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BRYAN GONZALEZ PINEDA, and GABRIELLE BRISTOL
on behalf of themselves and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BAYARMAA G. SHANY, an individual;
BRYAN GONZALEZ PINEDA, an
individual, GABRIELLE BRISTOL, an
individual on behalf of themselves and others
similarly situated,

Plaintiff,

vs.

SAKS & COMPANY, LLC, a Delaware
limited liability company; SAKS OFF 5TH, a
California business entity, form unknown;
SAKS FIFTH AVENUE, LLC, a
Massachusetts limited liability company,
HUDSON'S BAY COMPANY, a California
business entity, form unknown; and DOES 1
through 50, inclusive,

Defendants.

Case No. 23STCV25980

CLASS ACTION

Assigned for all purposes to:

Hon. Elihu M. Berle
Department: 006

**DECLARATION OF MARTA MANUS IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: January 29, 2026
Time: 9:00 a.m.
Dept.: 6

Original Complaint filed: October 24, 2023
First Amended Complaint: December 21, 2023
Second Amended Complaint: August 6, 2024
Trial: None set

**DECLARATION OF MARTA MANUS IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

I, Marta Manus, declare:

1. I am an attorney licensed to practice before all courts of the State of California. I am counsel for the Plaintiff Lanisha Elder and have personal knowledge of the facts herein. If called as a witness, I could and would competently testify thereto.

I. PROCEDURAL HISTORY

2. On October 24, 2023, Plaintiff Bayarmaa G. Shany commenced this Action by filing a Complaint alleging causes of action for various violations of the California Labor Code. On December 21, 2023, Plaintiff Shany filed a First Amended Complaint ("FAC") for all causes of action in the initial complaint, adding a cause of action for civil penalties pursuant to the Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, and adding Plaintiff Bryan Gonzalez Pineda. On August 6, 2024, Plaintiffs Shany and Pineda filed a Second Amended Complaint ("SAC") for all causes of action in the initial complaint and the FAC adding a cause of action for failure to pay reporting time under 8 CCR § 11070(5) and adding Plaintiff Gabrielle Bristol. The SAC is the operative complaint in the Action (the "Operative Complaint"), and includes the following cause of action: 1) failure to pay minimum wages for all hours worked; 2) failure to pay wages and overtime under Labor Code § 510; 3) meal period liability under Labor Code § 226.7; 4) rest break liability under Labor Code § 226.7; 5) failure to pay reporting time under 8 CCR § 11070(5); 6) violation of Labor Code § 226(a); 7) violation of Labor Code § 221; 8) violation of Labor Code § 204; 9) violation of Labor Code § 203; 10) failure to maintain records required under Labor Code §§ 1174, 1174.5; 11) failure to produce requested employment records under Labor Code §§ 226, 1198.5; 12) failure to reimburse necessary business expenses under Labor Code § 2802; 13) violation of Business & Professions Code § 17200, *et seq.*; and 14) penalties under PAGA, Labor Code § 2698, *et seq.*

3. On October 24, 2023, Plaintiff Shany submitted a written notice to Defendant and the Labor and Workforce Development Agency (LWDA) to exhaust her remedies under PAGA, Labor Code § 2698, *et seq.* (LWDA-CM-989646-23). Attached hereto as **Exhibit 5** is Plaintiff's

1 letter to the LWDA. On December 21, 2023, Plaintiff Shany filed a First Amended Complaint
2 (“FAC”) for all causes of action in the initial complaint, adding a cause of action for civil
3 penalties pursuant to the Private Attorneys General Act (“PAGA”), Labor Code § 2698, *et seq.*,
4 and adding Plaintiff Bryan Gonzalez Pineda. That same day, Plaintiffs Shany and Pineda
5 submitted an amended PAGA notice letter to the LWDA and to Defendant to add exhaust
6 Plaintiff Pineda’s remedies under PAGA. Attached hereto as **Exhibit 6** is Plaintiffs Shany and
7 Pineda’s Amended letter to the LWDA. On August 6, 2024, Plaintiffs Shany and Pineda filed a
8 Second Amended Complaint (“SAC”) for all causes of action in the initial complaint and in the
9 FAC, adding a cause of action for failure to pay reporting time under 8 CCR § 11070(5) and
10 adding Plaintiff Gabrielle Bristol as a third named Plaintiff.

11 4. Plaintiffs contend in this Action that Defendant violated California’s wage and
12 hour laws by failing to pay all wages due, failing to pay all overtime wages, failing to provide all
13 meal periods and rest periods, failing to pay reporting time pay, failing to reimburse all business
14 expenses, failing to maintain accurate records, failing to provide compliant and accurate itemized
15 wage statements, failing to timely pay all wages due during and upon separation of employment,
16 and thereby also violating California Business & Professions Code sections 17200, *et seq.*, and
17 incurring penalties under PAGA.

18 5. On July 11, 2024, the Parties participated in a mediation presided over by
19 respected wage and hour mediator Lisa Klerman. Although the Parties did not reach a settlement
20 on the day of mediation, the Parties continued ongoing settlement negotiations and engaged in
21 further informal discovery. On November 25, 2025, the Parties participated in a second
22 mediation with mediator Lisa Klerman. As a result of the second mediation, the Parties were able
23 to reach a mutually agreeable resolution of the Action. The Parties executed the Settlement
24 Agreement on or about September 10, 2025.

25 **II. THE SETTLEMENT**

26 6. To settle the action, Defendant agrees to pay the Gross Settlement Amount of
27 \$2,200,000.00, exclusive of the employer’s portion of payroll taxes and fees. It will be an opt-out
28 class. There is no claim form requirement, and no residual will revert to Defendant. The

Settlement represents a fair and reasonable recovery. The Gross Settlement Amount represents approximately 37% of the total realistic exposure, which demonstrates that the settlement is fair and reasonable.

7. There are approximately 140,000 workweeks in the Class Period, resulting in a recovery of an estimated \$9.08 per workweek. Each Class Member will receive an average Individual Settlement Award of approximately \$470.98 (Net Settlement Amount of \$1,271,666.67 divided by 2,700 Class Members), with the highest estimated Individual Settlement Award of approximately \$1,225.80 (135 total weeks in the Class Period multiplied by \$9.08). Additional proposed disbursements are as follows:

Class Counsel Fees Payment	\$733,333.33 (1/3 of Gross Settlement Amount), subject to Court approval
Class Counsel Litigation Expenses Payment for actual expenses incurred in litigating the Action	Up to \$40,000.00, verified by Class Counsel and approved by the Court
Administration Expenses Payment	Not to exceed \$25,000.00
Class Representatives Enhancement Awards	\$10,000.00 per Plaintiff (i.e. \$30,000.00 total)
PAGA Penalties	\$100,000.00 (\$75,000.00 to LWDA; \$25,000.00 to Aggrieved Employees)

8. As detailed in the Settlement Agreement, the Parties have selected Rust Consulting, Inc. (the “Administrator”), an experienced class action settlement administrator, to administer this Settlement. Following preliminary approval, the Administrator will mail the Class Notice per the Settlement Agreement. The Parties respectfully request that this Court approve the Class Notice to be disseminated to the Class consistent with the manner and timing as set forth in this Memorandum and the Settlement Agreement.

9. To my knowledge, none of the parties or attorneys involved in this action has ever had any financial interest in or affiliation with the proposed Administrator.

10. As such, the Parties respectfully request that this Court appoint the proposed Administrator to handle the notice and claims administration procedures, including posting the

Judgment on its website.

III. SETTLEMENT DOCUMENTS

11. The Parties have finalized the terms of the following documents, true and correct copies of which are attached hereto:

a. Class Action And PAGA Settlement Agreement attached hereto as **Exhibit 1**;

b. Notice of Class Action Settlement attached to the Class Action and PAGA Settlement Agreement attached to the Class Action and PAGA Settlement Agreement (Exhibit 1 herein) as Exhibit A; and

c. [Proposed] Order Granting Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement filed concurrently with this motion.

12. Attached hereto as **Exhibit 2** is true and correct copy of the Declaration of Michael Sutherland on behalf of Apex Attached hereto as **Exhibit 3** is a true and correct copy of the confirmation of submission of this Motion and Settlement to the LWDA.

IV. CONDITIONAL CERTIFICATION OF THE CLASS FOR SETTLEMENT PURPOSES

13. The Class definition is sufficiently specific to enable potential Class Members and the Court to identify the Class Members, all of whom have indeed been identified by Defendant's employment and payroll records. There are approximately 2,700 Class Members, which is sufficient to satisfy numerosity requirements. The evidence to support the claims as to the Class consists of Defendant's policies, payroll records, time records and the forms of wage statements given to Defendant's non-exempt employees.

14. The Plaintiffs (i.e. the proposed Class Representatives) worked for Defendant as non-exempt employees under Defendant's uniform employment policies applicable to all non-exempt employees during the Class Period, defined as the period from August 26, 2022, until March 24, 2025. Plaintiffs were subject to the same policies as other Class Members. Accordingly, Plaintiffs' claims are typical of those of other Class Members. The Class Representatives have agreed to act as such and understands their responsibilities. The Class

Representatives have no claims or other interests that are antagonistic to the Class.

V. PRELIMINARY APPROVAL OF THE SETTLEMENT

15. The Settlement for each participating Class Member is fair, reasonable, and adequate given the inherent risk of litigation, the risk relative to trial, and the costs of litigation. The Settlement represents a fair and reasonable value of all claims. There is no claim form required so all Class Members will be paid unless they opt out, and there is no reversion to Defendant. Finally, the only governmental involvement in this case is the existence of a PAGA claim, and Plaintiff has notified the LWDA of this Settlement. (Ex. 3.) The Settlement Amount balanced against the merits of the Plaintiff's case is reasonable.

16. Here, the Settlement was reached through arm's-length negotiation with an experienced, highly regarded neutral mediator, Lisa Klerman. Before mediation, the Parties engaged in informal discovery. To prepare for the mediation, Defendant provided extensive documentation of its policies and practices and data related to the claims asserted in this case, including pay and time data for an approximately 68.2% sample including approximately 1,283 Class Members and other information necessary for Plaintiffs to create a damages exposure analysis. Plaintiffs hired an expert, Berger Consulting Group – Economic Data Analysts, to prepare damage calculations and an exposure analysis for the mediation. (Attached hereto as **Exhibit 4** is the Declaration of Jarrett Gorlick of Berger Consulting Group). The Parties agreed on the proposed Settlement after extensive negotiations that resulted in a mediator's proposal.

17. The Settlement here provides pro rata distribution to Class Members based upon the number of workweeks. Accordingly, the Settlement treats the Class Members equitably, and the proposed distribution plan supports preliminary approval.

18. The Settlement that has been reached, subject to this Court's approval, is the product of tremendous effort and a great deal of expense by the Parties and their Counsel. Class Counsel are knowledgeable about and have done extensive research with respect to the applicable law and potential defenses to the claims of the Class Members. The Parties investigated relevant law as applied to the facts of the case, potential defenses, and damages claimed by Plaintiffs on behalf of themselves, the Class, and the Aggrieved Employees.

1 19. Based on the documents and information provided by Defendant and their own
2 independent investigation and evaluation, Class Counsel and Plaintiffs are of the opinion that the
3 Settlement with Defendant for the consideration and on the terms set forth in this Settlement is
4 fair, reasonable, and adequate, and is in the best interest of the Class Members in light of all
5 known facts and circumstances, including the risk of significant delay and uncertainty associated
6 with litigation, various defenses asserted by Defendant, and numerous potential appellate issues.

7 20. The Gross Settlement Amount is, of course, a compromise figure. Plaintiffs
8 considered the risks of decertification, the risks related to proof of Plaintiffs' claims, and the
9 strengths and weaknesses of Defendant's defenses. Plaintiffs also considered the possibility that
10 if a settlement were reached after additional years of litigation, the great expenses of litigation
11 would reduce the amount of funds available to class members for settlement. Furthermore,
12 Plaintiff took into consideration the time delay and financial repercussions of liability trials,
13 numerous damages trials, and the possibility of an appeal by Defendant. The details for the
14 reasonably expected recovery per claim are detailed below in the following paragraphs.

15 21. **Failure to Pay All Wages Due to Off-the-Clock Work:**

16 *a. Facts*

17 Plaintiffs alleged that they and Class Members were permitted to begin work Defendant
18 required them to perform several minutes of off-the-clock work prior to clocking in. At times,
19 Plaintiffs would, at times, be required to wait several minutes for a manager to unlock the store's
20 doors and allow entry into the store to clock in. Employees were required to clock in using the
21 Workforce application on an electronic tablet in the basement, often having to wait in line for
22 several minute to clock in. The pre-shift waiting time was uncompensated.

23 At times, the Defendant's timekeeping system malfunctioned, not permitting employees
24 to log accurate clock in time. When managers allegedly corrected incorrect clock in times, the
25 start time was rounded and did not record the employees' actual hours worked, resulting in
26 unpaid hours worked. At the end of the shift, the managers would lock the store's door at closing
27 time. Plaintiffs and Class Members were required to submit to a bag check at the end of each
28 shift and after clocking out for meal periods to show they were not stealing any merchandise.

1 They were not permitted to leave until the bag check was complete, which meant they frequently
2 had to wait several minutes for the manager after clocking out to complete the bag check.

3 Plaintiffs also alleged that employees were also required to work or otherwise remain
4 under Defendants' control after their shift end times, including through after-hours work-related
5 communications such as calls and texts to customer clients as part of Employees' customer
6 assistance duties. As a result of the above-described practices, Plaintiffs and Class Members
7 were not paid for all hours worked.

8 *b. Law*

9 Labor Code §§ 510 and 1194 require employers to pay applicable wages for all hours
10 worked. "Hours worked" means the time during which an employee is subject to the control of
11 an employer and includes all the time during which the employee is suffered or permitted to
12 work, whether or not required to do so." (8 C.C.R. §11040(2)(K); *Morillion v. Royal Packing*
13 *Co.* (2000) 22 Cal.4th 575, 582.)

14 *c. Expected Recovery*

15 Plaintiffs estimated ten (10) minutes of unpaid time per shift (13.6% attributed to
16 overtime hours). Plaintiffs' expert multiplied the average hourly rate of pay for each year by the
17 number of shifts worked during each year in the liability period. The estimated total amount of
18 unpaid wages for off-the-clock work totaled \$1,459,076.00, excluding interest. The probability
19 of prevailing on this claim is approximately 10% because Defendant contended that Plaintiffs'
20 off-the-clock theory applied only to some Class Members. Additionally, proof of this claim
21 would depend largely on anecdotal evidence as there are no records of time worked off-the-
22 clock, and ultimately this claim may be determined to be too individualized for purposes of class
23 certification. Accounting for the risks, the real exposure for this claim is approximately
24 **\$145,907.60.**

25 **22. Failure to Pay Overtime Wages and Meal Premiums at the Legal Rate:**

26 *a. Facts*

27 Plaintiffs alleged that Defendant paid other forms of remuneration such as shift
28 differentials or bonuses which were not factored into the regular rate used to calculate overtime

1 wages. For example, Plaintiff Bristol was paid commissions for sales in addition to their hourly
2 rate. Additionally, to the extent Defendant paid meal premiums, Defendant is required to include
3 all forms of remuneration in the regular rate of compensation used to calculate and pay meal
4 premium wages. Thus, some overtime wages and meal premium payments were underpaid.

5 *b. Law*

6 “[A]n employee’s ‘regular rate of pay’ for purposes of Labor Code sections 510 and the
7 IWC wage orders is not the same as the employee’s straight time rate (i.e., his or her normal
8 hourly wage rate).” (*Alvarado v. Dart Container Corp. of California* (2018) 4 Cal.5th 542, 554.)
9 Instead, the regular rate of pay must include “adjustments to the straight time rate, reflecting,
10 among other things, shift differentials and the per-hour value of any non-hourly compensation
11 the employee has earned,” such as incentive pay. (*Ibid.*) Earned bonuses must be included in the
12 calculation of the regular rate of pay. (*Marin v. Costco Wholesale Corp.* (2008) 169 Cal.App.4th
13 804, 807 [holding that bonus must be included in overtime rate calculation]; 29 U.S.C. § 207(e)
14 [regular rate includes “all remuneration for employment paid to, or on behalf of, the
15 employee”].)

16 *c. Expected Recovery*

17 The data provided by Defendant showed underpaid overtime wages equal to
18 approximately \$10,721.00, excluding interest, and underpaid meal premiums equal to
19 \$17,102.00, excluding interest, for a total exposure of **\$27,823.00**. Plaintiff did not apply any
20 discount to this claim because proof of this violation is based on the pay records.

21 **23. Failure to Provide All Meal Periods:**

22 *a. Facts*

23 Plaintiffs alleged that Defendant failed to provide Plaintiffs and Class Members with all
24 required first and second meal periods. Plaintiffs and Class members were required to undergo
25 bag checks before and after meal breaks, which led to meal breaks being short. Defendant
26 required Plaintiffs and Class Members to prioritize customer service, resulting in interrupted and
27 late meal breaks. Plaintiffs and Class Members would be subject to disciplinary action if facially
28 compliant meal breaks were not recorded. However, due to the demands of the job, Plaintiffs and

1 Class Members were required to assist customers, which would at times, result in Plaintiffs and
2 Class Members clocking out for meal breaks and continuing to assist customers to avoid being
3 subject to discipline for a missed meal break. Some employees, including Plaintiff Shany, were
4 required to monitor walkie-talkies during meal and rest breaks and respond to customer and
5 management demands. To the extent that Plaintiffs and Class Members worked shifts of greater
6 than ten hours, they were not provided with a second, off-duty meal period. Defendant's records
7 show an 18.7% violation rate net of meal period premiums.

8 *b. Law*

9 Employers must generally provide "a first meal period [of at least 30 minutes] no later
10 than the end of an employee's fifth hour of work, and a second meal period [of at least 30
11 minutes] no later than the end of an employee's 10th hour of work." (*Brinker v. Superior Court*
12 (2012) 53 Cal.4th 1004, 1041.)

13 *c. Expected Recovery*

14 Plaintiff's damages analysis determined that Class Members' maximum recovery was
15 approximately \$1,543,723.00 for unique meal period violations, with an offset for meal
16 premiums paid by Defendant (\$654,167.00).

17 Defendant contended that employees were provided with the opportunity to take all meal
18 periods, and if they did not do so, it was purely voluntary. Defendant argued that under
19 California law, employers do not have a duty to ensure that employees take all meal periods, so
20 long as they provide meal periods and do not inhibit employees from taking all compliant meal
21 periods. Further, Defendant paid meal period premiums for some facial violations. Accordingly,
22 the realistic recovery for the meal period is approximately 40%. As a result, the reasonable value
23 is estimated to be approximately **\$617,489.00**.

24 **24. Failure to Authorize and Permit All Rest Periods:**

25 *a. Facts*

26 For the same reasons as detailed above, Plaintiffs alleged that Plaintiffs and Class
27 Members were not provided with all duty-free rest periods.

28 *b. Law*

1 “Employees are entitled to 10 minutes’ rest for shifts from three and one-half to six
2 hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts
3 of more than 10 hours up to 14 hours, and so on.” (*Brinker Restaurant Corp. v. Superior Court*
4 (2012) 53 Cal.4th 1004, 1029.) The applicable wage order imposes a similar obligation, and
5 states that rest breaks must occur in the middle of each work period, insofar as is practicable. (8
6 C.C.R. § 11040(12).)

7 *c. Expected Recovery*

8 Plaintiffs’ damages analysis assumed a 100% violation rate on shifts of 3.5 or more hours
9 for an estimated maximum recovery is approximately \$14,401,887.00 in unpaid rest period
10 premiums. Defendant contended that Class Members were permitted all required breaks and
11 were not discouraged or prevented from taking their rest breaks. Because no records reflect
12 whether the Class Members took rest breaks, the probability of prevailing on this claim was
13 approximately 10%. As such, the adjusted realistic exposure for this claim is approximately
14 **\$1,440,188.70.**

15 **25. Failure to Pay Sick Leave at the Legal Pay Rate:**

16 *a. Facts*

17 Defendants failed to properly compensate Class Members’ sick leave at their regular rate
18 of pay based on the additional compensation as addressed above.

19 *b. Law*

20 The regular rate must include all remuneration in its calculation, including
21 nondiscretionary bonuses. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 863.)

22 *c. Expected Recovery*

23 Based on the data provided by Defendant, Plaintiffs’ expert calculated the total exposure
24 for this claim at **\$493.00.**

25 **26. Failure to Fully Reimburse All Work-Related Business Expenses:**

26 *a. Facts*

27 Plaintiffs and Class Members used their personal cell phones for work-related calls and
28 text messages, without reimbursement by Defendant. Plaintiff Pineda would use his personal cell

1 phone to take pictures of shoplifters and upload them to the case file on an application on phone.
2 Plaintiff used her personal cell phone to coordinate food delivery with vendors. All Class
3 Members interviewed reported using their personal cell phones for work-related purposes.
4 Defendant did not reimburse Class Members for the work-related use of their phones.

5 *b. Law*

6 Labor Code § 2802 states that “[a]n employer shall indemnify his or her employee for all
7 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
8 of his or her duties.” This section “is designed to prevent employers from passing their operating
9 expenses on to their employees.” (*Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554,
10 562.)

11 *c. Expected Recovery*

12 Due to the speculative nature of potential unpaid expenses due to the use of personal cell
13 phones, and individual Class Members’ experiences, Plaintiffs’ expert did not calculate
14 estimated damages for this claim due.

15 **27. Failure To Provide Compliant Wage Statements:**

16 *a. Facts*

17 Plaintiffs alleged that Defendant issued improper wage statements to Plaintiffs and Class
18 Members because Defendant’s wage statements did not always contain all requisite information,
19 including but not limited to all applicable hourly rates in effect during the pay period and the
20 corresponding number of hours worked at each hourly rate by the employee.

21 In addition to the independent violations, if Plaintiffs prevail on any of the underlying
22 claims, she will prevail on the derivative Labor Code § 226 claim. Because of Defendant’s
23 illegal wage and hour policies as set forth above, all wages earned, and all hours worked were
24 not accurately reflected on Class Members’ wage statements.

25 *b. Law*

26 Labor Code § 226(a) requires every employer, semimonthly or at the time of each
27 payment of wages, to furnish each of its employees an accurate itemized statement in writing
28 showing, among other things, total hours worked by the employee, all applicable hourly rates in

effect during each pay period and the corresponding number of hours worked at each hourly rate.

c. Expected Recovery

Plaintiff's damages analysis estimated that the maximum recovery for this claim was approximately \$4,243,400.00 for the one-year statutory period, which included approximately 1,092 Class Members. However, Plaintiffs must prove intentional violations to prevail. Further, this is a penalty and not a wage loss, and courts rarely grant the full amount of the penalty. Based on these risks, the realistic exposure for this claim is approximately 10% of the maximum, for a total expected recovery of **\$424,340.00**.

28. Failure to Pay all Wages Due Upon Separation – Labor Code § 203:

a. Facts

If Plaintiffs prevail on any of the underlying wage claims, he will prevail on the derivative Labor Code § 203 claim, because Defendant has not paid all wages and penalties because of these alleged violations. A total of 1,341 Class Members separated employment during the statutory three-year period applicable to this claim.

b. Law

Under Labor Code § 203, the Class Members who are no longer employed by Defendant are entitled to 30 days of waiting time penalties because Defendant did not pay them all wages due and/or related penalties upon separation.

c. Expected Recovery

Based on average hourly rates, the 30-day maximum waiting time penalties are approximately \$5,554,137.00. Plaintiff has around a 10% chance of prevailing at the time of trial on this claim as it is simply derivative of the underlying claims, and Plaintiff must prove this is a "willful" violation to prevail. Furthermore, trial judges rarely if ever grant the full amount of the penalty on top of wages owed. Finally, there are the general risks of trial. As such, the realistic maximum exposure for this claim was approximately **\$555,413.70**.

29. Regarding the claim for violations of Business & Professions Code section 17200, *et. seq.*, the forgoing analysis assumes the longer four-year statute of limitations that is available under the UCL for the unpaid wage and break violations. This cause of action is derivative of the

1 other claims that have already been analyzed. Accordingly, the damages available under this
2 cause of action have already been analyzed or are duplicative of damages discussed above.

3 30. Regarding the claim for violations of the Private Attorneys General Act (PAGA),
4 the maximum potential exposure is \$14,029,500.00 using the initial violation rate of \$100 per
5 pay period per alleged violation. The strength of the PAGA claim would be impacted by the
6 factors discussed above for the non-PAGA claims. Based on recent PAGA decisions, even if
7 Plaintiff was successful on this claim through trial, the Court would likely exercise its discretion
8 under PAGA and significantly reduce the penalties and would also not impose PAGA penalties
9 on top of Cal. Labor Code § 226 and 203 penalties. Thus, the PAGA penalties were reduced by
10 80% for a realistic exposure of a total of **\$2,805,900.00** in PAGA penalties. Given the
11 discretionary nature of PAGA penalties and the need to prove each underlying violation, the
12 \$100,000.00 that the parties allocated to PAGA Penalties is a reasonable settlement of that claim.
13 Of this amount, 25%, or \$25,000.00, will be distributed to Aggrieved Employees.

14 31. The proposed PAGA Penalties portion of the Settlement is both just and in the
15 public's interest. The Parties believe and agree that the Settlement provides for a fair, adequate,
16 and reasonable resolution of the representative PAGA claim. The Parties also believe that the
17 proposed Settlement is to the advantage of the State of California and the Aggrieved Employees
18 when considering the time and expense necessary to complete protracted litigation which,
19 regardless of the verdict, would undoubtedly be subject to further significant delay and expense
20 pending possible appeals. Moreover, the Settlement provides a substantial sum to the State. It
21 also provides a small sum to each Aggrieved Employee on a pro-rata basis based on the number
22 of PAGA Pay Periods they worked during the PAGA Period (defined as the period from October
23 24, 2022, through March 24, 2025.) There are approximately 1,204 Aggrieved Employees who
24 worked a total of approximately 77,044 PAGA Pay Periods.

25 32. Based upon the foregoing, this case had a reasonable value of approximately
26 **\$3,211,655.00** for the underlying Labor Code claims. After considering the sharply disputed
27 factual and legal issues involved in the lawsuit, the risks attending further prosecution, and the
28 substantial benefits to be received under the compromise and settlement of the action, Class

Counsel are of the opinion that settlement is in the best interests of the Class and is fair and reasonable. Accordingly, the Gross Settlement Amount of \$2,200,000.00 represents approximately **69%** of the maximum potential value of the underlying Labor Code claims (valued at \$3,211,655.00) and approximately **37%** of the overall value including PAGA penalties (total case value of \$6,017,555.00 (\$3,211,655.00+\$2,805,900.00), which is an exceptional result.

33. After analyzing and weighing the evidence discussed above as well as the legal issues, Class Counsel and Plaintiffs concluded that the settlement of \$2,200,000.00 represents a fair and reasonable discount from the realistic recovery. The Settlement will allow the parties to avoid the expense and time commitments of continued litigation and provides a significant benefit for the Class which would not otherwise have been available. The Gross Settlement Amount of \$2,200,000.00 is a fair, reasonable, and adequate settlement for the claims at issue.

VI. THE NOTICE PROCEDURE SHOULD BE APPROVED.

34. The Class Notice provides proper notice to the Class of the terms of the Settlement Agreement and the options available to the Class, including the ability of the Class Members to Opt-Out or submit a Request for Exclusion from the non-PAGA portion of the Settlement and not be bound by the non-PAGA portion of the Settlement Agreement or receive any Individual Class Payment under it; to object to the terms of the Settlement; or to do nothing and receive a Settlement Payment and be bound by the terms of the Settlement; the date of the Final Approval Hearing, and how to obtain further information through Class Counsel, the Administrator's website, or the Court's docket.

35. Class Members will receive separate checks for the class portion and PAGA portion, respectively.

36. Plaintiffs respectfully requests that the Court approve the Class Notice agreed to by the parties.

VII. ATTORNEYS' EXPERIENCE

37. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases, including class actions and PAGA actions on behalf of employees and others who have had their

rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiffs' counsel of record in numerous wage and hour and employment class action and PAGA action cases pending in both state and federal court.

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

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

1 Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v.
2 The Claremont Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau v.
3 PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra
4 Costa MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area Beverage Company (Superior
5 Court of the State of California, County of Contra Costa, MSC18-00859), Roach v. Westcare
6 California, Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), Patton v.
7 Church & Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), Juarez v.
8 ISL Employees, Inc. (Superior Court of California in Madera, MCV074787), Ferraro v. USC
9 Verdugo Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), Ford
10 v. Account Control Technology, Inc., et al. (Superior Court of California in Los Angeles,
11 19STCV09369), Ornelas v. iStorage, et al. (Superior Court of California in San Francisco, CGC-
12 18-571421), Martinez v. Ronpak, Inc. (Superior Court of California in Riverside, RIC1901307),
13 Barrera et al. v. Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687),
14 Barajas v. Mancha Development Company LLC (Superior Court of California in Orange County,
15 30-2018-00974707-CU-OE-CXC), Prado v. IMAX Corporation dba IMAC Worldwide Home
16 (Superior Court of California in San Bernardino, CIVDS1820265), Rodriguez v. ND Industries,
17 Inc. (Superior Court of California in Los Angeles, 19STCV38096), Singletary v. Motel 6
18 Operating LP, et al. (Southern District of California, 3:20-cv-0270-LAB-AHG), Quizon v. CF
19 Watsonville East, LLC, et al. (Superior Court of California in Santa Cruz, 20CV01868),
20 Stephenson v. Bakersfield Dodge, Inc. (Superior Court of California in Kern, BCV-20-102693),
21 Bacerra v. Hugo Boss Retail, Inc. (Superior Court of California in San Diego, 37-2021-00002933-
22 CU-OE-CTL), Walker v. Ariat International, Inc. (Superior Court of California in Alameda,
23 HG19026439), Orr v. Petvet Care Centers (California) Inc. (Superior Court of California in Santa
24 Clara, 19CV354063), Jimenez v. OEC Distribution Services, Inc. (Superior Court of California in
25 San Bernardino, CIVDS1915743), Virdi v. Absolute Security International (Superior Court of
26 California in San Bernardino, CIVDS 1909589), Raj v. First Transit, Inc (Superior Court of
27 California in Sacramento, 34-2021-00295895-CU-OE-GDS), Marchbanks v. Torrid
28 Administration, Inc. (Superior Court of California in San Diego, 37-2020-00008179-CU-OE-NC),

1 among others.

2 40. Gregg Lander is the Litigation Manager for D.Law, Inc.'s West Los Angeles
3 office and worked on this matter. Mr. Lander graduated from Texas A&M University in 1989
4 with a Bachelor of Business Administration degree in Marketing. In 1997, Mr. Lander graduated
5 from California Western School of Law in San Diego and was admitted to the California Bar the
6 same year. In October 2001, Mr. Lander joined the Law Offices of Kevin T. Barnes. In or about
7 2004, Mr. Barnes transitioned our firm completely to class and representative action cases and
8 since then, Mr. Lander has worked almost exclusively on complex wage and hour matters.
9 Thereafter, until 2023, Mr. Barnes and Mr. Lander litigated hundreds of wage and hour cases,
10 usually to settlement, sometimes after class certification, and occasionally including appellate
11 review.

12 41. I am a 2008 California Western School of Law graduate and was admitted to the
13 California State Bar in December 2008. Since graduating from law school, I have dedicated my
14 entire career to litigating employment class and PAGA actions. I have litigated and settled
15 hundreds of wage and hour class actions and have obtained numerous six and seven figure
16 settlements. As such, I have significant experience specifically working on wage and hour class
17 actions from the plaintiff's side.

18 42. The collective experience of the D.Law attorneys in litigating employment wage
19 and hour matters has been integral in identifying legal issues, evaluating the strengths and
20 weaknesses of a case, and generally negotiating fair and reasonable class and representative action
21 settlements. Practice in the narrow field of wage and hour litigation requires skill and knowledge
22 concerning the constantly evolving substantive law (state and federal), as well as the procedural
23 law of class and representative action litigation. In this action, the attorneys at D.Law are fully
24 equipped to use the skills and knowledge developed over decades of prosecuting and defending
25 wage and hour class actions to fairly and adequately represent the interests of the Class Members
26 and aggrieved employees. Therefore, based on our resources, experience, and knowledge, the
27 attorneys at D.Law are well-qualified to act as class counsel and represent the Plaintiff and the
28 putative Class Members and aggrieved employees in this action.

1 43. We understand the responsibilities owed as counsel to the Settlement Class
2 Members and aggrieved employees we represent. The attorneys at D.Law thoroughly investigated
3 the claims asserted in this action and have remained committed to dedicating the resources
4 necessary to represent the Class and vigorously pursue their claims. Based upon my experience and
5 understanding of the claims and defenses in this action, I believe the settlement is fair, adequate,
6 and reasonable for the Class Members and aggrieved employees and all involved, and that the
7 Settlement is well within the range of reasonableness that would permit it to be finally approved. I
8 am not aware of any conflict of interest with Plaintiffs or any other Class Member that would
9 interfere with the duties as Class Counsel.

10 **VIII. THE CLASS REPRESENTATIVES' ENHANCEMENT AWARDS**

11 44. Under the Settlement, the Class Representatives will each request an enhancement
12 award of \$10,000 (total of \$30,000) for their service to the Class. (Ex. 1, p. 4). Plaintiffs each spent
13 a significant amount of time with Class Counsel detailing their knowledge of Defendant's
14 practices. Plaintiffs have diligently, adequately, and fairly represented the Class Members, and
15 has not placed their interests above any member of the putative Class. This sort of payment to a
16 Class representative has been a common feature of settlements negotiated by Class Counsel and
17 routinely approved by courts.

18 **IX. THE STIPULATED AWARD OF ATTORNEYS' FEES AND COSTS**

19 45. Under the Settlement, Class Counsel will request, without opposition from
20 Defendants, an award of Attorneys' Fees and Costs consisting of: Ninety-Eight Thousand Three
21 Hundred Thirty-Three Dollars and Thirty-Three Cents (\$733,333.33), one-third of the Gross
22 Settlement Amount, and actual reasonable litigation costs incurred for reimbursement of actual
23 reasonable litigation costs. This request is fair, reasonable, and adequate to compensate Class
24 Counsel for the substantial work they have put into this case and, moreover, the risk they assumed
25 by taking it in the first place. The attorneys' fees award is intended to reimburse Class Counsel for
26 all uncompensated work that they have already done and for all the work they will continue to do
27 in carrying out and overseeing the notification to Class Members, communicating with Class
28 Members regarding their claims, and assisting in the administration of the settlement if it is

1 preliminarily approved. At the time of filing the Motion for Final Approval of Settlement and
2 Attorneys' Fees and Costs, Plaintiffs will submit detailed time records and invoices supporting the
3 request for attorneys' fees and litigation costs. Defendant will not oppose Class Counsel's fees and
4 cost request.

5 **VIII. THE PRESENCE OF A GOVERNMENTAL PARTICIPANT**

6 46. Class Counsel will be submitting the Settlement Agreement to the LWDA
7 concurrently with the filing of this motion pursuant to Labor Code § 2699(1)(2). On the date of
8 the date of filing the Motion for Preliminary Approval, Plaintiffs submitted the Motion to the
9 LWDA. Attached hereto as **Exhibit 3** is the LWDA confirmation.

10 I declare under penalty of perjury under the laws of the State of California and the United
11 States of America that the foregoing is true and correct.

12 Executed on October 1, 2025, at San Diego, California.

13
14 
15 Marta Manus, Esq.

EXHIBIT 1

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on behalf of themselves and all others similarly situated

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Attorney for Defendants SAKS & COMPANY, LLC,
and SAKS FIFTH AVENUE, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BAYARMAA G. SHANY, an individual;
BRYAN GONZALEZ PINEDA, an
individual, GABRIELLE BRISTOL, an
individual on behalf of themselves and
others similarly situated,

Plaintiffs,

vs.

SAKS & COMPANY, LLC, a Delaware
limited liability company; SAKS OFF 5TH,
a California business entity, form unknown;
SAKS FIFTH AVENUE, LLC, a
Massachusetts limited liability company,
HUDSON'S BAY COMPANY, a California
business entity, form unknown; and DOES 1
through 50, inclusive,

Case No.: 23STCV25980

CLASS ACTION

Assigned for All Purposes To:

Hon. Elihu M. Berle

Dept.: SS6

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT**

Original Complaint:	October 24, 2023
First Amended Complaint:	December 21, 2023
Second Amended Complaint:	August 6, 2024
Trial Date:	none set

Defendants.

1 This “Class Action and PAGA Settlement Agreement” (“Agreement”) is made by and
2 between plaintiffs BAYARMAA G. SHANY, BRYAN GONZALEZ PINEDA, and GABRIELLE
3 BRISTOL (hereinafter “Plaintiffs”), and SAKS & COMPANY, LLC and SAKS FIFTH AVENUE,
4 LLC (“Defendants”). The Agreement refers to Plaintiffs and Defendant collectively as “the Parties,”
5 or individually as “Party.”

6 **A. DEFINITIONS.**

7 1. “Action” means Plaintiffs’ lawsuit alleging wage and hour violations captioned *Shany,*
8 *Gonzalez Pineda, Bristol v. Saks & Company, LLC et al.* action, Los Angeles County Superior Court
9 Case No. 23STCV25980, filed on October 24, 2023; First Amended Complaint filed on December
10 21, 2023, and Second Amended Complaint filed on August 6, 2024, in Los Angeles County Superior
11 Court.

12 2. “Administrator” means Apex Class Action Administrators, and (“Apex”) is the neutral
13 entity the Parties have agreed to appoint to administer the Settlement.

14 3. “Administration Costs” means the amount the Administrator will be paid from the
15 Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
16 Administrator’s “not to exceed” bid the parties have received from Apex for \$25,000.00.

17 4. “Aggrieved Employee” means all non-exempt employees who worked for Saks &
18 Company LLC in the State of California at any time during the PAGA Period (i.e., the period from
19 October 24, 2022, through March 24, 2025).

20 5. “Class” means all current and former non-exempt employees who worked for Saks &
21 Company LLC d/b/a Saks OFF 5TH in the State of California at any time during the Class Period
22 and/or for Saks & Company LLC d/b/a SFA from August 26, 2022, until March 24, 2025.

23 6. “Class Counsel” means Emil Davtyan, David Yeremian, Alvin B. Lindsay, Enoch J.
24 Kim, Marta Manus, and the other attorneys of D.Law, Inc.

25 7. “Class Counsel Fees Payment” means an award of attorneys’ fees granted to Class
26 Counsel and paid from the Gross Settlement Amount. The Parties have agreed Plaintiffs will request
27 approval from the Court of up to one-third of the Gross Settlement Amount, i.e., up to \$733,333.33.

28 8. “Class Counsel Litigation Expenses Payment” means the amount allocated from the

1 Gross Settlement Amount to Class Counsel for reimbursement of reasonable expenses and costs
2 incurred in the Action, which is currently estimated not to exceed \$40,000.00, to be paid as approved
3 by the Court.

4 9. "Class Data" means Class Member identifying information in Defendant's possession
5 including the Class Member's name, last-known mailing address, email address, telephone number,
6 Social Security number, hire dates, and termination dates.

7 10. "Class Member" means a member of the Class, as either a Participating Class Member
8 or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as
9 an Aggrieved Employee).

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

14 12. "Class Notice" means the Court approved notice of settlement and hearing date for
15 Final Approval, with a Spanish translation if the parties deem necessary, to be mailed to Class
16 Members and incorporated by reference into this Agreement.

17 13. "Class Period" means the period from October 24, 2019, through March 24, 2025.

18 14. "Class Representative" means the named Plaintiffs Bayarmaa G. Shany, Bryan
19 Gonzalez Pineda, and Gabrielle Bristol, in the Action seeking Court approval to serve as Class
20 Representatives.

21 15. "Class Representative Enhancement Award" means the payment to the Class
22 Representatives for initiating the Action and providing services in support of the Action, and
23 Defendant agreed not to object to a requested Enhancement Award of up to \$10,000.00 per Plaintiff
24 (i.e. \$30,000.00 total) subject to Court approval.

25 16. "Court" means the Superior Court of California, County of Los Angeles.

26 17. "Defendant" means named Defendant Saks and Company, LLC.

27 18. "Defense Counsel" means Lonnie D. Giamela, Vana Ebrahimi, and Rima A. Sahakyan
28 of Fisher & Phillips LLP.

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

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

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

11 22. “Gross Settlement Amount” means Two Million Two Hundred Thousand Dollars and
12 Zero Cents (\$2,200,000.00), which is the total amount Defendant agrees to pay under the Settlement,
13 except as provided in Paragraph H below.

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

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

20 25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

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

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

25 28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
26 payments in the amounts approved by the Court: PAGA Penalties, Class Representative
27 Enhancement Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment,
28 and the Administration Costs. The remainder is to be paid to Participating Class Members as

Individual Class Payments.

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.

30. “Operative Complaint” means the operative “Second Amended Complaint” filed in the Action on August 6, 2024.

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

32. “PAGA Period” means the period from October 24, 2022, through March 24, 2025.

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

34. “PAGA Notices” means Plaintiff Bayarmma G. Shany’s October 24, 2023, letter to LWDA, December 21, 2023, amended letter to the LWDA, April 29, 2024, amended letter to the LWDA (LWDA Case No. LWDA-CM-989646-23), and the Defendants providing notice pursuant to Labor Code section 2699.3, subd.(a).

35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$100,000.00), allocated 25% to the Aggrieved Employees (\$25,000.00) and 75% to LWDA (\$75,000.00) in settlement of PAGA claims.

36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement.

37. “Plaintiffs” means Bayarmma G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol, the named plaintiffs in the Action.

38. “Preliminary Approval” means the Court’s order granting preliminary approval of the Settlement.

39. “Release Effective Date” means the date the Participating Class Members and Aggrieved Employees effectively release all claims against the Released Parties. For the Participating Class Members and Aggrieved Employees, the Release Effective Date occurs on the date both of the following have occurred: (1) the Effective Date has occurred, and (2) Defendant has fully funded the Gross Settlement Amount.

40. “Released Class Claims” means the class claims being released on the Release

Effective Date and as described in Paragraph 64 below.

41. “Released PAGA Claims” means the PAGA claims being released on the Release Effective Date as described in Paragraph 65 below.

42. “Released Parties” means: Defendant and each of its past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, service providers, joint venturers, joint employers, co-employers, dual employers, alleged joint employers, alleged co-employers, alleged dual employers, affiliates, alter-egos, and affiliated organizations, and all of their respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, and assigns.

43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class portion of the Settlement signed by the Class Member.

44. “Response Deadline” means forty-five (45) days after the Administrator mails Class 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 Class portion of the Settlement, or (b) fax, email, or mail their objection to the Settlement. Class Members to whom Class Notice is resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond when the Response Deadline has expired to provide an appropriate response.

45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

46. “Workweek” means any week during which a Class Member worked for Defendant for at least a portion of one day, during the Class Period.

B. RECITALS.

47. On October 24, 2023, Plaintiff Bayarmaa G. Shany commenced this Action by filing a Complaint alleging causes of action for various violations of the California Labor Code. On December 21, 2023, Plaintiff Shany filed a First Amended Complaint (“FAC”) for all causes of

1 action in the initial complaint, adding a cause of action for civil penalties pursuant to the Private
2 Attorneys General Act (“PAGA”), Labor Code § 2698, *et seq.*, and adding Plaintiff Bryan Gonzalez
3 Pineda. On August 6, 2024, Plaintiffs Shany and Pineda filed a Second Amended Complaint
4 (“SAC”) for all causes of action in the initial complaint and the FAC adding a cause of action for
5 failure to pay reporting time under 8 CCR § 11070(5) and adding Plaintiff Gabrielle Bristol. The
6 SAC is the operative complaint in the Action (the “Operative Complaint”), and includes the
7 following cause of action: 1) failure to pay minimum wages for all hours worked; 2) failure to pay
8 wages and overtime under Labor Code § 510; 3) meal period liability under Labor Code § 226.7; 4)
9 rest break liability under Labor Code § 226.7; 5) failure to pay reporting time under 8 CCR §
10 11070(5); 6) violation of Labor Code § 226(a); 7) violation of Labor Code § 221; 8) violation of
11 Labor Code § 204; 9) violation of Labor Code § 203; 10) failure to maintain records required under
12 Labor Code §§ 1174, 1174.5; 11) failure to produce requested employment records under Labor
13 Code §§ 226, 1198.5; 12) failure to reimburse necessary business expenses under Labor Code §
14 2802; 13) violation of Business & Professions Code § 17200, *et seq.*; and 14) penalties under PAGA,
15 Labor Code § 2698, *et seq.*

16 48. Defendant denies the allegations in the Operative Complaint and PAGA Notices, deny
17 any failure to comply with the laws identified in the Operative Complaint and PAGA Notices, and
18 deny all liability for the causes of action, claims, and violations alleged.

19 49. On July 11, 2024, the Parties participated in a mediation presided over by respected
20 wage and hour mediator Lisa Klerman and eventually were able to reach an agreement on general
21 settlement terms after further informal discovery efforts and settlement negotiations.

22 50. In advance of mediation, Class Counsel conducted a thorough investigation into the
23 facts of, and applicable law to, the Action. Plaintiffs’ counsel provided Defendant’s counsel with a
24 comprehensive list of informal discovery items required for a constructive mediation. Defendant
25 responded by producing a random sample of payroll data for more than 75% of the Class, along with
26 policy documents including the applicable employee handbook, meal and rest break policies, and
27 personnel files for Plaintiffs. Prior to mediation, Plaintiffs therefore obtained and analyzed the
28 production of payroll data for Class Members and the necessary policy documents through informal

discovery to properly evaluate the strengths and weaknesses of the claims and engage in meaningful settlement discussions. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*").

51. The Court has not granted class certification and the Parties are stipulating to conditional class certification for Settlement purposes only.

52. 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.

C. MONETARY TERMS.

53. Gross Settlement Amount. Except as otherwise provided by Paragraph H below, Defendant will pay Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) to fully settle, resolve, and extinguish all claims asserted in the Action, including without limitation all claims asserted in the PAGA Notices. The Gross Settlement Amount is non-reversionary and does not include employer payroll taxes owed on the Wage Portion of the Individual Class Payments, which Defendant will pay separately.

54. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, 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:

54.1. To Plaintiffs: A payment for the Class Representative Enhancement Award to the Class Representatives, Bayarmaa G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol, of not more than \$10,000.00 per Plaintiff (i.e. \$30,000.00 total) in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiffs' request for a Class Representative Enhancement Award that does not exceed this amount. As part of the motion for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Enhancement Award. If the Court approves a Class Representative Enhancement Award less than the amount requested, the Administrator will retain the remainder in

1 the Net Settlement Amount to be distributed to Participating Class Members. The Administrator will
2 pay the Class Representative Enhancement Award using IRS Form 1099. Plaintiffs assume full
3 responsibility and liability for employee taxes owed on the Class Representative Enhancement
4 Award and understand they are not receiving tax advice of any nature from either Class Counsel or
5 Defense Counsel.

6 54.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third
7 of the Gross Settlement Amount, which is \$733,333.33, and a Class Counsel Litigation Expenses
8 Payment for reimbursement of actual costs incurred in the Action, which is currently estimated not
9 to exceed \$40,000.00, to be paid as approved by the Court. Defendant will not oppose requests for
10 these payments. Plaintiffs and/or Class Counsel will file a motion requesting Class Counsel Fees
11 Payment and Class Counsel Litigation Expenses Payment no later than 16 (sixteen) court days prior
12 to the Final Approval Hearing, or as otherwise ordered by the Court. If the Court approves a Class
13 Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts
14 requested, the Administrator will allocate the remainder to the Net Settlement Amount for
15 distribution to Participating Class Members. Released Parties shall have no liability to Class Counsel
16 or any other Plaintiffs' counsel arising from any claim to any portion of Class Counsel Fees Payment
17 and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel
18 Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms.
19 Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees
20 Payment and the Class Counsel Litigation Expenses Payment and shall hold Defendant harmless,
21 and indemnify Defendant, from any dispute or controversy regarding any taxes owed and regarding
22 any division or sharing of any of these payments.

23 54.3. To the Administrator: An Administration Costs payment not to exceed
24 \$25,000.00 except for a showing of good cause and as approved by the Court. To the extent the
25 Administration Costs are less, or the Court approves payment of less than \$25,000.00, the
26 Administrator will retain the remainder in the Net Settlement Amount to be distributed to
27 Participating Class Members.

28 54.4. To Each Participating Class Member: An Individual Class Payment is calculated

1 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all
2 Participating Class Members during the Class Period, and (b) multiplying the result by each
3 individual Participating Class Member's Workweeks.

4 54.4(a) Tax Allocation of Individual Class Payments. Twenty percent (20%)
5 shall be allocated to settlement of wage claims (subject to Form W-2) and eighty percent (80%) shall
6 be allocated to settlement of claims for interest and penalties. IRS Forms W-2 will issue for alleged
7 unpaid wages and IRS Forms 1099 will issue for alleged unpaid interest, penalties and other non-
8 wage remedies. All penalties paid under PAGA shall be allocated as 100% penalties, for which an
9 IRS Form 1099 will issue. The Non-Wage Portion is not subject to wage withholdings and will be
10 reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability
11 for any employee taxes owed on their Individual Class Payment.

12 54.4(b) Effect of Non-Participating Class Members on Calculation of
13 Individual Class Payments. Non-Participating Class Members will not receive any Individual Class
14 Payments. The Administrator will retain amounts equal to their Individual Class Payments in the
15 Net Settlement Amount for distribution to Participating Class Members on a pro-rata basis.

16 54.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
17 \$100,000.00 will be paid from the Gross Settlement Amount, with 75% (\$75,000.00) allocated to
18 the LWDA PAGA Payment and 25% (\$25,000.00) allocated to the Individual PAGA Payments.
19 Aggrieved Employees cannot request exclusion and shall be deemed to have released all PAGA
20 claims under this Agreement.

21 54.5(a) The Administrator will calculate each Individual PAGA Payment by
22 (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$100,000.00
23 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA
24 Period, and (b) multiplying the result by each individual Aggrieved Employee's PAGA Pay Periods.
25 Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual
26 PAGA Payment.

27 54.5(b) If the Court approves PAGA Penalties of less than the amount
28 requested, the Administrator will allocate the remainder to the Net Settlement Amount to be

distributed to Participating Class Members. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

D. SETTLEMENT FUNDING AND PAYMENTS.

55. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records, Defendant represents that there were approximately **2,700** Class Members who collectively worked a total of **140,000** Workweeks from October 24, 2019, through March 24, 2025, and approximately **1,204** Aggrieved Employees who worked a total of **77,044** PAGA Pay Periods from October 24, 2022, through March 24, 2025.

56. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

57. Payments from the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments within 20 days of the Effective Date. The monies to be distributed to Participating Class Members (i.e., the Net Settlement Amount) and Aggrieved Employees shall be paid to them by the Administrator within 10 days following the receipt of the fully funded Gross Settlement Amount by the Administrator from Defendants.

58. 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. The face of each check shall prominently state the date (180 days after the date of mailing) when the check

will be voided (“Void Date”). 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 the 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). Before mailing any checks, the Administrator must update the recipients’ mailing addresses using the National Change of Address Database.

59. The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without a USPS forwarding address. Within seven (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the 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.

60. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and canceled 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).

61. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant 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.

E. RELEASES OF CLAIMS. On the Release Effective Date, Plaintiffs, Class Members, and Aggrieved Employees will release claims against all Released Parties as follows:

62. Plaintiffs’ Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge the Released Parties of and from any and all claims, liabilities, damages, penalties,

1 fees and costs, including but not limited to: all claims for wages, damages, restitution, unreimbursed
2 expenses, equitable relief, penalties, liquidated damages, and/or punitive damages (including,
3 without limitation, claims under any applicable Labor Code, Industrial Welfare Commission Wage
4 Order); Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 1981; the Americans With Disabilities
5 Act; Sections 503 and 504 of the Rehabilitation Act of 1973; the Family Medical Leave Act; the
6 Americans With Disabilities Act, the Fair Labor Standards Act; the Employee Retirement Income
7 Security Act; the Occupational Safety and Health Act; the Worker Adjustment and Retraining
8 Notification Act, as amended; the California Unfair Competition Law (Cal. Bus. & Prof. Code §
9 17200 et seq.); the California Fair Employment and Housing Act; the California Family Rights Act,
10 the California Government Code; any federal, state, local, civil, or statutory laws, or regulations
11 including any and all human rights laws and laws against discrimination, retaliation and harassment;
12 any other federal, state, or local statutes, codes, or ordinances; any common law, contract law, or
13 tort law cause of action; and any claims for interest, attorneys' fees, and/or costs ("Plaintiffs'
14 Release").. Plaintiffs Release does not extend to any claims or actions to enforce this Agreement, or
15 to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits,
16 workers' compensation benefits. Plaintiffs acknowledge that Plaintiffs may discover facts or law
17 different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but
18 agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects,
19 notwithstanding such different or additional facts or Plaintiffs' discovery of them.

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

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

27 64. Release by Participating Class Members: All Participating Class Members, on behalf
28 of themselves and their respective former and present representatives, agents, attorneys, heirs,

1 administrators, successors, and assigns, release the Released Parties from all claims that were
2 alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint,
3 including the failure to pay minimum wages, straight time compensation, overtime compensation,
4 double-time compensation, and interest thereon; failure to timely pay regular and final wages; the
5 calculation of the regular rate of pay; wages lost from time rounding and timekeeping; non-compliant
6 (e.g., missed, short, late, and/or interrupted) meal periods and rest periods; failure to provide meal
7 periods; failure to authorize and permit rest periods; the calculation and payment of meal period and
8 rest period premiums; payment for all hours worked, including off-the-clock work and
9 uncompensated work time; wage statements and paystubs, including wage statements and paystubs
10 furnished or available in physical, electronic, or other forms; failure to pay sick pay wages; failure
11 to properly calculate sick pay wages; failure to keep accurate records; failure to reimburse for all
12 necessary business expenses; unfair business practices; recordkeeping penalties, wage statement
13 penalties, minimum-wage penalties, and waiting-time penalties; statutory penalties and civil
14 penalties (excluding PAGA); interest for claims for unpaid wages; and attorneys' fees and costs;
15 claims under the California Labor Code including sections 201, 201.3, 202, 203, 204, 210, 218,
16 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 233, 246, 246.5, 248.5, 510, 512, 558, 1174,
17 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2800, and 2802); the Wage Orders of the
18 California Industrial Welfare Commission; and California Business and Professions Code section
19 17200, *et seq.* ("Released Class Claims"). The Released Class Claims only apply to claims arising
20 during the Class Period.

21 65. Release by Aggrieved Employees: Plaintiffs, as representatives for the State of
22 California and the Labor Workforce Development Agency ("LWDA") and on behalf of all
23 Aggrieved Employees, completely release and discharge the Released Parties from any and all
24 claims for the recovery of civil penalties under PAGA that were alleged, or reasonably could have
25 been alleged, based on the facts stated in the Operative Complaint and PAGA Notices that occurred
26 during the PAGA Period, including claims for unpaid wages, failure to pay minimum wages, straight
27 time compensation, overtime compensation, double-time compensation, and interest; the calculation
28 of the regular rate of pay; non-compliant (e.g., missed, short, late, and/or interrupted) meal periods

1 and rest periods; failure to provide meal periods; failure to authorize and permit rest periods; the
2 calculation and payment of meal period and rest period premiums; failure to reimburse for all
3 necessary business expenses; payment for all hours worked, including off-the-clock work and
4 rounded time; failure to pay sick pay, including at the regular rate of pay; wage statements; failure
5 to keep accurate records; unlawful deductions and/or withholdings from wages; failure to timely
6 pay wages; and failure to timely pay final wages (“Released PAGA Claims”). The Released PAGA
7 Claims include claims for violation of the Wage Orders of the California Industrial Welfare
8 Commission and the following California Labor Code sections: 201, 201.3, 202, 203, 204, 210, 218,
9 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 226.8, 233, 246, 246.5, 248.5, 510, 512, 558, 1174,
10 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, and 2699 *et*
11 *seq.*) The foregoing release shall apply to all Aggrieved Employees, regardless of whether they
12 exclude themselves from the Released Class Claims. The Released PAGA Claims only apply to
13 claims arising during the PAGA Period.

14 66. Release Effective Date: As of the Release Effective Date, as defined above, all
15 Participating Class Members will release the Release Parties from the Released Class Claims and all
16 Aggrieved Employees will release the Released Parties from the Released PAGA Claims.

17 **F. MOTION FOR PRELIMINARY APPROVAL**. Plaintiffs will prepare and file a
18 motion for preliminary approval (“Motion for Preliminary Approval”).

19 67. Defendant’s Statement of Non-Opposition in Support of Preliminary Approval.
20 Defendant may elect, in its discretion, to file a statement of non-opposition in support of preliminary
21 approval to be filed with or after the Motion for Preliminary Approval documents.

22 68. Plaintiffs’ Responsibilities. Plaintiffs will prepare all documents necessary for
23 obtaining Preliminary Approval, including: (i) a draft of the notice, memorandum in support, Motion
24 for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request
25 for approval of the PAGA portion of the Settlement under Labor Code Section 2699, subd. (f)(2));
26 (ii) a draft proposed Preliminary Approval order; (iii) a draft proposed Class Notice, (iv) a signed
27 declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement
28 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/or the Administrator; (vi) a signed declaration from Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator. In their declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

69. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing the Motion for Preliminary Approval. Class Counsel will obtain a prompt hearing date for the Motion for Preliminary Approval, file the Motion for Preliminary Approval no later than 16 (sixteen) court days before the hearing, unless otherwise ordered by the Court, and deliver the Court's Preliminary Approval to the Administrator.

70. 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.

G. SETTLEMENT ADMINISTRATION.

71. Selection of Administrator. The Parties have jointly selected Apex to serve as the

1 Administrator and verified that, as a condition of appointment, the Administrator agrees to be bound
2 by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
3 for payment of Administration Costs. The Parties and their Counsel represent that they have no
4 interest or relationship, financial or otherwise, with the Administrator other than a professional
5 relationship arising out of the instant action or prior experiences administering settlements.

6 72. Employer Identification Number. The Administrator shall have and use its own
7 employer identification number for purposes of calculating payroll tax withholdings and providing
8 reports and paying taxes to state and federal tax authorities.

9 73. Qualified Settlement Fund. The Administrator shall establish a settlement fund that
10 meets the requirements of a “Qualified Settlement Fund” (“QSF”) under US Treasury Regulation
11 section 468B-1 for the funding of the Gross Settlement Amount. Any interest that accrues on the
12 Gross Settlement Amount sums paid into the QSF prior to distribution by the Administrator will
13 become part of the Net Settlement Amount for distribution to Participating Class Members. The QSF
14 will be fully funded in one payment as addressed above.

15 74. Notice to Class Members.

16 74.1 No later than five (5) calendar days after receipt of the Class Data, the
17 Administrator shall notify Class Counsel that the list has been received and state the number of Class
18 Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

19 74.2 Using best efforts to perform as soon as possible, and in no event later than
20 14 (fourteen) days after receiving the Class Data, the Administrator will send to all Class Members
21 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class
22 Notice with Spanish translation if the parties deem necessary substantially in the form attached to
23 this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar
24 amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class
25 Member, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts.
26 Before mailing Class Notice, the Administrator shall update Class Member addresses using the
27 National Change of Address Database.

28 74.3 Not later than five (5) calendar days after the Administrator’s receipt of any

1 Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
2 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
3 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class
4 Notice to the most current address obtained. The Administrator has no obligation to make further
5 attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the
6 USPS a second time.

7 74.4 The deadlines for Class Members' written objections, challenges to
8 Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional
9 fourteen days (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for
10 all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of
11 the extended deadline with the re-mailed Class Notice.

12 74.5 If the Administrator, Defendants, or Class Counsel is contacted by or
13 otherwise discovers any persons who believe they should have been included in the Class Data and
14 should have received Class Notice, the Parties will expeditiously meet and confer in person or by
15 telephone, and in good faith in an effort to agree on whether to include them as Class Members. If
16 the Parties agree, such persons will be Class Members entitled to the same rights as other Class
17 Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring
18 them to exercise options under this Agreement not later than 14 (fourteen) days after receipt of Class
19 Notice, or the deadline dates in the Class Notice, whichever are later.

20 75. Requests for Exclusion (Opt-Outs).

21 75.1 Class Members who wish to exclude themselves (opt-out of) the Class portion
22 of the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
23 Exclusion not later than 45 (forty-five) days after the Administrator mails the Class Notice (plus an
24 additional 14 (fourteen) days for Class Members whose Class Notice is re-mailed). A Request for
25 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
26 the Class Member's election to be excluded from the Class portion of the Settlement and includes
27 the Class Member's name, address and email address or telephone number. To be valid, a Request
28 for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

1 75.2 The Administrator may not reject a Request for Exclusion as invalid because
2 it fails to contain all the information specified in the Class Notice. The Administrator shall accept
3 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the
4 person as a Class Member and the Class Member's desire to be excluded. The Administrator's
5 determination shall be final and not appealable or otherwise susceptible to challenge. If the
6 Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator
7 may demand additional proof of the Class Member's identity. The Administrator's determination of
8 authenticity shall be final and not appealable or otherwise susceptible to challenge.

9 75.3 Every Class Member who does not submit a timely and valid Request for
10 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
11 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
12 Members' releases under Paragraphs 64 and 65 of this Agreement, regardless of whether the
13 Participating Class Member actually receives the Class Notice or objects to the Settlement.

14 75.4 Every Class Member who submits a valid and timely Request for Exclusion
15 is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the
16 right to object to the class action components of the Settlement. Because future PAGA claims are
17 subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are
18 Aggrieved Employees are deemed to release the Released PAGA Claims identified in Paragraph 66
19 of this Agreement and are eligible for an Individual PAGA Payment.

20 76. Challenges to Calculation of Workweeks. Each Class Member shall have 45 (forty-
21 five) days after the Administrator mails the Class Notice (plus an additional 14 (fourteen) days for
22 Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and PAGA
23 Pay Periods allocated to the Class Member in the Class Notice. The Class Member may challenge
24 the allocation by communicating with the Administrator via fax, email or mail. The Administrator
25 must encourage the challenging Class Member to submit supporting documentation. In the absence
26 of any contrary documentation, the Administrator is entitled to presume that the Workweeks and
27 PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the
28 Class Data. The Administrator's determination of each Class Member's allocation of Workweeks

and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to the calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

77. Objections to Settlement.

77.1 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 Enhancement Award.

77.2 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 at their own expense) to present 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 45 (forty-five) days after the Administrator's mailing of the Class Notice (plus an additional 14 (fourteen) days for Class Members whose Class Notice was re-mailed).

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

78. 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.

78.1 Website, Email Address and Toll-Free Number. The Administrator will establish, 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 Agreement, Motion for Preliminary Approval, Preliminary Approval, Class Notice, Motion for Final Approval, motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Enhancement Award, 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.

1 78.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
2 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than
3 five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the
4 Administrator shall email a list to Defense Counsel containing (a) the names and other identifying
5 information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion
6 List”); (b) the names and other identifying information of Class Members who have submitted
7 invalid Requests for Exclusion; (c) copies of all Requests for Exclusion submitted (whether valid or
8 invalid). The Administrator may provide the names of the Class Members who have timely
9 submitted valid Requests for Exclusion to Class Counsel, but shall not provide any other personal
10 identifying information (e.g., address, phone number, email, etc.)

11 78.3 Weekly Reports. The Administrator must, on a weekly basis, provide written
12 reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
13 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether
14 valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods
15 received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA
16 Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of
17 the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections
18 received.

19 78.4 Workweek and/or PAGA Pay Period Challenges. The Administrator has the
20 authority to address and make final decisions consistent with the terms of this Agreement on all
21 Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The
22 Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

23 78.5 Administrator’s Declaration. Not later than 14 (fourteen) days before the date
24 by which Plaintiffs are required to file the Motion for Final Approval, the Administrator will provide
25 to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to
26 its due diligence and compliance with all of its obligations under this Agreement, including, but not
27 limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
28 Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion 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.

78.6 Final Report by Settlement Administrator. Within 10 (ten) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 (fifteen) 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.

H. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members, Defendant may, but is not obligated, to elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be *void ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Costs incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than ten (10) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

I. MOTION FOR FINAL APPROVAL. Not later than 16 (sixteen) court days before the calendared Final Approval Hearing, unless otherwise scheduled by the Court, Plaintiffs will file in Court, a Motion for Final Approval of the Settlement that includes a request for approval of the PAGA portion of the settlement under Labor Code section 2699, subd. (l); a proposed Final Approval; and a proposed Judgment (collectively "Motion for Final Approval").

79. 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

1 the Court.

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

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

14 82. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
15 conditions of this Agreement, specifically including but not limited to the Class Counsel Fees
16 Payment and Class Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties,
17 their respective counsel, and all Participating Class Members who did not object to the Settlement
18 as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
19 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for
20 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
21 right to oppose such motions, writs or appeals. If an appeal is filed with respect to the Judgment or
22 Final Approval Order, the Parties' obligations to perform under this Agreement will be suspended
23 until such time as the appeal is finally resolved and the Judgment becomes final.

24 83. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
25 reviewing court vacates, reverses, or modifies the Judgment in a manner that requires a material
26 modification of this Agreement (including, but not limited to, the scope of release to be granted by
27 Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously
28 work together in good faith to address the appellate court's concerns and to obtain Final Approval

1 and Judgment, sharing, on a 50-50 basis, any additional Administration Costs reasonably incurred
2 after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class
3 Representative Enhancement Award, Class Counsel Fees Payment and/or Class Counsel Litigation
4 Expenses Payment shall not constitute a material modification of the Judgment within the meaning
5 of this paragraph, as long as the Gross Settlement Amount remains unchanged.

6 **J. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
7 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended
8 judgment.

9 **K. ADDITIONAL PROVISIONS.**

10 84. No Admission of Liability, Class Certification or Representative Manageability for
11 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
12 Nothing in this Agreement is intended or should be construed as an admission by Defendant that any
13 of the allegations in the Operative Complaint or PAGA Notices has merit or that Defendant has any
14 liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff
15 that Defendants' defenses in the Action have merit. The Parties agree that class certification and
16 representative treatment is for purposes of this Settlement only. If, for any reason, the Court does
17 not grant Preliminary Approval, Final Approval, or enter Judgment, Defendant reserves the right to
18 contest certification of any class for any reason, Defendant reserves all available defenses to the
19 claims in the Action (including but not limited to the arbitration agreement and class waiver signed
20 by Plaintiffs), and Plaintiffs reserve the right to move for class certification on any grounds available
21 and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to
22 settle the Action will have no bearing on, and will not be admissible in connection with, any litigation
23 (except for proceedings to enforce or effectuate the Settlement and this Agreement).

24 85. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant,
25 and Defense Counsel separately agree that, until the Motion for Preliminary Approval is filed, they
26 and each of them will not disclose, disseminate and/or publicize, or cause or permit another person
27 to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly,
28 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) to the extent necessary to report income to appropriate taxing authorities; (3) in response to a court order or subpoena; or (4) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify the 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, with any 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.

86. 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.

87. 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.

88. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to negotiate the terms of this Agreement, and to take all appropriate action required or permitted to obtain approval of the settlement embodied herein by the Court.

89. 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 Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any

document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of mediator Jason Marsili for resolution.

90. 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.

91. 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.

92. 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.

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

94. 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.

95. 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.

96. 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.

97. 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.

98. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall

1 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend
2 or federal legal holiday, such date or deadline shall be on the first business day thereafter.

3 99. Notice. All notices, demands, or other communications between the Parties in
4 connection with this Agreement will be in writing and deemed to have been duly given as of the
5 third business day after mailing by United States mail, or the day sent by email or messenger,
6 addressed as follows:

7 To Plaintiffs:

8 **D.LAW, INC.**
9 David Yeremian
10 d.yeremian@d.law
11 Alvin B. Lindsay
12 a.lindsay@d.law
13 Enoch J. Kim
14 e.kim@d.law
15 Marta Manus
16 m.manus@d.law
17 450 N. Brand Blvd., Suite 840
18 Glendale, CA 91203
19 Telephone: (818) 962-6465
20 Fax: (818) 962-6469

21 To Defendant:

22 **FISHER & PHILLIPS LLP**
23 Lonnie D. Giamela
24 lgiamela@fisherphillips.com
25 Vana Ebrahimi
26 vebrahimi@fisherphillips.com
27 Rima A. Sahakyan
28 rsahakyan@fisherphillips.com
444 S Flower St, Ste 1500
Los Angeles, CA 90071
Telephone: (213) 330-4454
Fax: (213) 330- 4501

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

101. 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 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.

102. 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, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

103. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable.

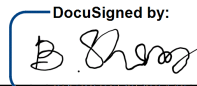
104. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties, the Class Members, and the Aggrieved Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED.

By the Parties:

DATED: 9/5/2025

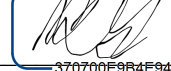
DocuSigned by:



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Plaintiff Bayarmaa G. Shany

1 DATED: 9/5/2025

DocuSigned by:

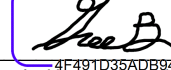


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Plaintiff Bryan Gonzalez Pineda

2
3 DATED: 9/5/2025

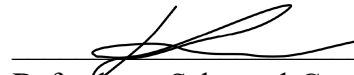
Signed by:



4F491D35ADB9464...

Plaintiff Gabrielle Bristol

4
5 DATED: 9/11/25


Defendants Saks and Company, LLC and Saks Fifth Avenue, LLC

By: Janet O. Lee

Position: AGC, Labor & Employment

6
7
8
9 Approved by counsel:

10 DATED: 9/5/2025

D.LAW, INC.

11 By: 

Alvin Lindsay

Enoch J. Kim

Marta Manus

Counsel for Plaintiffs, Bayarmaa G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol

12
13
14
15 DATED: 9/18/2025

FISHER & PHILLIPS LLP

16 By: 

Lonnie D. Giamela

Vana Ebrahimi

Rima A. Sahakyan

Attorneys for Defendants Saks and Company, LLC and Saks Fifth Avenue, LLC

EXHIBIT A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT

Shany, Gonzalez Pineda, Bristol v. Saks & Company, LLC, et al.
(Los Angeles County Superior Court, Case No. 23STCV25980)

***The Los Angeles County Superior Court 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 a class action lawsuit filed by Bayarmaa G. Shany, Bryan Gonzalez Pineda, and Gabrielle Bristol (“Plaintiffs” or “Class Representatives”) against Defendant Saks and Company, LLC (“Defendant”) for alleged violations of the California Labor Code (the “Action”). Plaintiffs and Defendant are collectively referred to as the “Parties”.

The Action seeks payment of (1) unpaid wages, statutory damages and penalties, interest and attorneys’ fees on behalf of all Class Members, who are defined as all current and former non-exempt employees who worked for Saks & Company LLC d/b/a Saks OFF 5th in the State of California any time during the Class Period (which is October 24, 2019, through March 24, 2025) and/or for Saks & Company LLC d/b/a Saks Fifth Avenue from August 26, 2022, until March 24, 2025; and (2) penalties under the California Private Attorneys General Act (“PAGA”) on behalf of all Aggrieved Employees, who are defined as all non-exempt employees who worked for Saks & Company LLC in the State of California at any time during the PAGA Period (i.e., the period from October 24, 2022, through March 24, 2025). PAGA is a California law that allows employees to bring claims for civil penalties on behalf of the California Labor and Workforce Development Agency (“LWDA”) and all Aggrieved Employees for alleged violations of the Labor Code, and any payment for PAGA penalties shall be paid 75% to the LWDA and 25% to all Aggrieved Employees as civil penalties (rather than wages).

The proposed Settlement has two main parts: (1) a class action settlement requiring Defendant to fund Individual Class Payments to Class Members, and (2) a PAGA settlement requiring Defendant to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the LWDA. Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class and PAGA Payments are shown in the tables below, along with the applicable data points from which these estimates are derived.

[CLASS MEMBER NAME] [ID/CONTROL NUMBER]

<i>Calculations and Data Points for Estimated Individual Class Payment</i>	
Weeks Worked during Class Period	<i>Estimated Individual Class Payment</i>
INSERT	INSERT

<i>Calculations and Data Points for Estimated Individual PAGA Payment</i>	
PAGA Pay Periods worked during PAGA Period	<i>Estimated Individual PAGA Payment</i>
INSERT	INSERT

Please note that the actual amount you receive may be different from the above and will depend on several factors. (If no amount is stated for your Individual PAGA Payment then, according to Defendant’s records, you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work for Defendant in California during the PAGA Period.) If you believe that you worked a different number of weeks or pay periods during the periods than is shown in the chart above, you can submit a dispute by **[DATE]** (“**Response Deadline**”). See **Section 4, subsection 3** of this notice.

In granting preliminarily approval of the proposed Settlement and approving this notice, the Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. Your legal rights are affected whether you act or do not act. Read this notice carefully. You will be deemed to have read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give

up their rights to assert certain claims against Defendants.

If you worked for Defendant in California during the Class Period and/or the PAGA Period, you have a few options as shown in the Chart below:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your full settlement payment, then no further action is required on your part. You will automatically receive a settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section 3 below . <i>Defendant will not retaliate against you for participating or not participating in this Settlement.</i>
EXCLUDE YOURSELF	If you do not wish to participate in the proposed Settlement of the Class Claims, you may “opt-out” of the Settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion by [DATE] (see Section 6 below for more details on how to opt-out). If you opt-out, you will no longer be a Participating Class Member, and you will (1) <u>not</u> receive an Individual Class Payment, but you will have the right to pursue the Released Class Claims described below subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees. See Section 6 of this notice.
OBJECT	If you decide to object to the settlement with respect to the class action claims because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement by [DATE] (see Section 7 for more details on how to object).
DISPUTE THE NUMBER OF WEEKS WORKED	If you believe the number of Workweeks and/or PAGA Pay Periods that you were credited with working in the chart above is incorrect, you may submit a dispute and any supporting evidence to Apex Class Action Administrators (the “Administrator”), a third party responsible for sending this notice (see Section 4 for more details on how to submit a dispute). Defendant’s records will be presumed correct, but you may provide evidence to the Administrator showing how many Workweeks and/or PAGA Pay Periods you believe you should be credited, and the Administrator and the Parties will consider your documentation and decide.

YOU MAY ATTEND THE FINAL APPROVAL HEARING, BUT IT’S NOT REQUIRED	
DATE: [DATE] TIME: [TIME]	The Court’s Final Approval Hearing is scheduled to take place on [DATE]. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. 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. See Section 8 of this notice.

1. WHAT IS THE ACTION ABOUT?

The Action accuses Defendant of violating California labor laws due to the alleged failure to pay minimum and overtime wages, failure to provide meal periods and rest breaks, failure to reimburse business expenses, failure to maintain required records, failure to pay reporting time pay, unlawfully collecting a portion of employee wages, failure to timely pay wages during employment and upon separation of employment, failure to provide accurate itemized wage statements, and unfair and unlawful competition. Based on the same claims, Plaintiffs also asserted a claim for civil penalties under the PAGA.

Defendant strongly denies violating any laws or failing to pay any wages and contends they complied with all applicable laws.

The Parties are represented by attorneys in the Action. See Section 9 below for their contact information.

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

The Parties hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. By signing a lengthy written settlement agreement (“Agreement”), the Parties have negotiated a proposed Settlement that is subject to the Court’s Final Approval. The Parties agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. In fact, Defendant contends that they have at all times complied with California law.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the 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. So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits and has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at final hearing. 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. The Gross Settlement Amount. Defendant has agreed to pay a total gross settlement amount of \$2,200,000.00 (the “Settlement Amount”) and will deposit the Settlement Amount into an account controlled by the Administrator. The Administrator will use the Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Enhancement Awards, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Administrator’s Costs, and PAGA Penalties to be paid to the LWDA. Assuming the Court grants Final Approval of the settlement and that the Judgment entered by the Court becomes final, Defendant will fund the Gross Settlement Amount and payments will be made shortly thereafter. The Judgment will be final on the date the Court enters Judgment, or a later date if the Judgment is appealed.

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

A. Up to one-third (1/3) of the Gross Settlement Amount to Class Counsel for attorneys' fees (\$733,333.33), plus reimbursement of costs incurred in the Action, which is estimated not to exceed \$40,000.00. To date, Class Counsel has incurred fees and expenses on the Action without payment.

B. Up to \$10,000.00 to each of the three Class Representatives as an Enhancement Award for litigating the Action (\$30,000.00 total), working with Class Counsel, and representing the Class. The Enhancement Award will be the only monies Plaintiffs will receive other than the Individual Class Payment and any Individual PAGA Payment.

C. \$25,000.00 to the Administrator for services administering the Settlement.

D. \$100,000.00 for PAGA Penalties, allocated 75% to the LWDA and 25% in Individual PAGA Payments to the Aggrieved Employees based on their share of PAGA Pay Periods during the PAGA Period.

E. 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 remainder of the Settlement Amount (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their pro rata share of total Workweeks the Participating Class Member worked for Defendant during the Class Period.

4. Taxes Owed on Payments to Class Members. The Parties are asking the Court to approve an allocation of twenty percent (20%) of each Individual Class Payment to taxable wages (“Wage Portion”) and eighty percent (80%) to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer-side 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 the Parties 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 State Controller’s Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money. You will still be bound by the Judgment, even if you do not cash your check.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement not later than the Response Deadline. See Section 6 of this notice for details on how to Opt-Out.

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

8. Administrator. The Court has appointed a neutral company, Apex Class Action Administrators, to send this notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also assist the Parties with deciding any disputes over weeks and pay periods worked, mail and re-mail (if necessary) settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this notice.

9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement Amount, 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 the Released Parties (defined as “Defendant and each of its past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, service providers, joint venturers, joint employers, co-employers, dual employers, alleged joint employers, alleged co-employers, alleged dual employers, affiliates, alter-egos, and affiliated organizations, and all of their respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, and assigns”) from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including the failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest thereon; failure to timely pay regular and final wages; the calculation of the regular rate of pay; wages lost from time rounding and timekeeping; non-compliant (e.g., missed, short, late, and/or interrupted) meal periods and rest periods; failure to provide meal periods; failure to authorize and permit rest periods; the calculation and payment of meal period and rest period premiums; payment for all hours worked, including off-the-clock work and uncompensated work time; wage statements and paystubs, including wage statements and paystubs furnished or available in physical, electronic, or other forms; failure to pay sick pay wages; failure to

properly calculate sick pay wages; failure to keep accurate records; failure to reimburse for all necessary business expenses; unfair business practices; recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; statutory penalties and civil penalties (excluding PAGA); interest for claims for unpaid wages; and attorneys’ fees and costs; claims under the California Labor Code including sections 201, 201.3, 202, 203, 204, 210, 218, 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 233, 246, 246.5, 248.5, 510, 512, 558, 1174, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2800, and 2802); the Wage Orders of the California Industrial Welfare Commission; and California Business and Professions Code section 17200, *et seq.* (“Released Class Claims”). The Released Class Claims apply to claims arising during the Class Period (October 24, 2019 – March 24, 2025).

10. Released PAGA Claims. After the Judgment is final and Defendant has fully funded the Gross Settlement Amount, Plaintiffs, as representatives for the State of California and the Labor Workforce Development Agency (“LWDA”) and on behalf of all Aggrieved Employees, completely release and discharge the Released Parties from any and all claims for the recovery of civil penalties under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and PAGA Notices that occurred during the PAGA Period, including claims for unpaid wages, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; non-compliant (e.g., missed, short, late, and/or interrupted) meal periods and rest periods; failure to provide meal periods; failure to authorize and permit rest periods; the calculation and payment of meal period and rest period premiums; failure to reimburse for all necessary business expenses; payment for all hours worked, including off-the-clock work and rounded time; failure to pay sick pay, including at the regular rate of pay; wage statements; failure to keep accurate records; unlawful deductions and/or withholdings from wages; failure to timely pay wages; and failure to timely pay final wages (“Released PAGA Claims”). The Released PAGA Claims include claims for violation of the Wage Orders of the California Industrial Welfare Commission and the following California Labor Code sections: 201, 201.3, 202, 203, 204, 210, 218, 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 226.8, 233, 246, 246.5, 248.5, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2800, 2802, 2698 *et seq.*, and 2699 *et seq.*) The foregoing release shall apply to all Aggrieved Employees, regardless of whether they exclude themselves from the Released Class Claims. The Released PAGA Claims only apply to claims arising during the PAGA Period. (October 24, 2022 – March 24, 2025).

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

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

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$25,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by the number of PAGA Pay Periods for each Aggrieved Employee during the PAGA Period.

3. Disputing Weeks and Pay Periods Worked. The number of weeks and pay periods you worked during the Class and PAGA Periods, as recorded in Defendant’s records, are stated in the tables on page 1 of this notice. You have until **DATE** (the “Response Deadline”) to dispute the number of Workweeks or PAGA Pay Periods credited to you by submitting a dispute to the Administrator. Section 9 of this notice has the Administrator’s contact information. You need to support your dispute by sending copies of pay stubs or other records. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendant’s Counsel. The Administrator’s decision is final. You can’t appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members and Aggrieved Employees. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (which includes every Class Member who does not opt-out) and Aggrieved Employee. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if you are entitled to an Individual PAGA Payment).

2. Non-Participating Class Members/Aggrieved Employees Only. If you opted out of the Class settlement, but qualify as an Aggrieved Employee, then the Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee, including those who opt 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?

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement before the Response Deadline. To opt-out, you must submit a written Request for Exclusion to the Administrator by fax, email, or mail postmarked on or before the Response Deadline (as a reminder, **the "Response Deadline" is DATE**). Any person who submits a timely Request for Exclusion from the Class Settlement (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive an Individual Class Payment; (3) will preserve the right to pursue the Released Class Claims, and (4) will not be bound by this Settlement, or the Judgment, as to the Released Class Claims.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement remain eligible to receive an Individual PAGA Payment.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement may wish to object. If you wish to object to the proposed Settlement, you or your own attorney must submit a written objection and include all evidence and supporting documentation or papers. The objection and any accompanying documentation and papers must be sent to the Administrator at the address listed in Section 9 on the objection, **postmarked** on or before the Response Deadline. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

8. WHEN IS THE FINAL APPROVAL HEARING?

On [REDACTED], at [REDACTED] a.m./p.m., the Court will hold a hearing in Department 006 of the Superior Court for the State of California, County of Los Angeles, 312 North Spring Street, Los Angeles, CA 90012, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel's applications for attorneys' fees and costs, whether to approve the proposed payment to the LWDA, and whether to approve Plaintiffs' request for an Enhancement Award. This hearing may be continued or rescheduled by the Court. Objectors to the proposed settlement will be provided notice if the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

If you have questions about this notice, how to submit a request for exclusion or objection, or the Settlement itself, or if you did not receive this notice in the mail and you believe that you are or may be a member of the Class, you should contact the Administrator for more information or to request that a copy of this notice be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them at the information below. You may also seek advice and guidance from your own private attorney at your own expense if you so desire.

This notice is only a summary. For more detailed information, you may review the Settlement Agreement, containing the complete terms of the proposed Settlement, which is on file with the Court and attached to the Declaration of **NAME** in Support of Motion for Preliminary Approval of Class Action Settlement filed on **DATE** and available to be

inspected at any time during regular business hours at the Clerk’s Office, Superior Court for the State of California, County of Los Angeles, 312 North Spring Street, Los Angeles, CA 90012. You may also review the pleadings, records, and other papers on file in this lawsuit at the Clerk’s Office or online at <https://www.lacourt.org/CaseSummaryv2>. To access the case file, click on “Case Number Search,” then create a free online account, then type in the case number (23STCV25980) where requested, and click “Search.” You may also email Class Counsel and request a copy of the Settlement Agreement.

You can also view documents related to the case and the settlement at: [insert **URL**]

DO NOT TELEPHONE THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT

The contact information for Class Counsel and the Administrator is below:

Class Counsel	Administrator
David Yeremian <i>d.yeremian@d.law</i> Alvin B. Lindsay <i>a.lindsay@d.law</i> Enoch J. Kim <i>e.kim@d.law</i> Marta Manus <i>m.manus@d.law</i> D.LAW, INC. 450 N Brand Blvd, Suite 840 Glendale, CA 91203 Tel: (818) 962-6465	Name Mailing Address Telephone 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 2

D.LAW, INC.

Email Davtyan (SBN 299363)

Emil@d.law

David Yeremian (SBN 226337)

d.yeremian@d.law

Alvin B. Lindsay (SBN 220236)

a.lindsay@d.law

Enoch J. Kim (SBN 261146)

e.kim@d.law

Marta Manus (260132)

m.manus@d.law

450 N. Brand Blvd. Suite 840

Glendale, CA 91203

Telephone: (818) 962-6465

Facsimile: (818) 962-6469

Attorneys for Plaintiffs BAYARMAA G. SHANY,
BRYAN GONZALEZ PINEDA, and GABRIELLE BRISTOL
on behalf of themselves and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BAYARMAA G. SHANY, an individual,
and BRYAN GONZALEZ PINEDA, an
individual, GABRIELLE BRISTOL, an
individual, on behalf of themselves and
others similarly situated,

Plaintiff,

vs.

SAKS & COMPANY, LLC, a Delaware
limited liability company; SAKS OFF 5TH, a
California business entity, form unknown;
SAKS FIFTH AVENUE, LLC, a
Massachusetts limited liability company,
HUDSON'S BAY COMPANY, a California
business entity, form unknown; and DOES 1
through 50, inclusive,

Defendants.

Case No. 23STCV25980

CLASS ACTION

Assigned for all purposes to:

Hon. Elihu M. Berle

Department: SS6

**DECLARATION OF MICHAEL
SUTHERLAND REGARDING NOTICE
AND SETTLEMENT ADMINISTRATION**

Date:

Time:

Dept.: SS6

Original Complaint: October 24, 2023

First Amended Complaint: December 21, 2023

Second Amended Complaint: August 6, 2024

Trial: none set

1 **DECLARATION OF MICHAEL SUTHERLAND**

2 I, Michael Sutherland, declare as follows:

3 1. I am the President of Apex Class Action LLC., a class action settlement administration
4 company headquartered in Irvine, California. I have personal knowledge of the facts outlined in this
5 declaration and, if called as a witness, I could and would competently testify thereto.

6 2. Apex Class Action's team has been directly involved with class action administration
7 for a combined 65 years and has successfully managed numerous class action cases during that time.
8 Our team comprises experienced professionals with extensive knowledge of class action settlement
9 administration. In addition, Apex Class Action has the necessary technology and infrastructure to
10 efficiently manage large-scale class action cases. We utilize state-of-the-art software and systems to
11 ensure that all aspects of the administration process are executed accurately and efficiently.

12 3. The legal practitioners or parties involved do not possess any form of ownership stake
13 or affiliation with Apex Class Action.

14 4. Apex Class Action has extensive expertise in the dissemination of class action notices
15 and administration of class action settlements. Our range of services includes first-class mail via the
16 United States Postal Service, a bilingual toll-free call center, interactive & static website
17 development and support, enterprise database management, response processing, and Qualified
18 Settlement Fund (QSF) distribution for class actions of various sizes. We uphold the highest level of
19 confidentiality in all our operations, and any class data and communication received by us will be
20 treated with the utmost confidentiality and will not be disclosed to any unauthorized party. Attached
21 is our current CV as **Exhibit A**, highlighting our primary competencies in class action
22 administration.

23 5. Apex Class Action ensures that Client and Class Member Information is only used for
24 the purposes specified in the relevant agreements or court orders governing the provision of its legal
25 services. To safeguard class member information, Apex Class Action has implemented a
26 comprehensive process to identify, assess, and mitigate risks in all areas of its operations, regularly
27 evaluating the effectiveness of its security measures. Access to class member information is limited
28 to employees, agents, or subcontractors who require it to perform their duties, and Apex Class Action

1 conducts background checks on all personnel with access to sensitive personal information, to ensure
2 they do not pose a threat to the security of client or class member information. To guarantee the
3 security of the settlement administration process, Apex Class Action maintains \$1,000,000.00 in
4 Professional Liability and \$5,000,000.00 in Cyber Liability Insurance coverage, as required by legal
5 standards and best practices in the legal profession.

6 6. Apex Class Action disbursement process involves (i) obtaining a Federal Employer
7 Identification Number (FEIN) from the Internal Revenue Service (IRS) under the name of the
8 settlement case; (ii) establishing a QSF to manage the distribution of settlement funds; (iii)
9 conducting preliminary and final calculations to determine the individual settlement amounts,
10 including attorneys' fees, costs, enhancement awards, and any other court-approved designees; (iv)
11 establishing a case specific website where relevant case-related settlement documents will be
12 accessible, including the judgment; (v) calculating and reporting state and federal taxes as applicable;
13 (vi) and disseminating approved settlement funds and tax forms via First-Class USPS mail.

14 7. The administration fees for Apex Class Action's management of this settlement will
15 not exceed \$20,000.00, as specified in **Exhibit B**. This document presents a comprehensive plan
16 detailing the specific administration services that will be provided.

17
18 I declare under penalty of perjury under the laws of the state of California that the foregoing
19 is true and correct. Executed this 25th day of August 2025, in Irvine, California.

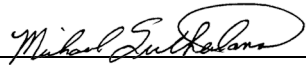
20 
21 _____
22 Michael Sutherland
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EXHIBIT A



CASE TYPES

- Consumer
- Data Breach
- Mass Tort Disbursement
- Wage & Hour
- Private Attorneys
General Act (PAGA)
- Belaire West
- Class Certification
- Fair Labor Standards
Act (FSLA)
- Telephone Consumer
Protection Act (TCPA)
- Employee Retirement
Income Security Act
(ERISA)
- Product Liability

SUMMARY

Apex Class Action brings together a seasoned team of professionals adept at navigating the intricate landscape of legal processes and settlement administration. Armed with extensive expertise, we offer a comprehensive understanding of the nuances inherent in settlement procedures. Our organization excels in communication and organization, leveraging cutting-edge technology to streamline project management and adhere to rigorous timelines with precision and efficiency.

From initial pre-settlement consultation to the final stages of disbursement and tax reporting, our technology platform and stringent data security protocols revolve around integration, automation, and observability. This ensures swift and precise payment for class members, bolstering efficiency and accuracy throughout the process.

PRELIMINARY CONSULTATION

Our complimentary preliminary consultation serves as the cornerstone for establishing a comprehensive framework. This framework ensures that all stakeholders grasp the project's scope, timeline, and budget parameters effectively. Following the alignment of objectives and expectations between plaintiff and defense counsel, our team diligently explores additional avenues to identify potential class members. We go the extra mile by offering detailed interactive banner ad campaigns and print media options, maximizing outreach and engagement to achieve optimal results.

CASE MANAGEMENT

At Apex Class Action, our expert Case Managers and Data Managers take charge of overseeing all aspects of the settlement administration process. Their role is pivotal in ensuring strict adherence to court orders, settlement agreements, and industry benchmarks. Working hand in hand with both plaintiff and defense counsel, we meticulously manage every aspect of the settlement administration process.

Our comprehensive mailing and notification services commence with meticulous data scrubbing and the establishment of a class database, guaranteeing the accuracy of contact information. Subsequently, the database undergoes validation using the USPS National Change of Address (NCOA) database to ensure precision and reliability. Additionally, we provide court-certified translation services covering over 65 languages, facilitating effective communication across diverse demographics. In instances where mail is returned as undeliverable, we undertake skip tracing to obtain updated addresses for class members, ensuring that all notices reach their intended recipients without delay.



To ensure transparency throughout the entire process, a steady cadence of reports, as defined during the preliminary consultation, is generated throughout the administration process for both the plaintiff and defense counsel.

Our capability to provide cost-effective pricing is rooted in our adept utilization of cutting-edge technology, a team of highly skilled professionals, and an optimized process. Should the courts approve the utilization of modern electronic notification methods like email and banner ads, we ensure both certainty and cost-effectiveness. Through electronic disbursement, we offer a highly efficient strategy wherein settlement awards are directly delivered to class members, mitigating potential drawbacks associated with traditional mail delivery and enhancing overall efficiency.

TAX COMPLIANCE & CASE RESOLUTION

Apex leverages its proprietary technology to efficiently manage all necessary state and federal tax reporting requirements. This includes establishing a Settlement Federal Tax Identification Number (FIEN) with the IRS and Qualified Settlement Fund (QSF) EDD accounts where applicable. We handle taxes associated with settlements involving multiple state tax filings, as well as manage all payroll tax filings such as Form 940, 941, and state filings. Additionally, our services encompass the preparation of information returns (Forms W-2, 1099, and 1042-S) for reportable payments and the preparation of the annual Federal income tax return (Form 1120-SF). Moreover, we provide comprehensive management of qualified settlement funds (QSF), ensuring that all accounts are FDIC-insured bank accounts. Our full suite of comprehensive tax management services includes:

- Prepare and fill all applicable returns (Forms W-2, 1099, and 1042-S)
- Payroll tax filings, including Form 940, 941, and state filings
- FID-Insured QSF Bank Accounts
- State and Federal Tax Reporting
- IRS Federal Tax Identification Number
- QSF Audit Reports
- Prepare And File 1120-SF Tax Returns with Quarterly Tax Obligations

CONTACT

Address

18 Technology Dr. Ste. 154
Irvine, CA 92618

Email

mike@apexclassaction.com
Info@apexclassaction.com

Phone

1.321.223.5067
1.800.355.0700

EXHIBIT B



Quotation Request:

Alvin Lindsay
D.Law
alvin@yeremianlaw.com
818-962-6465

Case Name:

Date:
RFP Number:

Shany et al v Saks Fifth Ave

Monday, January 27, 2025
22190013

Prepared By:

Michael Sutherland
Apex Class Action LLC
mike@apexclassaction.com
321.223.5067

Settlement Specifications	
Estimated Class Size:	2,700
Certified Language Translation:	No
Static Settlement Website:	Yes
Percentage of Undeliverable Mail:	20%

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	\$125.00	4	\$500.00
Data Analyst	Per Hour	\$150.00	4	\$600.00
*Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr.				
Sub Total:				\$1,100.00

Mailing of Class Notice				
Form Set Up	Per Hour	\$120.00	1	\$120.00
Print & Mail Class Notice	Per Piece	\$1.00	2,700	\$2,700.00
USPS First Class Postage	Per Piece	\$0.68	2,700	\$1,836.00
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.00	270	\$540.00
Receive and Process Undeliverable Mail	Per Hour	\$75.00	4	\$300.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	4	\$300.00
NCOA Address Update (USPS)	Static Rate	\$225.00	4	\$900.00
Sub Total:				\$6,696.00

Project Management				
Project Management	Per Hour	\$150.00	4	\$600.00
Project Coordinator	Per Hour	\$90.00	4	\$360.00
Data Analyst and Reporting	Per Hour	\$140.00	4	\$560.00
Sub Total:				\$1,520.00



APEX

CLASS ACTION ADMINISTRATION

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$493.00	1	\$493.00
Settlement Website: Static Apex URL	Static Rate	\$500.00	1	\$500.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
			Sub Total:	\$993.00

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	4	\$480.00
Account Management and Reconciliation	Per Hour	\$140.00	4	\$560.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.00	2,700	\$2,700.00
USPS First Class Postage	Per Piece	\$0.68	2,700	\$1,836.00
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$1.50	270	\$405.00
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	10	\$1,000.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,500.00	1	\$1,500.00
Unclaimed Funds: State Controller's Unclaimed Property Fund	Static Rate	\$500.00	1	\$500.00
			Sub Total:	\$8,981.00

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	2	\$270.00
Project Management Reconciliation	Per Hour	\$100.00	2	\$200.00
Declarations	Per Hour	\$120.00	2	\$240.00
			Sub Total:	\$710.00

TOTAL ESTIMATED ADMINISTRATION COST:				\$20,000.00
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Thank you for your business!



Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").
2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.
3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.
4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.
5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.
6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.
7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.
8. **Apex warrants** that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.
9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.
10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of this section may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership** of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.

13. Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.

EXHIBIT 3

EXHIBIT 4

D.LAW, INC.

Emil Davtyan (SBN 299363)

Emil@d.law

David Yeremian (SBN 226337)

d.yeremian@d.law

Alvin B. Lindsay (SBN 220236)

a.lindsay@d.law

Enoch J. Kim (SBN 261146)

e.kim@d.law

Marta Manus (SBN 260132)

m.manus@d.law

450 N Brand Blvd., Suite 840

Glendale, CA 91203

Telephone: (818) 962-6465

Fax: (818) 962-6469

Attorneys for Plaintiff, BAYARMAA G. SHANY,
BRYAN GONZALEZ PINEDA, and GABRIELLE BRISTOL
on behalf of themselves and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BAYARMAA G. SHANY, an individual;
BRYAN GONZALEZ PINEDA, an individual,
GABRIELLE BRISTOL, an individual on
behalf of themselves and others similarly
situated,

Plaintiff,

v.

SAKS & COMPANY, LLC, a Delaware
limited liability company; SAKS OFF 5TH, a
California business entity, form unknown;
SAKS FIFTH AVENUE, LLC, a
Massachusetts limited liability company,
HUDSON'S BAY COMPANY, a California
business entity, form unknown; and DOES 1
through 50, inclusive,

Defendants.

Case No. 23STCV25980

CLASS ACTION

Assigned for all purposes to:

Hon. Elihu M. Berle

Department: 6

**DECLARATION OF JARRETT
GORLICK IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Original Complaint filed: October 24, 2023

First Amended Complaint: December 21,
2023

Second Amended Complaint: August 6, 2024

Trial: None set

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I, Jarrett Gorlick, declare:

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

2. I am a partner at Berger Consulting Group, LLC (“BCG”) and have provided data analysis and damage exposure for over 3,000 cases. I have reviewed and analyzed data provided in numerous formats for multiple business types, including but not limited to retail, hospitals, logistics, finance, hospitality, technology, and manufacturing. My curriculum vitae is attached hereto as **Exhibit 1**. BCG was founded in 2013 and has been hired to provide expert analysis for more than 6,000 cases. BCG provides data and statistical analysis based on timekeeping records and other types of employee data.

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

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

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

- 00245506, Deposition 11/23/2021
6. *Larson v. Mark Twain Medical Center*, Calaveras County Superior Court Case No. 19CV44062, Deposition 11/18/2021
7. *Powell v. St Joseph's Medical Center*, San Joaquin County Superior Court Case No. STK-CV-UOE-2019-00111555, Deposition 11/4/2021
8. *Johnson v. Bakersfield*, Kern Superior Case No. BCV-19-102016, Deposition 10/25/2021
9. *Dawson v. GoHealth*, San Francisco Superior Case No. CGC-19-577790, Deposition 10/21/2021
10. *Torrez v. Del Taco*, Alameda Superior Court Judicial Counsel Coordination Proceeding No. 4904, Deposition 10/5/2021
11. *Ortega v. Carson Wild Wings*, Los Angeles Superior Case No. BC677389, Deposition 9/9/2021
12. *Haaverson v. Tavistock Freebirds*, Alameda Superior Court Case No. RG19030716, Trial 8/19/2021
13. *Escamilla v. Ono Hawaiian BBQ*, Los Angeles Superior Court Case No. BC651992, Deposition 8/16/2021
14. *Nash v. Horizon Freight Services*, Northern District Court Case No. 3:19-cv-01883-VC, Deposition 8/11/2021
15. *Harris v. Villa Del Rio*, Los Angeles Superior Court Case No. 19STCV28198, Deposition 6/18/2021
16. *Morgan v. Rohr*, Southern District Court Case No. 3:20-CV-00574-GPC-AHG, Deposition 5/24/2021
17. *Fortson v. COMPASS*, Alameda Superior Court Case No. RG16818319, Trial 5/17/2021
18. *Anderson v. Safe Streets*, Eastern District Case No. 2:18-CV-00323-KJM-GGH, Deposition 5/13/2021
19. *Christensen v. Carter's Retail*, Central District of California Case No. 8:20-cv-00776 JLS (KESx), Deposition 4/15/2021
20. *Fortson v. COMPASS*, Alameda Superior Court Case No. RG16818319, Deposition 3/26/2021

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

1 36. *Reed & Moore v. Aramark Uniform Services*, Alameda Superior Court Case No.
2 RG168322314, Deposition 8/9/2019

3 37. *Gamboa v. Nelson Miller*, Los Angeles Superior Court Case No. BC658201,
4 Deposition 4/2/2019

5 38. *Leyva v. SCPMG*, Los Angeles Superior Court Case No. BC621718, Deposition
6 7/26/2018

7 39. *Emard et al. v. Twin Cities Community Hospital*, AAA Case No. 01-17-0000-
8 1313, Arbitration 7/19/2018

9 40. *McConville v. Renzenberger*, Central District of California Western Division Case
10 No. 17-cv-02972-FMO-JC, Deposition 2/1/2018

11 41. *Galeano v. Royal Laundry*, San Mateo Superior Court Case No. CIV534888,
12 Deposition 10/12/2017

13 5. I was retained by Counsel for Plaintiff in the matter *Bayarmaa Shany v. Saks &*
14 *Company*, Los Angeles County Superior Court Case No. 23STCV25980, to assist in evaluating
15 the alleged wage and hour claims based upon putative class member data in preparation for a
16 mediation that occurred in November 2024.

17 ***Sample Size and Extrapolation***

18 6. Based on information from Counsel for Plaintiff and the data provided to me, I
19 understand that a random sample was taken from a putative class of approximately 1,882
20 individuals at the time of data production. This approximately 68.2% sample containing around
21 1,283 individuals is typical in my experience considering the size of the total population.

22 7. The margin of error of this sample based on a 95% confidence level is
23 approximately 1.5%, which is lower than the typical 5% sought after in sampling. In addition,
24 the margin of error of this sample based on a 99% confidence level is approximately 2.0%,
25 which again is lower than the typical 5% sought after, though there is no predetermined sample
26 size or margin of error that unequivocally determines validity. As stated by professor and
27 statistician David Freedman regarding sample size: "There is no definitive statistical answer to
28 this familiar question. Bigger samples have less sampling error. On the other hand, smaller
samples may be easier to manage, and have less non-sampling error. Bigger samples are more

expensive than smaller ones: generally, resource constraints will determine the sample size.”¹

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct this 19th day of September 2025 at Los Angeles, California.



Jarrett Gorlick

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

EXHIBIT 1



Jarrett Gorlick CFP®

(818) 903-8824

jarrett@bergerconsultinggroup.com

Professional Experience

Berger Consulting Group

2016-PRESENT

Partner

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

LPL Financial

2013-2017

Operations Manager

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

UCSB Extension

2016-2018

Instructor of Investment Analysis and Strategic Business Development

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

Professional Credentials

- CERTIFIED FINANCIAL PLANNER™

Education

UCSB

2013

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

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

Additional

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

Testimony

Berger Consulting Group

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

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

EXHIBIT 5

October 24, 2023

VIA ON-LINE SUBMISSION ONLY TO:

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

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

VIA CERTIFIED MAIL TO:

(by certified mail to Saks & Company, LLC; Saks Off 5th; Saks Fifth Avenue, LLC; Hudson's Bay Company)

Saks & Company, LLC
225 Liberty Street 31 Floor
New York, NY 10281
Certified Mail Tracking Number:

CSC Lawyers Incorporating Service
Designated Agent for Saks & Company, LLC
2710 Gateway Oaks Drive
Sacramento CA 95833
Certified Mail Tracking Number:

Saks Off 5th
21500 Victory Blvd.
Woodland Hills, CA 91367
Certified Mail Tracking Number:

Saks Fifth Avenue LLC
800 Boylston Street
Boston, MA 02199
Certified Mail Tracking Number:

Corporation Service Company
Designated Agent for Saks Fifth Avenue LLC
84 State Street, 6th Floor
Boston, MA 02109
Certified Mail Tracking Number:

Hudson's Bay Company
225 Liberty Street
New York, New York 10281
Certified Mail Tracking Number:

**Re: Labor Code § 2698, et seq. Private Attorneys' General Act Claim
PAGA Notice Letter to LWDA
Bayarmaa G. Shany v. Saks & Company, LLC et al.
Superior Court for the County of Los Angeles**



Dear Gentilepersons:

This office represents Plaintiff Bayarmaa G. Shany (“Plaintiff”) and other similarly aggrieved employees employed as non-exempt, hourly associates and in related positions at Defendants’ facility and office locations in California during the relevant period (collectively “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2698, and 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of herself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants Saks & Company, LLC, a Delaware limited liability company; Saks Off 5th, a California business entity, form unknown; Saks Fifth Avenue, LLC, a Massachusetts limited liability company, Hudson’s Bay Company, a California business entity, form unknown; and Does 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

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

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

Relevant Facts

Plaintiff worked as an hourly associate at one of Defendants’ facilities and locations in Woodland Hills, California and Los Angeles County. She and the other Aggrieved Employees were employed by Defendants as non-exempt, hourly associate employees at Defendants’ locations and facilities throughout California, including in positions related to providing retail and customer services to Defendants’ customers. Plaintiff worked at Defendants’ behest without being paid all wages due and without being provided all required breaks. More specifically, Plaintiff and the Aggrieved Employees were employed by Defendants and (1) shared similar job duties and responsibilities (2) were subjected to the same policies and practices (3) and endured similar violations at the hands of Defendants as the other Employees who served in similar and related positions.



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

Defendant SAKS & COMPANY, LLC is a Delaware limited liability company which lists its principal address with the California Secretary of State in New York, New York and does not list a California office. It lists its type of business as "RETAIL/SPECIALTY STORE." Defendant SAKS & COMPANY, LLC is listed as the employer on the wage statements issued to Plaintiff by Defendants on a bi-weekly basis, and upon information and belief to other Aggrieved Employees, with the same New York address. Upon information and belief, SAKS & COMPANY, LLC operates and does business as SAKS OFF 5TH or is either a joint employer with SAKS OFF 5TH or SAKS & COMPANY, LLC is a d/b/a, or parent or subsidiary of Saks Fifth Avenue LLC, Saks Off 5th, or Hudson's Bay Company. Upon information and belief, SAKS & COMPANY, LLC owns or operates various stores and facilities, including in the Woodland Hills California facility where Plaintiff worked. On information and belief, SAKS & COMPANY, LLC maintains operations and locations throughout Los Angeles County and California, including the Woodland Hills store where Plaintiff worked.

Upon information and belief, one such facility is SAKS OFF 5TH in Woodland Hills, California. Defendant SAKS OFF 5TH is a California business entity of form unknown, unlisted with the California Secretary of State. SAKS OFF 5TH's company logo appeared on Plaintiff and other Aggrieved Employees' wage statements and other employment documents. Upon information and belief, SAKS OFF 5TH is a d/b/a or subsidiary of Saks & Company, LLC or Saks Fifth Avenue, LLC or Hudson's Bay Company. SAKS OFF 5TH in Woodland Hills is where Plaintiff worked. The website for SAKS OFF 5TH states: "Saks OFF 5TH is reimagining traditional off-price retail with a digital-first model focused on delivering a superior customer experience. Through our merchandise authority, unparalleled brand access and seamless connection between e-commerce and stores, we provide the best names in fashion at an incredible value."

Defendant SAKS FIFTH AVENUE, LLC, a Massachusetts limited liability company, is listed with the Massachusetts Secretary of State and does not list a California office. Defendant SAKS FIFTH AVENUE, LLC's company logo appeared on Plaintiff and other Aggrieved Employees' wage statements and other employment documents. Upon information and belief, SAKS FIFTH AVENUE, LLC operates and does business as SAKS OFF 5TH and is either a joint employer with SAKS OFF 5TH or SAKS FIFTH AVENUE, LLC is a d/b/a, or parent or subsidiary of Saks Off 5th, Saks & Company, LLC, or Hudson's Bay Company. Upon information and belief, SAKS FIFTH AVENUE, LLC owns or operates various stores and facilities, including in the Woodland Hills California facility where Plaintiff worked. On information and belief, SAKS



FIFTH AVENUE, LLC maintains operations and locations throughout Los Angeles County and California, including the Woodland Hills store where Plaintiff worked.

Defendant HUDSON'S BAY COMPANY is a California business entity of form unknown, unlisted with the California Secretary of State. The HUDSON'S BAY COMPANY logo appeared on Plaintiff and other Aggrieved Employees' wage statements and other employment documents. Upon information and belief, HUDSON'S BAY COMPANY operates and does business as SAKS OFF 5TH and is either a joint employer with SAKS & COMPANY, LLC, SAKS OFF 5TH, SAKS FIFTH AVENUE, LLC, or is a d/b/a, or parent or subsidiary of Saks & Company, LLC, Saks off 5th or Saks Fifth Avenue, LLC. Upon information and belief, HUDSON'S BAY COMPANY owns or operates various stores and facilities, including in the Woodland Hills California facility where Plaintiff worked. On information and belief, HUDSON'S BAY COMPANY maintains operations and locations throughout Los Angeles County and California, including the Woodland Hills store where Plaintiff worked. The website for HUDSON'S BAY COMPANY states: "Our portfolio businesses feature some of the most iconic brands in retail: Hudson's Bay, Saks Fifth Avenue and Saks OFF 5TH."

Defendants failed to pay Plaintiff and the Aggrieved Employees for all hours worked or were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiff also contends that Defendants failed to pay Plaintiff and the Aggrieved Employees all wages due and owing, including by miscalculating wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and failing to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

During the course of Plaintiff and the Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in "off the clock" work) and for all their overtime hours worked, or were not paid at the correct rates. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as retail and customer-related workers based out of Defendants' facilities in California.

Plaintiff worked as an hourly associate at one of Defendants' stores in Woodland Hills, California. Her job as an hourly associate with cashier duties included counting and depositing money from the cash registers, supporting other cashiers and customer services associates, and assisting customers. Plaintiff generally worked 28 to 32 hours per week, five to six shifts per week. Plaintiff's scheduled hours were generally from 8:00 a.m. through 2:30 p.m. or 2:00 p.m. to 9:00 or 10:00 p.m. Plaintiff worked different shift schedules and hours as required.

During opening shifts, Plaintiff and other Employees would arrive at the store's back entrance sufficiently before their scheduled shift start time of 8:00 a.m. The store's doors would be locked until the manager arrived to unlock the door. Thus, Employees could not enter the store until the manager had arrived. Approximately once per week, the manager would be late and Employees,



including Plaintiff, would have to wait outside the store for five to ten minutes, unable to clock in for the day, until the manager arrived and unlocked the store's doors. This time spent waiting for the manager's arrival went uncompensated by Defendants because it would not be reflected in Defendants' timekeeping system. Once inside, Plaintiff would go to the break room which housed electronic tablets that were used by her and other Employees to clock in.

On information and belief, Aggrieved Employees record their shift start and end times by logging their Employee IDs and passwords onto the Workforce Application on Defendants' computers, tablets or cash register systems. The Workforce app purports to record the exact clock in/out time and meal period start/end time for Employees. In practice, Defendants' timekeeping system is prone to malfunctioning. For example, the Workforce App would routinely fail and not permit Employees to log their time. When this happened, at least once per week, Employees would notify the managers and they would manually enter Employees' time on the app. However, Management would record Employees' start time rounded to the nearest half hour or hour, failing to record the exact start time for Employees.

Similar issues with Defendants' timekeeping practices arose for Plaintiff while working the closing shift. Management would lock the store's door at closing time. Thus, Employees were not permitted to exit the store until a manager would unlock the doors. Upon information and belief, Defendants require that after Employees clock out, they submit to a "bag-check" to show they are not stealing any merchandise from the store. Accordingly, Employees working closing shifts would clock out on the Workforce App, go to the break room to collect their personal belongings, head toward the back door, and wait for the arrival of all Employees and the manager. Employees would then open their bags for the manager to make a visual inspection of their contents. The manager would then input a code on the store's alarm, unlock the doors, and have Employees exit the store together as a group. This entire process could take five minutes or more. Employees' post-clock-out work went uncompensated by Defendants because that time would not be reflected in Defendants' timekeeping system. Defendants thus systematically failed to compensate Plaintiff and the Class members for the time they spent under Defendants' control, including during exit security screenings.

Defendants did this, upon information and belief, in connection with other Employees in a concerted effort to limit and restrict regular and overtime incurred by Plaintiff and the other Aggrieved Employees. This was particularly prevalent during the holiday season when Employees would work many overtime hours. Time worked off the clock caused Plaintiff and other Aggrieved Employees to work beyond eight hours. As a result of the above-described rounding and other off the clock work, Defendants failed to pay Plaintiff and Aggrieved Employees overtime for several minutes at the end of work shifts which Defendants did not record in timekeeping.

Moreover, Defendants paid Plaintiff and the Aggrieved Employees bonuses during their pay periods when appropriate based on various production goals and considerations. These included "AP (Asset Protection) Award Bonuses" for stopping theft of merchandise and "Instant Credit" bonuses for getting customers to open a credit card account. Employees would also receive a



shift differential for doing inventory work and working holidays. On information and belief, if and when Defendants paid overtime premium wages, they did so at a rate of 1.5 times Plaintiffs' regular rate of pay without including the bonuses paid in the regular rate used to calculate and pay overtime. Upon information and belief, to the extent Defendants paid any shift differentials or other forms of remuneration for hours worked in a pay period, Defendants also failed to include that in the regular rate of pay used to calculate and pay overtime wages.

Plaintiff was therefore not paid for all her hours worked at the required minimum, overtime and double time wage rates due to Defendants' policy and practice of requiring her to work off the clock and without pay. With work shifts during the holiday season generally scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiff and the Aggrieved Employees working past eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiff and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and work policies which Defendants required them to follow and endured similar violations at Defendants' hands as Plaintiff.

Defendants have either failed to maintain timekeeping records for Plaintiff that would permit Plaintiff to discover the nature and extent of the off the clock work Defendants' required and the actual hours Plaintiff worked, or have otherwise declined to produce them to Plaintiff in response to a timely and lawful request. By failing to pay for all hours worked, Defendants have committed knowing and intentional ongoing violations of the record keeping requirements under the Labor Code §§ 226 and 1174.

As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked and unlawful rounding, and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and Aggrieved Employees incurred overtime hours worked for which they were not adequately and completely compensated, in addition to the hours they were required to work off the clock at their regular rates.

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



Therefore, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wages for all time worked, as required by California law. Also, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants paid Plaintiff and the Aggrieved Employees bonuses and shift differentials and other forms of remuneration above and beyond their hourly pay, upon information and belief Defendants miscalculated and therefore underpaid any overtime they paid during these pay periods by failing to include all forms of remuneration in the regular rate used to calculate and pay overtime.

Defendants also failed to provide Plaintiff and the Aggrieved Employees with their required meal periods and the at least two ten-minute rest breaks required for scheduled shifts of eight hours. Demanding workloads contributed to Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Aggrieved Employees, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to authorize and permit Plaintiff and the employee Aggrieved Employees to take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

More specifically, Plaintiff worked shifts that entitled her to at least one meal period, but Defendants' managers required Plaintiff and the Aggrieved Employees to prioritize attending to customers over taking proper meal periods. To whatever extent there was ever a schedule for meal periods, it went by the wayside quickly as there always seemed to be a cashier or customer that needed assistance. This led to systematically late meal periods if they were provided at all, and on-duty meal periods that were incessantly interrupted by customer and management demands and required job duties and tasks. The heavy workload and management expectations also contributed to Employees working through meal periods or not taking them or taking them late so work could be accomplished or they were required to remain under Defendants' control during meal periods.

Defendants appear to recognize and accept their unlawful policies, as Plaintiff's wage statements evidence Defendant paying meal period premium payments under Labor Code § 226.7 to Plaintiff. As addressed above, Defendants committed similar and ongoing violations by failing to include all forms of remuneration, including shift differentials and bonuses and premium payments to Plaintiff and the Aggrieved Employees, in the regular hourly rate at which they paid the premiums. Additionally, any meal premium paid would also be retroactively deducted from future paychecks. When Plaintiff inquired about deducted meal premiums, she was told it was because she had "waived" the meal period, despite Plaintiff not waiving her meal period at all.



Therefore, meal period violations systematically occurred throughout all of Plaintiff's work shifts where Defendants both failed to provide a lawful meal period and penalty payment. To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to include all forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour premium payment. Upon information and belief, the other Aggrieved Employees were subjected to similar unlawful policies and practices and endured similar violations as Plaintiff.

Defendants thus failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants or otherwise remain under Defendants' control for more than five hours during a shift, or ten hours in a shift, but were often required to do so without receiving a lawful, timely, and duty-free 30-minute meal breaks. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work, in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

As a result, Defendants' failure to provide Plaintiff and the Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Employees "premium pay," i.e., one hour of wages at each Employee's effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided. Upon information and belief, if and when Defendants did pay any meal period premiums, they failed to include all forms of remuneration in the regular rate used to calculate and pay it.

Therefore, Plaintiff and the Aggrieved Employees were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required meal breaks due to Defendants' policies and practices. On the occasions when Plaintiff and the Aggrieved Employees were provided with a meal period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.

Defendants also failed to authorize and permit Plaintiff and the Aggrieved Employees to take duty-free, net ten-minute rest breaks for every four hours of shift work, or major fraction thereof. There were similar issues with the required net ten-minute rest breaks that Plaintiff and the Aggrieved Employees were unable to take as with meal periods. Defendants made no efforts or provided no emphasis on authorizing and permitting Employees to take net ten-minute rest breaks for every four hours of work.

Given the constant and ongoing job and customer demands she faced and Defendants' failure to adequately staff its facilities to permit employees to take breaks, Plaintiff was compelled to remain at the store performing job related duties and remaining under Defendants' control during times when she was supposed to be enjoying a duty-free rest break. By uniformly requiring Plaintiff and the Aggrieved Employees to remain under Defendants' control and on premises



during rest breaks, Defendants committed systematic and ongoing rest break violations. To the extent Defendants paid any rest break premium payments under Labor Code § 226.7 to Plaintiff or Aggrieved Employees these payments failed to include all forms of remuneration, including shift differentials and bonuses and premium payments to Plaintiff, in the regular hourly rate at which they paid the rest break premiums.

Defendants' management did not emphasize the requirement to provide at least one ten-minute duty-free rest period for each four-hour duty period, or major fraction thereof. If and when Plaintiff was permitted to take a ten-minute rest break on a shift, she was not permitted to take a second one or a third one or any breaks were untimely or impermissibly shortened. Further violations occurred as Plaintiff and the Aggrieved Employees were required to remain under Defendants' control by not being able to leave the premises and by Defendants' requirement that they remain ready to respond to work requirements and job demands.

Therefore, Defendants failed to authorize and permit Aggrieved Employees to take all their required rest breaks. Plaintiff and the other Aggrieved Employees were either not authorized permitted the opportunity to take a rest break, or were required to remain under Defendants' control and respond to instructions and job demands. Defendants also failed to authorize and permit Employees to leave the property premises during rest breaks, or else prevented them from doing so, thus further evidencing Defendants' policy and practice of requiring Plaintiff and the Aggrieved Employees to remain under their control during required off-duty rest breaks.

Defendants' policies and practices thus systematically deny and denied Plaintiff and the Aggrieved Employees full, duty-free ten-minute rest periods and thirty-minute, duty-free meal periods. The California Supreme Court has instructed that the rest period requirement obligates employers to permit and authorize employees to take-off-duty rest periods. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. Plaintiff and the Aggrieved Employees were and are under Defendants' control when they are working through rest breaks, and Defendants failed to schedule or account for required first, second, and third rest breaks during the shifts Plaintiff and the Aggrieved Employees generally worked.

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

Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by requiring off the clock work during breaks and before and after work shifts and by miscalculating the regular rate and accordingly underpaying overtime wages and meal and rest break premiums. By not compensating



Employees for all hours worked at the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiff and the Aggrieved Employees, in violation of Labor Code § 221.

Defendants also violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246 provides that an Employee who “works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” Paid sick time for nonexempt employees shall be calculated in the same manner as the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and earned sick days paid at the correct rate of pay, in violation of Labor Code § 246. Additionally and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to the Aggrieved Employees during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave paid at the correct rates as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: “If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.” Plaintiff accordingly seeks this relief available for Defendants’ failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

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

Defendants have also consistently failed to provide Aggrieved Employees with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off the clock work, failure to pay all overtime and double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it



difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff and the Aggrieved Employees, during the liability period, including because they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were not maintained or were not accurately maintained for work shifts and meal periods. Defendants also failed to accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff and the Aggrieved Employees, including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

Defendants also provided Plaintiff and the Aggrieved Employees with wage statements that failed to accurately report all hours worked and applicable hourly rates for all hours worked. For the same reasons as explained above, Plaintiff and the Aggrieved Employees were provided with unlawful wage statements that failed to reflect all hours worked and failed to pay for all overtime hours or failed to pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and rest break premiums, and sick time if and when they did pay them. Defendants followed this unlawful policy and practice even though both Plaintiff and Defendants were aware that Plaintiff and the Aggrieved Employees worked more total hours than were reflected on the wage statements, including overtime hours, and were underpaid by regular rate miscalculation. Plaintiff and the Aggrieved Employees were unable to discern from their wage statements alone the actual hours they worked in total during a pay period and the rates they were paid for those hours worked.

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

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



Plaintiff has requested records from Defendants and they have failed to constructively respond or to fully respond. Therefore, Plaintiff also asserts that Defendants have had a consistent policy of denying Plaintiff and Aggrieved Employees the right to inspect and receive all of their payroll records, timecards, and personnel records.

Additionally, Defendants have regularly required Plaintiff and the Aggrieved Employees to incur necessary business expenses in the course of performing their required job duties without reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to calls from management, and customers. Plaintiff and the Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802, and Defendants systematically failed to do so.

PAGA Claim Details, Legal Bases for Violations and Penalties:

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

Failure to Pay Minimum Wages

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

Defendants failed to pay Employees the minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants’ control during breaks and due to the work demands placed upon them by Defendants’ management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Aggrieved Employees, including by requiring systematic off the clock work. Defendants’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay. In light of the foregoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of



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

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

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

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

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



In light of the foregoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

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

Meal-Period Liability Under Labor Code § 226.7 and Penalties

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

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e., one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

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



Rest-Break Liability and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants generally failed to authorize and permit any rest breaks, or provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond job requirements or simply failed to authorize and permit them at all.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest break not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

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

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

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." As discussed above, Defendants have consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock work and unlawful rounding and overtime miscalculation. By not compensating Employees for all hours worked, Defendant unlawfully deducted wages earned by and owed to Aggrieved Employees, in violation of Labor Code § 221.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558. Under the PAGA, and following exhaustion of the notice period, Plaintiff seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).



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

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

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above, and failed to list accurate rates of pay due to miscalculations of overtime and premium pay. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

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

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

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.



Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods and by rounding. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

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

Failure to Keep Records In Accordance With Labor Code § 1174

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



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

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the foregoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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

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



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

Failure to Provide Information Upon Hiring Pursuant to Labor Code § 2810.5:

Labor Code § 2810.5 provides that: "At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing" specific required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Under the PAGA, and following exhaustion of the notice period, Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2810.5, 1198, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work-related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred in responding to calls from management and customers. Defendants thus uniformly failed to reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees.

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

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

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

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

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



addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and 2698 *et seq.*, including as follows:

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

(b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

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



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

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

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

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code § 2810.5, and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Saks & Company, LLC, a Delaware limited liability company; Saks Off 5th, a California business entity, form unknown; Saks Fifth Avenue, LLC, a Massachusetts limited liability company, Hudson's Bay Company, and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.



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

Regards,

D.LAW INC.

A handwritten signature in black ink, appearing to read 'Alvin B. Lindsay', with a horizontal line underneath.

Alvin B. Lindsay

a.lindsay@d.law

Cc: Saks & Company, LLC; Saks Off 5th; Saks Fifth Avenue, LLC; Hudson's Bay Company by Certified Mail

EXHIBIT 6

December 21, 2023

VIA ON-LINE SUBMISSION ONLY TO:

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

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

VIA CERTIFIED MAIL TO:

(by certified mail to Saks & Company, LLC; Saks Off 5th; Saks Fifth Avenue, LLC; Hudson's Bay Company)

Saks & Company, LLC
225 Liberty Street 31 Floor
New York, NY 10281
Certified Mail Tracking Number:

CSC - Lawyers Incorporating Service
Agent for Service of Process for Saks & Company, LLC.
2710 Gateway Oaks Drive
Sacramento CA 95833
Certified Mail Tracking Number:

Saks Off 5th
21500 Victory Blvd.
Woodland Hills, CA 91367
Certified Mail Tracking Number:

Saks Fifth Avenue LLC.
800 Boylston Street
Boston, MA 02199
Certified Mail Tracking Number:

Corporation Service Company
Agent for Service of Process for Saks Fifth Avenue LLC.
84 State Street, 6th Floor
Boston, MA 02109
Certified Mail Tracking Number:

Hudson's Bay Company
225 Liberty Street
New York, NY 10281
Certified Mail Tracking Number:

**Re: Labor Code § 2698, et seq. Private Attorneys' General Act Claim
Amended PAGA Notice Letter to LWDA (original dated October 24, 2023)
Bayarmaa G. Shany and Bryan Gonzalez Pineda v. Saks & Company, LLC., et al.
Superior Court for the County of Los Angeles, Case No.: 23STCV25980
LWDA Case No.: LWDA-CM-989646-23**



Dear Gentilepersons:

This office represents Plaintiffs Bayarmaa G. Shany and Bryan Gonzalez Pineda (“Plaintiffs”) and other similarly aggrieved employees employed as non-exempt, hourly retail and loss prevention employees and in related positions at Defendants’ facility and office locations in California during the relevant period (collectively “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2698, and 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”), and to supplement and amend Plaintiff Bayarmaa G. Shany’s original PAGA Notice to the LWDA, submitted October 24, 2023 (Case No.: LWDA Case No.: LWDA-CM-989646-23). Plaintiff Bayarmaa G. Shany would like to add Plaintiff Bryan Gonzalez Pineda to her original PAGA Notice and Class Action Complaint, pursuant to the Act, so they together may bring a representative action on behalf of themselves and all other similarly situated Aggrieved Employees, and the State of California, against Defendants Saks & Company, LLC, a Delaware limited liability company; Saks Off 5th, a California business entity, form unknown; Saks Fifth Avenue, LLC, a Massachusetts limited liability company, Hudson’s Bay Company, a California business entity, form unknown; and Does 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with Plaintiffs’ Class Action Complaint, filed on October 24, 2023, in Los Angeles Superior Court (Case No.: 23STCV25980), and Plaintiffs’ First Amended Class Action Complaint, attached to this Notice letter and to be filed on or about December 28, 2023. The allegations and claims and provisions as set forth in the Complaint, and the First Amended Complaint and the original PAGA Notice Letter are incorporated in this Amended PAGA Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiffs and all of their Aggrieved Employees in California. The original PAGA Notice Letter, the Class Action Complaint and the attached First Amended Complaint, along with this Amended PAGA Notice Letter provide the details of Plaintiffs’ class-wide claims and representative claims under the Act, and the applicable California law governing them. They address in detail numerous violations that subject Defendants to civil and statutory penalties under the Act. and provide ample support for the Act’s notice requirements.



Relevant Facts

Plaintiff BAYARMAA G. SHANY worked as an hourly associate at one of Defendants' facilities and locations in Woodland Hills, California, and Los Angeles County. Plaintiff BRYAN GONZALEZ PINEDA worked as an asset protection employee at one of Defendants' facilities and locations in Ontario, California and in San Bernardino County. They and the other Aggrieved Employees were employed by Defendants as non-exempt, hourly associate employees at Defendants' locations and facilities throughout California, including in positions related to providing retail and customer services to Defendants' customers. Plaintiffs worked at Defendants' behest without being paid all wages due and without being provided all required breaks. More specifically, Plaintiffs and the Aggrieved Employees were employed by Defendants and (1) shared similar job duties and responsibilities (2) were subjected to the same policies and practices (3) and endured similar violations at the hands of Defendants as the other Employees who served in similar and related positions.

Defendants required Plaintiffs and the Aggrieved Employees to work off the clock and failed to record accurate time worked by these Employees, failed to pay them at the appropriate rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and provided Aggrieved Employees with inaccurate wage statements that prevented them from learning of these unlawful pay practices. Defendants also failed to provide Plaintiffs and the Aggrieved Employees with lawful meal and rest periods, as Employees were required to remain under Defendants' control and were not provided with the opportunity to take full uninterrupted, timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.

Defendant SAKS & COMPANY, LLC is a Delaware limited liability company which lists its principal address with the California Secretary of State in New York, New York and does not list a California office. It lists its type of business as "RETAIL/SPECIALTY STORE." Defendant SAKS & COMPANY, LLC is listed as the employer on the wage statements issued to Plaintiffs by Defendants on a bi-weekly basis, and upon information and belief to other Aggrieved Employees, with the same New York address. Upon information and belief, SAKS & COMPANY, LLC operates and does business as SAKS OFF 5TH or is either a joint employer with SAKS OFF 5TH or SAKS & COMPANY, LLC is a d/b/a, or parent or subsidiary of Saks Fifth Avenue LLC, Saks Off 5th, or Hudson's Bay Company. Upon information and belief, SAKS & COMPANY, LLC owns or operates various stores and facilities, including in the Woodland Hills and Ontario California facilities where Plaintiffs worked. On information and belief, SAKS & COMPANY, LLC maintains operations and locations throughout Los Angeles County, San Bernardino County and California, including the Woodland Hills and Ontario stores where Plaintiffs worked.

Upon information and belief, two such facilities are SAKS OFF 5TH in Woodland Hills and Ontario California. Defendant SAKS OFF 5TH is a California business entity of form unknown, unlisted with the California Secretary of State. SAKS OFF 5TH's company logo appeared on Plaintiffs and other Aggrieved Employees' wage statements and other employment documents.



Upon information and belief, SAKS OFF 5TH is a d/b/or subsidiary of Saks & Company, LLC or Saks Fifth Avenue, LLC, or Hudson's Bay Company. SAKS OFF 5TH in Woodland Hills and Ontario California are where Plaintiffs worked. The website for SAKS OFF 5TH states: "Saks OFF 5TH is reimagining traditional off-price retail with a digital-first model focused on delivering a superior customer experience. Through our merchandise authority, unparalleled brand access and seamless connection between e-commerce and stores, we provide the best names in fashion at an incredible value."

Defendant SAKS FIFTH AVENUE, LLC, a Massachusetts limited liability company, is listed with the Massachusetts Secretary of State and does not list a California office. Defendant SAKS FIFTH AVENUE, LLC's company logo appeared on Plaintiffs' and other Aggrieved Employees' wage statements and other employment documents. Upon information and belief, SAKS FIFTH AVENUE, LLC operates and does business as SAKS OFF 5TH and is either a joint employer with SAKS OFF 5TH or SAKS FIFTH AVENUE, LLC is a d/b/a, or parent or subsidiary of Saks Off 5th, Saks & Company, LLC, or Hudson's Bay Company. Upon information and belief, SAKS FIFTH AVENUE, LLC owns or operates various stores and facilities, including in the Woodland Hills and Ontario California facilities where Plaintiffs worked. On information and belief, SAKS FIFTH AVENUE, LLC maintains operations and locations throughout Los Angeles County, San Bernardino County and California, including the Woodland Hills and Ontario store where Plaintiffs worked.

Defendant HUDSON'S BAY COMPANY is a California business entity of form unknown, unlisted with the California Secretary of State. The HUDSON'S BAY COMPANY logo appeared on Plaintiffs' and other Aggrieved Employees' wage statements and other employment documents. Upon information and belief, HUDSON'S BAY COMPANY operates and does business as SAKS OFF 5TH and is either a joint employer with SAKS & COMPANY, LLC, SAKS OFF 5TH, SAKS FIFTH AVENUE, LLC, or is a d/b/a, or parent or subsidiary of Saks & Company, LLC, Saks off 5th or Saks Fifth Avenue, LLC. Upon information and belief, HUDSON'S BAY COMPANY owns or operates various stores and facilities, including in the Woodland Hills and Ontario California facilities where Plaintiffs worked. On information and belief, HUDSON'S BAY COMPANY maintains operations and locations throughout Los Angeles County, San Bernardino County and California, including the Woodland Hills and Ontario stores where Plaintiffs worked. The website for HUDSON'S BAY COMPANY states: "Our portfolio businesses feature some of the most iconic brands in retail: Hudson's Bay, Saks Fifth Avenue and Saks OFF 5TH."

Defendants failed to pay Plaintiffs and the Aggrieved Employees for all hours worked or were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiffs also contend that Defendants failed to pay Plaintiffs and the Aggrieved Employees all wages due and owing, including by miscalculating wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and failing to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.



During the course of Plaintiffs' and the Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in "off the clock" work) and for all their overtime hours worked, or were not paid at the correct rates. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as retail and customer-related workers based out of Defendants' facilities in California.

Plaintiff BAYARMAA G. SHANY worked as an hourly associate at one of Defendants' stores in Woodland Hills, California. Her job as an hourly associate with cashier duties included counting and depositing money from the cash registers, supporting other cashiers and customer services associates, and assisting customers. She generally worked 28 to 32 hours per week, five to six shifts per week. Plaintiff BAYARMAA G. SHANY's scheduled hours were generally from 8:00 a.m. through 2:30 p.m. or 2:00 p.m. to 9:00 or 10:00 p.m. Plaintiff BRYAN GONZALEZ PINEDA worked as an asset protection investigator at Defendants' stores in Ontario, California. His duties included apprehending shop lifters and enforcing safety and loss prevention policies. Plaintiff BRYAN GONZALEZ PINEDA's scheduled hours were generally from 11:00 a.m. through 8:00 p.m., five shifts per week. Plaintiffs worked different shift schedules and hours as required.

During opening shifts, Plaintiffs and other Employees would arrive at the store's back entrance sufficiently before their scheduled shift start time of 8:00 a.m. The store's doors would be locked until the manager arrived to unlock the door. Thus, Employees could not enter the store until the manager had arrived. Approximately once per week, the manager would be late and Employees, including Plaintiffs, would have to wait outside the store for five to ten minutes, unable to clock in for the day, until the manager arrived and unlocked the store's doors. This time spent waiting for the manager's arrival went uncompensated by Defendants because it would not be reflected in Defendants' timekeeping system. Once inside, Plaintiffs would go to the break room which housed electronic tablets that were used by them and other Employees to clock in.

On information and belief, Aggrieved Employees record their shift start and end times by logging their Employee IDs and passwords onto the Workforce Application on Defendants' computers, tablets, or cash register systems. The Workforce app purports to record the exact clock in/out time and meal period start/end time for Employees. In practice, Defendants' timekeeping system is prone to malfunctioning. For example, the Workforce App would routinely fail and not permit Employees to log their time. When this happened, at least once per week, Employees would notify the managers and they would manually enter Employees' time on the app. However, Management would record Employees' start time rounded to the nearest half hour or hour, failing to record the exact start time for Employees.

Similar issues with Defendants' timekeeping practices arose for Plaintiffs while working the closing shift. Management would lock the store's door at closing time. Thus, Employees were not permitted to exit the store until a manager would unlock the doors. Upon information and belief, Defendants require that after Employees clock out, they submit to a "bag-check" to show



they are not stealing any merchandise from the store. Accordingly, Employees working closing shifts would clock out on the Workforce App, go to the break room to collect their personal belongings, head toward the back door, and wait for the arrival of all Employees and the manager. Employees would then open their bags for the manager to make a visual inspection of their contents. The manager would then input a code on the store's alarm, unlock the doors, and have Employees exit the store together as a group. This entire process could take five minutes or more. Employees' post-clock-out work went uncompensated by Defendants because that time would not be reflected in Defendants' timekeeping system. Defendants thus systematically failed to compensate Plaintiffs and the Class members for the time they spent under Defendants' control, including during exit security screenings.

Defendants did this, upon information and belief, in connection with other Employees in a concerted effort to limit and restrict regular and overtime incurred by Plaintiffs and the other Aggrieved Employees. This was particularly prevalent during the holiday season when Employees would work many overtime hours. Time worked off the clock caused Plaintiffs and other Aggrieved Employees to work beyond eight hours. As a result of the above-described rounding and other off the clock work, Defendants failed to pay Plaintiffs and Aggrieved Employees overtime for several minutes at the end of work shifts which Defendants did not record in timekeeping.

Moreover, Defendants paid Plaintiffs and the Aggrieved Employees bonuses during their pay periods when appropriate based on various production goals and considerations. These included "AP (Asset Protection) Award Bonuses" for stopping theft of merchandise and "Instant Credit" bonuses for getting customers to open a credit card account. Employees would also receive a shift differential for doing inventory work and working holidays. On information and belief, if and when Defendants paid overtime premium wages, they did so at a rate of 1.5 times Plaintiffs' regular rate of pay without including the bonuses paid in the regular rate used to calculate and pay overtime. Upon information and belief, to the extent Defendants paid any shift differentials or other forms of remuneration for hours worked in a pay period, Defendants also failed to include that in the regular rate of pay used to calculate and pay overtime wages.

Plaintiffs were therefore not paid for all their hours worked at the required minimum, overtime, and double time wage rates due to Defendants' policy and practice of requiring her to work off the clock and without pay. With work shifts during the holiday season generally scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiffs and the Aggrieved Employees working past eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiffs and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and work policies which Defendants required them to follow and endured similar violations at Defendants' hands as Plaintiffs.



Defendants have either failed to maintain timekeeping records for Plaintiffs that would permit Plaintiffs to discover the nature and extent of the off the clock work Defendants' required and the actual hours Plaintiffs worked, or have otherwise declined to produce them to Plaintiffs in response to a timely and lawful request. By failing to pay for all hours worked, Defendants have committed knowing and intentional ongoing violations of the record keeping requirements under the Labor Code §§ 226 and 1174.

As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked and unlawful rounding, and the other wage violations they endured at Defendants' hands, Plaintiffs and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiffs and Aggrieved Employees incurred overtime hours worked for which they were not adequately and completely compensated, in addition to the hours they were required to work off the clock at their regular rates.

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

Therefore, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wages for all time worked, as required by California law. Also, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants paid Plaintiffs and the Aggrieved Employees bonuses and shift differentials and other forms of remuneration above and beyond their hourly pay, upon information and belief Defendants miscalculated and therefore underpaid any overtime they paid during these pay periods by failing to include all forms of remuneration in the regular rate used to calculate and pay overtime.

Defendants also failed to provide Plaintiffs and the Aggrieved Employees with their required meal periods and the at least two ten-minute rest breaks required for scheduled shifts of eight hours. Demanding workloads contributed to Defendants' common policy of failing to provide lawful meal periods to Plaintiffs and the Aggrieved Employees, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to authorize and permit Plaintiffs and the employee Aggrieved Employees to take all required 10-



minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

More specifically, Plaintiffs worked shifts that entitled them to at least one meal period, but Defendants' managers required Plaintiffs and the Aggrieved Employees to prioritize attending to customers over taking proper meal periods. To whatever extent there was ever a schedule for meal periods, it went by the wayside quickly as there always seemed to be a cashier or customer that needed assistance. This led to systematically late meal periods if they were provided at all, and on-duty meal periods that were incessantly interrupted by customer and management demands and required job duties and tasks. The heavy workload and management expectations also contributed to Employees working through meal periods or not taking them or taking them late so work could be accomplished or they were required to remain under Defendants' control during meal periods.

Defendants appear to recognize and accept their unlawful policies, as Plaintiffs' wage statements evidence Defendant paying meal period premium payments under Labor Code § 226.7 to Plaintiffs. As addressed above, Defendants committed similar and ongoing violations by failing to include all forms of remuneration, including shift differentials and bonuses and premium payments to Plaintiffs and the Aggrieved Employees, in the regular hourly rate at which they paid the premiums. Additionally, any meal premium paid would also be retroactively deducted from future paychecks. When Plaintiff BAYARMAA G. SHANY inquired about deducted meal premiums, she was told it was because she had "waived" the meal period, despite Plaintiff not waiving her meal period at all.

Therefore, meal period violations systematically occurred throughout all of Plaintiffs' work shifts where Defendants both failed to provide a lawful meal period and penalty payment. To the extent Defendants ever did pay Plaintiffs a meal period premium, they failed to include all forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour premium payment. Upon information and belief, the other Aggrieved Employees were subjected to similar unlawful policies and practices and endured similar violations as Plaintiffs.

Defendants thus failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Plaintiffs and the other Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Plaintiffs and other Aggrieved Employees were required to perform work as ordered by Defendants or otherwise remain under Defendants' control for more than five hours during a shift, or ten hours in a shift, but were often required to do so without receiving a lawful, timely, and duty-free 30-minute meal breaks. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work, in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

As a result, Defendants' failure to provide Plaintiffs and the Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants



also failed to pay Employees “premium pay,” i.e., one hour of wages at each Employee’s effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided. Upon information and belief, if and when Defendants did pay any meal period premiums, they failed to include all forms of remuneration in the regular rate used to calculate and pay it.

Therefore, Plaintiffs and the Aggrieved Employees were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required meal breaks due to Defendants’ policies and practices. On the occasions when Plaintiffs and the Aggrieved Employees were provided with a meal period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were not provided with one hour’s wages in lieu thereof.

Defendants also failed to authorize and permit Plaintiffs and the Aggrieved Employees to take duty-free, net ten-minute rest breaks for every four hours of shift work, or major fraction thereof. There were similar issues with the required net ten-minute rest breaks that Plaintiffs and the Aggrieved Employees were unable to take as with meal periods. Defendants made no efforts or provided no emphasis on authorizing and permitting Employees to take net ten-minute rest breaks for every four hours of work.

Given the constant and ongoing job and customer demands they faced and Defendants’ failure to adequately staff its facilities to permit employees to take breaks, Plaintiffs were compelled to remain at the store performing job related duties and remaining under Defendants’ control during times when they were supposed to be enjoying a duty-free rest break. By uniformly requiring Plaintiffs and the Aggrieved Employees to remain under Defendants’ control and on premises during rest breaks, Defendants committed systematic and ongoing rest break violations. To the extent Defendants paid any rest break premium payments under Labor Code § 226.7 to Plaintiffs or Aggrieved Employees these payments failed to include all forms of remuneration, including shift differentials and bonuses and premium payments to Plaintiffs, in the regular hourly rate at which they paid the rest break premiums.

Defendants’ management did not emphasize the requirement to provide at least one ten-minute duty-free rest period for each four-hour duty period, or major fraction thereof. If and when Plaintiffs were permitted to take a ten-minute rest break on a shift, they were not permitted to take a second one or a third one or any breaks were untimely or impermissibly shortened. Further violations occurred as Plaintiffs and the Aggrieved Employees were required to remain under Defendants’ control by not being able to leave the premises and by Defendants’ requirement that they remain ready to respond to work requirements and job demands.

Therefore, Defendants failed to authorize and permit Aggrieved Employees to take all their required rest breaks. Plaintiffs and the other Aggrieved Employees were either not authorized permitted the opportunity to take a rest break, or were required to remain under Defendants’ control and respond to instructions and job demands. Defendants also failed to authorize and permit Employees to leave the property premises during rest breaks, or else prevented them from



doing so, thus further evidencing Defendants' policy and practice of requiring Plaintiffs and the Aggrieved Employees to remain under their control during required off-duty rest breaks.

Defendants' policies and practices thus systematically deny and denied Plaintiffs and the Aggrieved Employees full, duty-free ten-minute rest periods and thirty-minute, duty-free meal periods. The California Supreme Court has instructed that the rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. Plaintiffs and the Aggrieved Employees were and are under Defendants' control when they are working through rest breaks, and Defendants failed to schedule or account for required first, second, and third rest breaks during the shifts Plaintiffs and the Aggrieved Employees generally worked.

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

Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by requiring off the clock work during breaks and before and after work shifts and by miscalculating the regular rate and accordingly underpaying overtime wages and meal and rest break premiums. By not compensating Employees for all hours worked at the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiffs and the Aggrieved Employees, in violation of Labor Code § 221.

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



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

Defendants failed to provide Employees such as Plaintiffs at the time of their employment and thereafter with written notice complying with all the requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing" specifically required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to provide Plaintiffs and the Aggrieved Employees certain specific information upon hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiffs with any such information when they were hired, or have failed to produce it, and upon information and belief Defendants committed similar violations in connection with similarly situated and Aggrieved Employees.

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

Defendants also provided Plaintiffs and the Aggrieved Employees with wage statements that failed to accurately report all hours worked and applicable hourly rates for all hours worked. For the same reasons as explained above, Plaintiffs and the Aggrieved Employees were provided with unlawful wage statements that failed to reflect all hours worked and failed to pay for all overtime hours or failed to pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and rest break premiums, and sick time if and when they did pay them. Defendants followed this unlawful policy and practice even though both Plaintiffs and Defendants were aware that Plaintiffs and the Aggrieved Employees worked more total hours



than were reflected on the wage statements, including overtime hours, and were underpaid by regular rate miscalculation. Plaintiffs and the Aggrieved Employees were unable to discern from their wage statements alone the actual hours they worked in total during a pay period and the rates they were paid for those hours worked.

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

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

Plaintiff BAYARMAA G. SHANY has requested records from Defendants and they have failed to constructively respond or to fully respond. Therefore, Plaintiff also asserts that Defendants have had a consistent policy of denying Plaintiff and Aggrieved Employees the right to inspect and receive all of their payroll records, timecards, and personnel records.

Additionally, Defendants have regularly required Plaintiffs and the Aggrieved Employees to incur necessary business expenses in the course of performing their required job duties without reimbursement. These included the cell phone-related expenses Plaintiffs incurred in responding to calls from management, and customers. Plaintiffs and the Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802, and Defendants systematically failed to do so.

PAGA Claim Details, Legal Bases for Violations and Penalties:

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



Failure to Pay Minimum Wages

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

Defendants failed to pay Employees the minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants’ control during breaks and due to the work demands placed upon them by Defendants’ management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiffs and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Aggrieved Employees, including by requiring systematic off the clock work. Defendants’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiffs and the other Aggrieved Employees as to minimum wage pay. In light of the foregoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiffs and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants’ conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants’ failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants’ conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiffs and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiffs are seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1,



1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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

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

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

In light of the foregoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

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

Meal-Period Liability Under Labor Code § 226.7 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as



required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods due to the work demands placed upon them by Defendants' management, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks due to Defendants' policies and practices.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e., one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

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

Rest-Break Liability and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants generally failed to authorize and permit any rest breaks, or provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond job requirements or simply failed to authorize and permit them at all.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest break not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.



Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

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

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

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." As discussed above, Defendants have consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock work and unlawful rounding and overtime miscalculation. By not compensating Employees for all hours worked, Defendant unlawfully deducted wages earned by and owed to Aggrieved Employees, in violation of Labor Code § 221.

In light of the foregoing, Plaintiffs and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558. Under the PAGA, and following exhaustion of the notice period, Plaintiffs seek all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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

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

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



pay. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

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

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

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods and by rounding. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204.

In light of the foregoing, Plaintiffs and Aggrieved Employees seek to recover wages and penalties, interest, fees, and costs pursuant to Labor Code §§ 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as



required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

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

Failure to Keep Records In Accordance With Labor Code § 1174

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

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

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the foregoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the foregoing, Plaintiffs and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.



Under the PAGA, and following exhaustion of the notice period, Plaintiffs assert PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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

Defendants violated California Labor Code § 246 by not providing all required paid sick days to Plaintiffs and the Aggrieved Employees. Labor Code § 246 provides that an Employee who “works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.”

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

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

Failure to Provide Information Upon Hiring Pursuant to Labor Code § 2810.5:

Labor Code § 2810.5 provides that: “At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing” specific required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Under the PAGA, and following exhaustion of the notice period, Plaintiffs seek all civil and statutory penalties available and applicable under Labor Code §§ 2810.5, 1198, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802

Defendants required Plaintiffs and the Aggrieved Employees to pay for necessary work-related expenses they incurred. These included the cell phone-related expenses Plaintiffs incurred in responding to calls from management and customers. Defendants thus uniformly failed to



reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees.

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

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

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

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

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period following the submission of the original PAGA Notice Letter on **October 23, 2023**, and after the filing of the Class Action Complaint, and First Amended Complaint adding a PAGA cause of action and Plaintiff Bryan Gonzalez Pineda, and now following submission of this Amended PAGA Notice Letter, Plaintiffs will file an amended Complaint in Superior Court for the County of Los Angeles, Case No.: 23STCV25980 asserting, as an amended representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions, incorporating this Amended PAGA Notice Letter and including as claims under the PAGA as addressed above and as follows:

Plaintiffs and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and 2698 et seq., including as follows:

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



(b) Meal and Rest Period Claims: For failure to provide Plaintiffs and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

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

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

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

(f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants' failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2,



248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code §§ 2810.5, and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of an amended Complaint, alleging all the PAGA claim bases discussed herein, without asserting an amended PAGA claim. Thus, any action by the LWDA would be unnecessary given that the LWDA thus far has declined to investigate after the original PAGA Notice Letter, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter, along with the original PAGA Notice Letter, the Complaint, and the First Amended Complaint pending in Los Angeles County, therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiffs allege have been violated, including the facts and relevant theories alleged against Saks & Company, LLC, Saks Off 5th, Saks Fifth Avenue, LLC, Hudson's Bay Company, and any other named Defendants and joint employers. To prevent the violations described in the Complaint, First Amended Complaint, original PAGA Notice Letter and herein from occurring, and to remedy past violations, Plaintiffs respectfully request that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act and as addressed herein.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark of the originally filed October 24, 2023 PAGA Notice Letter, whether you intend to proceed with these claims or whether Plaintiffs and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW, INC.

Alvin B. Lindsay
a.lindsay@d.law

Cc: Saks & Company, LLC; Saks Off 5th; Saks Fifth Avenue, LLC; Hudson's Bay Company by Certified Mail