless, and indemnifies ~~Defendants~~ ~~XYZ~~, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. \_\_\_\_\_ To the Administrator: An Administrator Expenses Payment not to exceed \$5,750.00

3.2.3. \_\_\_\_\_ \$ \_\_\_\_\_ except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$5,750.00—, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. \_\_\_\_\_ Tax Allocation of Individual Class Payments. Ninety Percent (90%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The

Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Ten Percent (10%)The % of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for [e.g., interest and penalties] (the

3.2.5. “Non-Wage Portion”).”<sup>vi</sup> The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00)

3.2.7. (\$) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments.

3.2.5.1.3.2.7.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties \$5,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

#### **4. SETTLEMENT FUNDING AND PAYMENTS:-**

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate that the XYZ estimates there are Class Members who collectively worked a total of 6,900 Workweeks from October 6, 2019 through May 21, 2024, and the of Aggrieved Employees collectively who worked a total of 1,095 PAGA Pay Periods from October 6, 2022 through May 21, 2024.

4.2. Class Data. Not later than 20[e.g., 15] days after the Court grants Preliminary Approval of the Settlement, Defendants XYZ will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members’ privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have XYZ has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data

omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which DefendantsXYZ must send the Class Data\_



4.4.3. ~~\_\_\_\_\_~~ Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). ~~]. [or to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient") \_\_\_\_\_]. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.~~

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate DefendantsXYZ to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

**6.5. RELEASES OF CLAIMS:-** Effective on the date when DefendantsXYZ fully fundfunds the entire Gross Settlement Amount and fully fundfunds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, PlaintiffsPlaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.15.1 Plaintiffs' \_\_\_\_\_ Plaintiff's Release. PlaintiffsPlaintiff and theirhis or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences ~~[that occurred during the Class Period,];~~ including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the operative First AmendedOperative Complaint; and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the operative First Amended Complaint and Plaintiffs' PAGA Notice ("Plaintiffs' Release"). Plaintiffs also agree to release, in addition to the Released Class Claims and Released PAGA Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties for the time period October 6, 2019 through the date Plaintiffs execute this Agreement. Plaintiffs' Operative Complaint, Plaintiff's PAGA Notice, [or ascertained during the Action and released under 6.2, below]. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledgePlaintiff acknowledges that PlaintiffsPlaintiff may discover facts or law different from, or in addition to, the facts or law that PlaintiffsPlaintiff now knowknows or believebelieves to be true but agreeagrees, nonetheless, that Plaintiffs'Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. Notwithstanding the foregoing, the waiver and release in this Agreement does not apply to: (i) those rights as a matter of law that cannot be waived, including, but not limited to, workers' compensation claims; (ii) rights or claims arising out of this Agreement after this Agreement is executed by Plaintiffs; and (iii) rights or claims arising of this Agreement. The Agreement in no way affects Plaintiffs' entitlement and/or benefits to be received by Plaintiffs in workers' compensation pursuant to the jurisdiction of workers' compensation. Plaintiffs also agree to not request an exclusion from this settlement. Any Class Representative Service Payments approved by the Court will result in the issuance of a Form 1099 to the Class Representatives, who shall assume full responsibility and liability for the payment of taxes due on such award. Plaintiff's discovery of them.

6.1-15.1.1 Plaintiffs' ~~Plaintiff's~~ Waiver of Rights Under California Civil Code Section 1542. For purposes of ~~Plaintiffs' Plaintiff's~~ Release, ~~Plaintiffs~~Plaintiff expressly ~~waivewaives~~ and ~~relinquishrelinquishes~~ the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

6.25.2 ——— Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from ~~(+) all~~ claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the operative First Amended Operative Complaint ~~[and/or]~~ ascertained in the course of the Action and which occurred during the Class Period. The ] ~~[including, e.g., “(a) any and all~~ claims released include, without limitation: (1) involving any alleged failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized minimum wage statements; (5) failure to timely pay all wages upon separation of employment; (6) failure to reimburse necessary business expenses; and (9) unfair business practices in violation of Business and Professions Code section 17200, et seq. premised on the above claims; and violation of or liability under California Labor Code under sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1194, 1198, 2802 and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys’ fees and costs.;- etc.]. Except as set forth in Section 56.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

6.35.3 ——— Release by Non-Participating Class Members Who Are Aggrieved Employees: All ~~Non-Participating Class Members who are~~ Aggrieved Employees ~~are deemed to~~ release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the operative First Amended Operative Complaint ~~[,] [and/or]~~ the PAGA Notice ~~[and/or]~~ ascertained in the course of the Action and which occurred during the PAGA Period. The ] ~~[including, e.g., “(a) any and all~~ claims released include, without limitation: (1) involving any alleged failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized minimum wage statements; (5) failure to timely pay all wages upon separation of employment; (6) failure to reimburse necessary business expenses, and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys’ fees and costs.;- etc.].

**7.6. MOTION FOR PRELIMINARY APPROVAL**:- The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

7.16.1 Defendants’ Declarations—— XYZ’s Declaration in Support of Preliminary Approval. Within 5—— days of the full execution of this Agreement, Defendants XYZ will prepare and deliver to Class Counsel ~~a signed~~ Declarations Declaration from Defendants XYZ and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator, ~~and Cy Pres Recipient~~. In their Declarations, Defense Counsel and Defendants XYZ 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.



7.2 Plaintiffs'—Plaintiff's Responsibilities. PlaintiffsPlaintiff will prepare ~~and deliver to~~ ~~Defense Counsel~~ all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; ~~and/or the proposed Cy Pres~~; and the nature and extent of any financial relationship with PlaintiffsPlaintiff, Class Counsel or Defense Counsel; (v) a signed declaration\_

6.2 from Plaintiffs~~Plaintiff~~ confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, ~~[and/or]~~ the Administrator; ~~(vi-[and/or the proposed Cy Pres]; (v))~~ a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), operative First amended~~Operative~~ Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); ~~(vii-vi)~~ a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and ~~(vii-)~~ all facts relevant to any actual or potential conflict of interest with Class Members, and the Administrator, ~~and/or the Cy Pres Recipient~~. In their Declarations, Plaintiffs~~Plaintiff~~ and Class Counsel ~~Declaration~~ 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. Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Preliminary Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Preliminary Approval.

7.36.3 ——— Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60[30] days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

## **8.7.SETTLEMENT ADMINISTRATION:-**

8.1 ——— Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions

7.1 ——— to serve as the Administrator and verified that, as a condition of appointment, it ——— 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.

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

8.37.3 ——— 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.

8.47.4 Notice to Class Members.

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

8.4.27.4.2 ——— Using best efforts to perform as soon as possible, and in no event later than ~~[14]~~ days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice ~~[with Spanish translation, if applicable]~~ substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

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

8.4.57.4.5 ——— If the Administrator, DefendantXYZ or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after ~~[14] days after~~ receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

~~receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.~~

~~8.5.7.5~~ Requests for Exclusion (Opt-Outs).

~~8.5.17.5.1~~ 8.5.17.5.1 ——— Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than ~~[60]~~ days after the Administrator mails the Class Notice (plus an additional ~~[14]~~ days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

~~8.5.27.5.2~~ 8.5.27.5.2 ——— The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

~~8.5.3~~ 8.5.3 ——— Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs ~~56.2~~ and ~~5~~ 7.5.3 6.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

~~8.5.47.5.4~~ 8.5.47.5.4 ——— Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

~~6.4 of this Agreement and are eligible for an Individual PAGA Payment.~~

~~8.6~~ 8.6 ——— Challenges to Calculation of Workweeks. Each Class Member shall have ~~[60]~~ days after the Administrator mails the Class Notice (plus an additional ~~[14]~~ days for Class Members whose Class Notice is re-mailed) to challenge the number of Class

Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the \_

7.6 Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7.7 Objections to Settlement.

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

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

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

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

8.8.17.9 ——— Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service PaymentsPayment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

8.8.2 ——— Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their

7.9.1 validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

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

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

8.8.57.9.4 ——— Administrator’s Declaration. Not later than seven (7)~~[14]~~ days before the date by which Plaintiffs are~~Plaintiff is~~ required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

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



**9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE:** Based on its records, Defendant XYZ estimates that there were 48, as of the date of this Settlement Agreement, (1) there are \_\_\_\_\_ Class Members who worked a total of 6,900 and \_\_\_\_\_ Total Workweeks during the Class period of October 6, 2019 through May 21, 2024. and (2) there were \_\_\_\_\_ Aggrieved Employees who worked \_\_\_\_\_ Pay Periods during the PAGA Period.<sup>vii</sup>

**10.8. XYZ'S RIGHT TO WITHDRAW.** If the number of workweeks during the Class Period increases by more than 10% above 6,900 (*i.e.*, if there are 7,591 or more workweeks during the Class Period), Defendants agree to increase the Gross Settlement Amount on a proportional percentage basis (i.e., if there was a 11% increase valid Requests for Exclusion identified in the number workweeks during Exclusion List exceeds % \_\_\_\_\_ of the total of all Class Members, XYZ may, but is not obligated, elect to withdraw from the Class Period, Defendants would agree to increase the Gross Settlement Amount by 11%). ~~The Parties agree that, if XYZ withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, XYZ will remain responsible for paying all Settlement Administration Expenses incurred to that point. XYZ must notify Class Counsel and the Court of its election to withdraw not later than [seven] days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.~~

**11.9. MOTION FOR FINAL APPROVAL:** Not later than [16] court days before the calendared Final Approval Hearing, PlaintiffsPlaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). PlaintiffsPlaintiff shall provide drafts of these documents to Defense Counsel not later than [seven] days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

11.3 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 and/or Judgment, (ii) addressing\_

9.3 settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

11.59.5 **Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment.** If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

### 13.11. ADDITIONAL PROVISIONS:-

13.1**No Admission of Liability, Class Certification or Representative Manageability for Other Purposes.** This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by DefendantsXYZ that any of the allegations in the operative First AmendedOperative Complaint have merit or that Defendants haveXYZ-has any liability for any claims asserted; nor should it be intended or construed as an admission by PlaintiffsPlaintiff that Defendants'XYZ's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserveXYZ-reserves the right to contest certification of any class for any reasons, and Defendants reserveXYZ-reserves all available defenses to the claims in the Action, and Plaintiffs reservePlaintiff-reserves the right to move for class certification on any grounds available and to contest Defendants'XYZ's defenses. The Settlement, this Agreement and Parties'Parties' willingness to \_

11.1 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).

~~13.2~~ Confidentiality Prior to Preliminary Approval. ~~Plaintiffs~~ Plaintiff, Class Counsel, ~~DefendantsXYZ~~ and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

11.2 Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. ~~Plaintiffs~~ Plaintiff, Class Counsel, ~~DefendantsXYZ~~ and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

11.3 No Publicity. Plaintiffs and Plaintiffs' counsel agree not to publicize the Settlement. This provision shall not apply to the filing of any documents with the Court which are necessary to effectuate the Settlement, nor is it intended to interfere with or restrict: (1) the third-party administrator from distributing the notice packets and otherwise complying with its obligation to provide information to affected Class Members; or (2) the third-party administrator from posting any judgment on its website. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. This provision shall not apply to limit Plaintiffs and Class Counsel's ability to effectuate their duties to the Class Members or limit their ability to communicate with Class Members as contractually required to effectuate the terms of the Settlement Agreement as set forth herein.

~~13.3~~ 11.4 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

~~13.4~~ 11.5 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

~~13.5~~11.6 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs~~Plaintiff~~ and Defendants~~XYZ~~, 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.

~~13.6~~Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement 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.

11.7 the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

13.711.8 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.

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

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

13.1011.11 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

13.111.12 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.

13.1211.13 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.

13.1311.14 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.

13.1411.15 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by DefendantsXYZ 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. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, PlaintiffsPlaintiff shall destroy, all paper and electronic versions of Class Data received from DefendantsXYZ unless, prior to the Court's discharge of the Administrator's obligation, DefendantXYZ makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

~~13.15~~11.16 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.

~~13.16~~11.17 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.

~~13.17~~11.18 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 ~~Plaintiffs~~Plaintiff:

Scott M. Lidman  
Milan Moore  
Lidman Law, APC  
2155 Campus Drive, Suite 150  
El Segundo, California 90245  
Telephone: (424) 322-4772  
Facsimile: (424) 322-4775  
Email: [slidman@lidmanlaw.com](mailto:slidman@lidmanlaw.com)  
[mmoore@lidmanlaw.com](mailto:mmoore@lidmanlaw.com)

Paul K. Haines  
Haines Law Group, APC  
[phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)  
2155 Campus Drive, Suite 180  
El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355  
Email: [phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)

To Defendants:

~~XYZ:~~

Jennifer M. Misetich  
Ronald J. Arias  
Buchalter, A Professional Corporation  
1000 Wilshire Boulevard, Suite 1500  
Los Angeles, California 90017-1730  
Telephone: (213) 891-0700  
Facsimile: (213) 896-0400  
Email: [jmisetich@buchalter.com](mailto:jmisetich@buchalter.com)  
[rarias@buchalter.com](mailto:rarias@buchalter.com)

~~13.18~~11.19 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (*i.e.* DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

~~13.19~~11.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DATED: DEFENDANT L.A. PROPERTIES HEFFESSE LLC

\_\_\_\_\_  
By: \_\_\_\_\_  
\_\_\_\_\_  
Its: \_\_\_\_\_

DATED: DEFENDANT JOSEPH HEFFESSE

\_\_\_\_\_  
By: \_\_\_\_\_  
\_\_\_\_\_  
Defendant

DATED: PLAINTIFF GERARDO TORO

\_\_\_\_\_  
By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
For Plaintiff and Settlement Class Representative  
For XYZ

DATED: PLAINTIFF USMAN LOPEZ ESCOBAR

\_\_\_\_\_  
By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Counsel For Plaintiff and Settlement Class Representative  
Counsel For XYZ

**APPROVED AS TO FORM:**

DATED: \_\_\_\_\_  
BUCHALTER, A PROFESSIONAL CORPORATION

\_\_\_\_\_  
Jennifer M. Misetich

Attorney for Defendants



DATED: \_\_\_\_\_ HAINES LAW GROUP, APC \_\_\_\_\_

By: \_\_\_\_\_  
Paul K. Haines \_\_\_\_\_  
Attorneys for  
Plaintiffs \_\_\_\_\_

DATED: \_\_\_\_\_ LIDMAN LAW, APC \_\_\_\_\_

—  
By: \_\_\_\_\_  
Scott M. Lidman \_\_\_\_\_  
Attorneys for  
Plaintiffs \_\_\_\_\_

I

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

Gerardo Toro and Usman Lopez Escobar v. L.A. Properties Heffesse LLC, et al. Case No.  
23STCV26332

(case name and number)

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

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Defendants L.A. Properties Heffesse LLC and Joseph Heffesse (collectively, “Defendants”) (abbreviate name; “XYZ” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by employees Gerardo Toro and Usman Lopez Escobar (collectively, “Plaintiffs”) (former XYZ employee) (Plaintiff) and seeks payment of (1) unpaid overtime back wages, missed meal and rest period premiums, wage statement penalties, waiting time penalties, reimbursement of business expenses, and restitution under California Business and Professions Code section 17200 [and other relief] for a class of individuals who held the positions of maintenance, handyman, administrative, and/or who assist in business operations [e.g., hourly] employees (“Class Members”) who worked for Defendants XYZ during the period of October 6, 2019 through [insert date of preliminary approval] (“Class Period”); (to ) and also seeks (2) civil penalties under the California Private Attorney General Act (“PAGA”) for the same group of all [e.g., hourly] employees (“Aggrieved Employees”) who worked for Defendants XYZ during the period of October 6, 2022 through [insert date of preliminary approval] (“PAGA Period (to )”) (“Aggrieved Employees”).

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

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

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

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs~~Plaintiff~~ and Plaintiffs'~~Plaintiff's~~ attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants~~XYZ~~ to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants~~XYZ~~.

If you worked for Defendants~~XYZ~~ during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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

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

[DefendantsXYZ](#) will not retaliate against you for any actions you take with respect to the proposed Settlement.

#### SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

|                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                                                                                                                                                                                                        | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against <a href="#">DefendantsXYZ</a> that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is</b> <span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 150px; height: 1.2em; vertical-align: middle;"></span><br><hr/> <hr/>                         | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. <a href="#">DefendantsXYZ</a> must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |
| <b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b><br><br><b>Written Objections Must be Submitted by</b> <span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 150px; height: 1.2em; vertical-align: middle;"></span> | All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.                     |

|                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u><b>You Can Participate in the [REDACTED] Final Approval Hearing</b></u>                                                                            | <u>The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</u>                                                                                                             |
| <u><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b></u><br><br><u><b>Written Challenges Must be Submitted by [REDACTED]</b></u> | <u>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.</u> |

|                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u><b>You Can Participate in the [REDACTED] Final Approval Hearing</b></u>                                                                            | <u>The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</u>                                                                                                       |
| <u><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b></u><br><br><u><b>Written Challenges Must be Submitted by [REDACTED]</b></u> | <u>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to XYZ's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.</u> |

## 1. WHAT IS THE ACTION ABOUT?

Plaintiffs are individuals who worked for Defendants in maintenance/handyman positions and Plaintiff is a[n] [former] XYZ employee. The Action accuses Defendants XYZ of violating California labor laws by misclassifying them as exempt employees and failing to pay [e.g., overtime wages, failing to pay minimum wages, wages due upon termination, and reimbursable expenses] and failing to provide [e.g., meal periods and, rest breaks and pay meal and rest period premiums, failing to reimburse necessary business expenses, and failing to provide accurate itemized wage statements.]. Based on the same claims, Plaintiffs have Plaintiff has also asserted a claim for restitution under California Business and Professions Code section 17200 and a claim for

civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”). Plaintiffs are~~Plaintiff is~~ represented by attorneys in the Action: Scott M. Lidman and Milan Moore of Lidman Law, APC and Paul Haines of Haines Law Group, APC  
\_\_\_\_\_ (“Class Counsel.”)

Defendants deny~~XYZ strongly denies~~ violating any laws or failing to pay any wages and contend that they~~contends it~~ complied with all applicable laws.

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

So far, the Court has made no determination whether Defendants~~XYZ~~ or Plaintiffs are~~Plaintiff is~~ correct on the merits. In the meantime, Plaintiffs~~Plaintiff~~ and Defendants~~XYZ~~ hired \_\_\_\_\_ an experienced, neutral mediator—\_\_\_\_\_ ~~a retired judge~~

\_\_\_\_\_ \_\_\_\_\_ (describe alternative means of negotiation)  
in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs~~Plaintiff~~ and Defendants~~XYZ~~ have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do~~XYZ does~~ not admit any violations or concede the merit of any claims. Plaintiffs

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

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

1. DefendantsXYZ Will Pay \$500,000.00 —as the Gross Settlement Amount (Gross Settlement). Defendants haveXYZ has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service PaymentsPayment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, DefendantsXYZ will fund the Gross Settlement not more than thirty (30)[14] days after the Judgment entered by the Court becomesbecome final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, PlaintiffsPlaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$166,666.67 (1/3<sup>rd</sup> \_\_\_\_\_ (\_\_\_\_\_ % of the Gross Settlement)) to Class Counsel for attorneys’ fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$10,000.00 to each Plaintiff (for a total of \$20,000.00) — as a Class Representative Service PaymentsAward for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service PaymentsAward will be the only monies PlaintiffsPlaintiff will receive other than Plaintiffs’ Plaintiffs Individual Class Payment and any Individual PAGA PaymentsPayment.
  - C. Up to \$5,750.00 — to the Administrator for services administering the Settlement.
  - D. Up to \$20,000.00 — for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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



3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross \_

3. Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. ~~Plaintiffs~~Plaintiff and ~~Defendants~~XYZ are asking the Court to approve an allocation of 90%% of each Individual Class Payment to taxable wages (“Wage Portion”) and 10%% to ~~[e.g., interest and penalties, etc.]~~ (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. ~~Defendants~~[Option 1: (XYZ will separately pay employer payroll taxes it owes on the Wage  
Portion.)] The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

~~Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.~~

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

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

☐ ~~will be deposited with the California Controller's Unclaimed Property Fund in your name.~~

☐ ~~will irrevocably lost to you because they will be paid to a non-profit organization or foundation (“Cy Pres”).~~

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

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than                     , that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the        Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against DefendantsXYZ.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against [DefendantsXYZ](#) based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and DefendantsXYZ have agreed that, in either case, the Settlement will be void: DefendantsXYZ will not pay any money and Class Members will not release any claims against DefendantsXYZ.
8. Administrator. The Court has appointed a neutral company, Phoenix Class Action Administration Solutions
  8. — (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
  9. Participating Class Members’ Release. After the Judgment is final and Defendants haveXYZ has fully funded the Gross Settlement ~~[Option 1: (and separately paid all employer payroll taxes,)]~~, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against DefendantsXYZ or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Defendants and their respective former, current and future parent companies, subsidiaries, affiliates, shareholders, managers, members, agents, principals, heirs, representatives (including, without limitation, any investment bankers, accountants, auditors, consultants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns (“Released Parties”) from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the operative First Amended Complaint and/or ascertained in the course of the Action and which occurred during the Class Period. The claims released include, without limitation: (1) failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized wage statements; (5) failure to timely pay all wages upon separation of employment; (6) failure to reimburse necessary business expenses; and (7) unfair business practices in violation of Business and Professions Code section 17200, et seq. premised on the above claims; and violation of or liability under California Labor Code under sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1194, 1198,

2802 and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs. ~~Except as set forth in Section 5 Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.~~ <sup>viii</sup>

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and ~~Defendants have~~XYZ has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against ~~Defendants~~XYZ, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against ~~Defendants~~XYZ or ~~their~~its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees' Releases are as follows:

~~The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:~~

~~All Participating and Non-Participating Class Members who are~~ Aggrieved Employees ~~are deemed to~~ release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the ~~PAGA Period~~ facts stated in the ~~operative First Amended~~ Operative Complaint ~~[,] [and/or]~~ the PAGA Notice ~~[and/or]~~ ascertained in the course of the Action and which occurred during the PAGA Period. The ~~[[including, e.g., (a) any and all claims released include, without limitation: (1) involving any alleged failure to pay overtime wages; (2) failure to provide meal periods or provide premium wages in lieu thereof; (3) failure to provide rest periods or provide premium wages in lieu thereof; (4) failure to provide accurate, itemized minimum wage statements; (5) failure to timely pay all wages upon separation of employment, and (6) failure to reimburse necessary business expenses under Labor Code section 2802, and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs.; etc.]]~~

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' XYZ's records, are stated in the first page of this Notice. You have until                      to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' XYZ's calculation of Workweeks and/or Pay Periods based on Defendants' XYZ's records as accurate unless you send copies of records containing contrary information. You should send copies rather than

originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and [Defendants'XYZ's](#) Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

## **5. HOW WILL I GET PAID?**

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as "Gerardo Toro v. L.A. Properties Heffesse LLC", and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [redacted], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## **7. HOW DO I OBJECT TO THE SETTLEMENT?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what PlaintiffsPlaintiff and DefendantsXYZ are asking the Court to approve. At least 16 Court days before the [redacted] Final Approval Hearing, Class Counsel and/or PlaintiffsPlaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Class Representative Service PaymentsAward stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs arePlaintiff is requesting as a Class Representative Service PaymentsAward. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website (url) or the Court's website (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Class Representative Service PaymentsAward may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or PlaintiffsPlaintiff are too high or



too low. **The deadline for sending written objections to the Administrator is**  
\_\_\_\_\_. Be sure to tell the Administrator what  
you object to, why you object, and any facts that support your objection. Make sure you  
identify the Action [as Gerardo Toro v. L.A. Properties Heffesse LLC](#)– and include your  
name, current address,\_\_\_\_\_

telephone number, and approximate dates of employment for Defendants[XYZ] and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

## **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

You can, but don't have to, attend the Final Approval Hearing on \_\_\_\_\_ (date) at \_\_\_\_\_ (time) in Department SSC-17[7] of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, PlaintiffsPlaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>; <https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website \_\_\_\_\_ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything DefendantsXYZ and PlaintiffsPlaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to \_\_\_\_\_ (specify entity) \_\_\_\_\_'s website at \_\_\_\_\_ (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 23STCV26332 \_\_\_\_\_. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney:-

Email Address:-

Name of Firm:-

Mailing Address:-

Telephone:-

Scott M. Lidman  
Milan Moore  
Lidman Law, APC  
2155 Campus Drive, Suite 150  
El Segundo, California 90245  
Telephone: (424) 322-4772  
Facsimile: (424) 322-4775  
Email: [slidman@lidmanlaw.com](mailto:slidman@lidmanlaw.com)  
[mmoore@lidmanlaw.com](mailto:mmoore@lidmanlaw.com)

Paul K. Haines  
Haines Law Group, APC  
[phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)  
2155 Campus Drive, Suite 180  
El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355  
Email: [phaines@haineslawgroup.com](mailto:phaines@haineslawgroup.com)

Settlement Administrator:  
Name of Company:

Email Address:  
Mailing Address:  
Telephone:  
Fax Number:

## 10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void [you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds](#)

☐ ~~you should consult the Unclaimed Property Fund \_\_\_\_\_ for instructions on how to retrieve the funds~~

☐ ~~you will have no way to recover the money.~~

## 11. WHAT IF I CHANGE MY ADDRESS?

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

~~<sup>i</sup> This Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.~~

~~<sup>ii</sup> Whether the “date of preliminary approval” yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties’ *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount “represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation.” (*Luekey v. Superior Court* (2014) 228 Cal.App.4th 81, 94–95, internal quotation marks omitted.)~~

~~<sup>iii</sup> See endnote ii above.~~

~~<sup>iv</sup> The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.~~

~~<sup>v</sup> The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.~~

~~<sup>vi</sup> Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code Section 226(a) claim.)~~

~~<sup>vii</sup> Insert negotiated terms, if any, addressing the possibility that XYZ’s estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an “escalator” clause memorializing XYZ’s promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ’s estimates.~~

~~<sup>viii</sup> Releases in Notice should track the releases in the Settlement Agreement.~~