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7 Counsel for Plaintiff RUDIS CARRANZA

8 **SUPERIOR COURT OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN MATEO**

10
11 RUDIS CARRANZA, individually, and on
12 behalf of all others similarly aggrieved,

13 Plaintiff,

14 vs. BRISBANE RECYCLING CO., INC., a
15 California corporation, JOSEPH NUBLA, an
16 individual, and DOES 1 through 50,
17 inclusive,

18 Defendants.

CASE NO. 24-CIV-01496

Assigned for All Purposes to:
Hon. Nicole S. Healy
Dept. 28

DECLARATIN OF J. KIRK DONNELLY IN
SUPPORT OF MOTION FOR APPROVAL OF
SETTLEMENT UNDER PRIVATE
ATTORNEYS GENERAL ACT

Date: September 10, 2025
Time: 2:00 p.m.
Dept.: 28

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1. I am an attorney duly licensed to practice in California and before this Court, and I am the principal of the Law Offices of J. Kirk Donnelly, APC, counsel of record for plaintiff. I make this declaration in support of Plaintiff's Motion for Approval of Settlement under the Private Attorneys General Act. If called to testify as to the within facts, I would and could competently do so.
2. Attached hereto as Exhibit 1 is a true and correct, fully-executed copy of the Parties' PAGA Settlement Agreement (the "Settlement Agreement"). Attached hereto as Exhibit 2 is a true and correct copy of Plaintiffs' December 22, 2023 notice letter to the Labor & Workforce Development Agency ("LWDA") and proof of submission. Attached hereto as Exhibit 3 is proof of submission of the proposed settlement to the LWDA via its online portal.
3. I am unaware of any other cases or matters that may be related to this matter or that may have overlapping claims or classes.

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4. Brisbane is a construction materials supplier operating out of yard in Brisbane, California, where it recycles concrete and other used construction materials into aggregates, gravel, and other materials for reuse in new construction. Plaintiff Carranza worked for Brisbane for about 10 years, from 2013 until around July 2023, as a machine operator controlling rock crushers, conveyor belts, and other heavy machinery. Plaintiff was always a full-time employee and typically worked 5 days and 40 or more hours per week. He was paid weekly and his final wage was \$30/hour. While employed with Brisbane, Plaintiff alleges he was subjected to a number of wage and hour violations.

5. After notice to the LWDA and Defendant, and exhausting administrative remedies, Plaintiff filed a complaint against Brisbane on March 8, 2024, seeking both individual relief and PAGA civil penalties for the following alleged wage and hour violations: (a) failure to pay all wages due, including minimum and overtime wages; (b) failure to provide meal and rest periods; (c) failure to provide complete and accurate wage statements; (d) failure to reimburse expenses;

1 and (e) failure to pay wages due on separation of employment. Plaintiff filed the matter on behalf
2 of himself and on behalf of the Aggrieved Employees defined to include all individuals directly
3 employed by Brisbane as non-exempt employees in California during the relevant PAGA time
4 frame of January 2, 2023 to February 19, 2025.

5 6. Once the case was at issue, the Parties began meeting and conferring regarding
6 discovery, potential law and motion, and other case management issues, and eventually agreed to
7 attempt early mediation. They also agreed to and did informally exchange information to permit
8 both sides to evaluate Plaintiff's allegations. Through this informal discovery, Defendant
9 provided Plaintiff with information including, inter alia, Plaintiff's personnel file, the number of
10 potential Aggrieved Employees, the number of aggregate pay periods, pay stubs and time records
11 for a sampling of the Aggrieved Employees, and relevant policy documents regarding
12 Defendant's time keeping and reporting policies and meal and rest break policies, among other
13 pertinent materials.

14 7. On February 19, 2025, the Parties mediated the case with Craig Ackermann, Esq.,
15 a respected professional neutral with extensive class action/wage and hour experience. Before and
16 during the mediation, Plaintiff and his counsel analyzed, researched, and investigated the
17 potential issues, including matters related to the calculation of damages, trial, and appellate issues
18 and risks. During mediation, the Parties vigorously debated the likelihood of Plaintiff's ability to
19 proceed on a representative basis as to the PAGA claims, the legal grounds for Plaintiff's claims
20 and Defendant's defenses, and the Parties' data analyses and conclusions based on data provided
21 by Defendant. After a contentious day of negotiations, the Parties reached agreement and
22 subsequently formalized their tentative settlement in the Settlement Agreement now before the
23 Court for approval

24 **SUMMARY OF SETTLEMENT TERMS**

25 8. Under the settlement, Defendant will pay a non-reversionary settlement amount of
26 \$60,000 (the "Gross Settlement Amount" or "GSA"). The GSA is inclusive of payments to the
27 LWDA and Aggrieved Employees, costs of settlement administration (estimated at no more than
28 \$2,465.17), a modest service award to Plaintiff of no more than \$2,500, and reasonable attorney's

1 fees of no more than \$20,000 and costs of \$6,870.43. After payment of settlement administration
2 costs, Plaintiff's service award, and reasonable attorney's fees and costs from the GSA, After
3 payment of settlement administration costs, Plaintiff's service award, and reasonable attorney's
4 fees and costs from the GSA, Plaintiff presently estimates about \$28,164.40 will remain (the "Net
5 Settlement Amount" or "NSA"). Seventy-five percent of the NSA (about \$21,123.30) will go to
6 the LWDA, and the remaining 25% (about \$7,041.10) will be distributed to the Aggrieved
7 Employees in proportion to the total number of Pay Periods each individual worked during the
8 PAGA Period of January 2, 2023 to February 19, 2025. I estimate the average award at about
9 \$414 per individual.

10 9. The Parties propose using Apex Class Action as the Settlement Administrator.
11 Apex has extensive experience administering PAGA settlements, and has agreed to cap its fees at
12 \$2,465.17. Brisbane will fund the GSA within 65 days of approval, and within 10 calendar days
13 of funding Apex will mail a Notice and settlement check to all Aggrieved Employees via regular
14 First-Class U.S. Mail, using the most current, known mailing addresses identified in Brisbane's
15 records. Aggrieved Employees need not submit claim forms and will automatically receive a
16 Notice and settlement check. Settlement checks will be negotiable for 180 days, after which time
17 any unclaimed residual funds will be forwarded to East Bay Community Law Center as the
18 proposed cy pres beneficiary, subject to Court approval. I have no relationship with or interest in
19 the proposed beneficiary.

20 10. The California Supreme Court has explained that a judgment in "a representative
21 action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of
22 2004 ... is binding not only on the named employee plaintiff but also on government agencies and
23 any aggrieved employee not a party to the proceeding." Arias v. Superior Court (2009) 46 Cal.4th
24 969, 985-86. Accordingly, the release in the Settlement Agreement narrowly releases only civil
25 penalty claims brought under PAGA. Under Arias, the order the Parties request the Court enter is
26 intended to be "binding not only on the named employee plaintiff but also on government
27 agencies and any aggrieved employee not a party to the proceeding." The Settlement Agreement
28 protects the rights of the Aggrieved Employees to bring their own individual claims should they

1 wish. For these reasons, the Parties contend the release narrowly applies only to the PAGA claims
2 alleged, and the Settlement Agreement specifically provides the Release is inapplicable to any
3 claims other than those brought under PAGA.

4 **THE PROPOSED SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE AND**
5 **FURTHER PAGA'S UNDELYING PURPOSES**

6 11. Plaintiff primarily contends Defendant failed to pay all wages due because it
7 rounded employee time punches off to the nearest quarter-hour, which resulted in the Aggrieved
8 Employees losing a few minutes of compensable hours worked on many shifts. Plaintiff also
9 contended that he and other employees had to arrive for work around 10-15 minutes early to start
10 up the machinery and get it warmed up and ready to go before they actually clocked in for the
11 day.

12 12. He further alleges Brisbane failed to provide Aggrieved Employees with compliant
13 meal periods and that even if they even received a meal period, the breaks frequently were late,
14 interrupted, and/or or lasted less than 30 minutes. For instance, Plaintiff contented that if another
15 employee wasn't available to take over whatever machine he was operating, then his lunch break
16 would be late, cut short, or missed entirely. Here, Plaintiff also notes the company's time records
17 do not reflect that employees clocked out for meal periods, thereby raising a rebuttable
18 presumption that no compliant meal period was provided under Plaintiff similarly contends
19 Defendant failed to provide Plaintiff and the Aggrieved Employees with compliant rest periods
20 for essentially the same reasons, and that employees were not allowed to leave the premises
21 during a rest break

22 13. On the expense reimbursement claim, Plaintiff had to use his personal cell phone
23 for work purposes and regularly had to use his phone to communicate with management, send
24 pictures of issues with machinery, etc. An employer must reimburse employees for use of
25 personal devices, and if the employee has an unlimited monthly plan then the employer must
26 reimburse an amount that equates to the employee's percentage of use for work.

27 14. Plaintiff also brings claims derivative of the foregoing claims, including a
28 derivative wage statement claim based on the failure to pay all wages due, and failure to pay all

1 wages due and owing upon separation of employment under Labor Code §§ 201-203.

2 15. For mediation, Brisbane indicated it employed approximately 15 non-exempt
3 employees in California during the relevant time frame, and these individuals worked
4 approximately 1,500 pay periods during that time. Based on the data provided by Defendant,
5 Plaintiff estimated Defendant's maximum PAGA exposure at approximately \$750,500 including
6 approximately \$150,000 on the unpaid wage/time rounding claims, about \$150,000 on the meal
7 period claims, \$150,000 on the rest period claims, \$150,000 on the wage statement claims,
8 \$150,000 on the expense reimbursement claims, and about \$500 in civil penalties for failing to
9 timely pay wages on separation of employment.

10 16. We calculated these amounts as follows:

11 **Unpaid Wages**

12 1,500 pay periods * 100% violation rate * \$100/violation = \$150,000

13 **Meal Break Violations**

14 1,500 pay periods * 100% violation rate * \$100/violation = \$150,000

15 **Rest Break Violations**

16 1,500 pay periods * 100% violation rate * \$100/violation = \$150,000

17 **Expense Reimbursement**

18 1,500 pay periods * 100% violation rate * \$100/violation = \$150,000

19 **Wage Statement Violations**

20 1,500 pay periods * 100% violation rate * \$100/violation = \$150,000

21 **Untimely Final Wages**

22 5 former employees * \$100/violation = \$500

23 17. In response to Plaintiff's unpaid wage/rounding claim, Brisbane argued its time
24 keeping and rounding policy is entirely neutral in effect and did not deprive class members of
25 compensable hours worked over time and, accordingly, does not violate California law. Brisbane
26 also argued that employees were not required to arrive at work early or otherwise work "off the
27 clock," and to the extent it happened it was intermittent and against company policy, and done
28 with management's knowledge or consent.

1 18. On the meal break claims, Brisbane offered multiple defenses. First, it emphasized
2 it authorized and permitted all necessary breaks, and that employees received full uninterrupted
3 lunch periods. Defendant further argued that even to the extent meal or rest breaks were missed or
4 arguably non-complaint, it was in violation of company policy and aberrational, and would
5 require significant individual inquiries to determine the reasons underlying any such alleged
6 violations and whether it was by employee choice or some other reason. Thus, per Defendant,
7 any trial on this issue would be unmanageable because of these individualized issues.

8 19. As with meal breaks, Defendant argued the applicable rest break policies complied
9 with California law, and that it authorized and permitted employees to take all required breaks.
10 Defendant also contended that it was subject to Wage Order 16, which permits limitations on
11 where employees may take their breaks. Further, per Defendant, in light of the fact that it is not
12 required to maintain a record of rest periods, any evidence of failure to authorize rest periods
13 and/or discouragement from taking rest periods would be purely anecdotal and individual issues
14 would predominate on liability. This arguably would once again make a trial unmanageable since
15 the number of instances an employee missed a rest break would have to be tested on a case by
16 case basis to determine compliance.

17 20. For Plaintiff's expense reimbursement claim, Brisbane emphasized its written
18 policies prohibited employees from using their own phones while on the clock and working,
19 primarily for important safety considerations since employees worked on and around heavy
20 machinery. Beyond that, Defendant argued there were be no need for employees to use their
21 phones while working, and if they did it was purely for personally convenience and therefore it
22 was not reimbursable as a "necessary" business expense.

23 21. Plaintiff also alleged derivative violations of Labor Code § 226 (wage statement
24 violations) and §§ 201-203 (waiting time penalties). Both claims, since they are entirely
25 derivative, will rise or fall along with the primary claims, in addition to being subject to "good
26 faith" and other defenses available to Defendant. Accordingly, Plaintiff had to discount the value
27 of these claims significantly in light of these multiple potential defenses. Defendant also
28 contended a substantial discount should be applied to the civil penalties for these derivative (i.e.,

1 “stacked”) violations, as it would be unfair to penalize Defendant multiple times for the same
2 violation.

3 22. Defendant also emphasized PAGA gives the Court wide latitude to reduce the
4 amount of civil penalties “based on the facts and circumstances of a particular case” if “to do
5 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” I am
6 aware of several state and federal courts in California have applied significant reductions to
7 PAGA civil penalties even after plaintiffs prevailed on the merits, and believe the Court in this
8 matter likely would apply some kind of reduction any penalties proved by Plaintiff for these
9 reasons.

10 23. Thus, Defendant raised various and multi-layered defenses to each of Plaintiff’s
11 claims, anyone of which, if successful, could have derailed Plaintiff’s case. And Defendant
12 vowed to raise all these defenses at trial. Accordingly, Plaintiff faced risky issues going forward
13 with litigation, and it could have taken years to realize any recovery in this action along with the
14 possibility of post-trial appeals. In addition to its merits defenses and arguing trial would be
15 unmanageable, Defendant also intended to raise additional defenses on damages, including the
16 proper measure of civil penalties and the appropriate discount to place on any assessment of such
17 penalties.

18 24. Although Plaintiff and I believe they could have prevailed, there was no such
19 guarantee. When the risks of overcoming a manageability defense, prevailing at trial on the merits
20 on all claims, securing the maximum theoretical civil penalties, and appellate risks all are factored
21 into the equation, the settlement value is reasonable and supported. Of course, to recover
22 anywhere near the maximum penalties Plaintiff would have to shoot the moon and win both
23 liability and maximum penalties on all claims for every single pay period at issue, which
24 outcome, for the reasons discussed, is unlikely. Given Defendant’s various procedural and merits
25 defenses, as well as the substantial penalty reductions ordered in the cases above – which
26 occurred after trial – the proposed settlement is reasonable.

27 **SUBMISSION TO THE LWDA**

28 25. My office timely served the LWDA with the Settlement Agreement and this

1 Motion, and notified the LWDA of this approval hearing. Accordingly, the LWDA will be able to
2 weigh in as necessary and, importantly, many courts find it persuasive of approval if the LWDA
3 ultimately declines to offer any comment or objection to a proposed PAGA settlement.

4 **THE REQUESTED SERVICE AWARD IS FAIR AND REASONABLE**

5 26. Plaintiff devoted time and resources to the litigation, provided documents, and
6 assisted my office with investigating the claims asserted and in preparing for the mediation.
7 Defendant will not oppose a request for an enhancement award to Plaintiff of not more than
8 \$2,500.00 each in recognition of his time spent on this matter, the risks he undertook on behalf of
9 the State and Aggrieved Employees, and the benefit conferred to them, as addressed in his
10 declaration filed herewith.

11 **THE REQUESTED FEES AND COSTS ARE FAIR AND REASONABLE**

12 27. Under the terms of the Settlement Agreement, I respectfully request an award of
13 attorney's fees to my office equal to 1/3 of the total settlement amount, or \$20,000. A one-third
14 common fund attorney fee award is consistent with what courts have awarded Plaintiff's counsel
15 in other representative actions. Awarding attorney's fees of one-third of a gross settlement
16 amount is favored by California courts when a fund established for the common benefit of others
17 is involved, such as here.

18 28. There are several additional factors why I believe that the Court should award one-
19 third of the common fund as a reasonable attorney's fee. First, our efforts resulted in a common
20 fund settlement amount of \$60,000.00, which for the reasons explained, is fair and reasonable in
21 light of the risks/defenses Defendant raised in litigation and threatened to raise at trial and in post-
22 trial appeals. Further, this is a significant sum that furthers the purposes underlying PAGA such
23 as augmenting the state's enforcement capabilities, encouraging compliance with Labor Code
24 provisions, and deterring future non-compliance. Moreover, this result was achieved by the work
25 and success of this office, who negotiated the settlement after extensive preparation, informal
26 discovery, and an adversarial mediation.

27 29. Second, Plaintiff faced significant risks going forward with the litigation. As
28 discussed above, Defendant raised various defenses to his claims, anyone of which, if successful,

1 could have decimated Plaintiff's case. Plaintiff faced risky legal issues going forward with this
2 litigation, and it would have taken several more years to realize any recovery in this action along
3 with the possibility of post-trial appeals,

4 30. Third, we are experienced class and representative action litigators, and have
5 achieved several approved PAGA settlements. This experience and expertise, combined with the
6 high quality of work performed, resulted in the settlement achieved in this case.

7 31. I am a 1989 graduate of the College of William and Mary, and a 1995 graduate
8 *cum laude* of the University of San Diego School of Law, where I was selected to the Order of the
9 Coif and the Order of Barristers. Prior to 2003, I was a litigation associate with Ross Dixon &
10 Bell, LLP (now Troutman Pepper Locke LLP), in Orange County, California, where my practice
11 focused on complex business, employment, and insurance coverage disputes. In 2003, I became
12 associated with Dostart Clapp & Coveney, LLP, then one of the premiere plaintiffs' wage and
13 hour class action firms in California. In 2008, I founded the Law Offices of J. Kirk Donnelly.
14 Since 2003, my practice has focused on representing plaintiffs in wage and hour and consumer
15 law matters, including both class actions and individual matters.

16 32. I have served as class and/or PAGA counsel in a number of wage and hour class
17 and representative actions, including: Martinez v. 'T' McGee Electric, Inc., Case No.
18 CIVSB2114427 (San Bernardino County Superior Court); Herrera v. Stone Etc., Inc., et al., Case
19 No. 21STCV43188 (Los Angeles Superior Court); Acosta v. Turlock Walnut Company, Case No.
20 22-CV-001051 (Stanislaus County Superior Court); Trujillo v. Ford Spraying, Inc., Case No.
21 VCU298017 (Tulare County Superior Court); Velasquez v. Water Damage Rescue, Inc. Case No.
22 21STCV46033 (Los Angeles County Superior Court); Rico v. FMA Landscape Services, Inc.,
23 Case No. 23CV409762 (Santa Clara County Superior Court); Galindo v. Berro Management
24 Company, Inc., Case No. 22STCV25853 (Los Angeles Superior Court); Quintero, et al. Greg
25 Markarian Ag Enterprises, Inc., Case No. 23CV-00106 (Merced County Superior Court); George
26 v. Retail Merchandising Solutions, Inc., Case No. RG16828194 (Alameda County Superior
27 Court); Bolanos v Lyneer Staffing Solutions LLC, Case No. 23STCV21860 (Los Angeles County
28 Superior Court); Buford v. Medical Solutions, LLC, Case No. 18-CV-04104 YGR (N.D. Cal.);

1 Bautista v. Western Care Construction, Case No. S-CV-0049217 (Placer County Superior Court);
2 Delgado v Vander Woude Farms, Case No. 23CV-04131 (Merced County Superior Court);
3 Herrera v. TVI, Inc., et al., Case No. CIVDS1722863 (San Bernardino County Superior Court);
4 Rios v AMI Foods, Inc. Case No. 22CV005381 (Alameda County Superior Court); Freeman v.
5 Bank of America, N.A., Case No. CGC18471710 (San Francisco County Superior Court);
6 Gutierrez v. Fraiche Catering, Inc., Case No. CGC-23-605255 (San Francisco Superior Court);
7 Gomez v. Giulietta Italian Foods, Inc., Case No. 22CV392988 (Santa Clara County Superior
8 Court), Echeverria v. Technicote, Inc., Case No. RIC1714621 (Riverside County Superior Court),
9 Acosta v. ECC Capital Corporation, Case No. 30-2009-00180086 (Orange County Superior
10 Court), Tiffany v. Hometown Buffet, Inc., Case No. 06-CV-2524 SMA (N.D. Cal.), Mendoza v.
11 Bear Stearns Residential Mortgage Corporation, Case No. 08-CV-6916 DSF (C.D. Cal.), In Re:
12 First Franklin Employment Cases, JCCP No. 4598 (San Diego County Superior Court), Mendoza
13 v. ECC Capital Corporation, Case No. 08-CV-6916 JN (C.D. Cal.), Acosta v. Bear Stearns, Case
14 30-2009-00180086 (Orange County Superior Court); George v. Mercado Latino, Inc., Case No.
15 CIVDS1822302 (San Bernardino County Superior Court), Verduzco v. Ramco Enterprises, LP, et
16 al., Case No. 18CV004104 (Monterey County Superior Court); Gonzalez v. Power Design, Inc.,
17 Case No. 19STCV31839 (Los Angeles County Superior Court); Weston v. Cuesta Investments,
18 Case No. 18CV04823 (Santa Barbara County Superior Court); Martinez v. DNNEY Trade Co.,
19 Case No. 18STCV09631 (Los Angeles County Superior Court); Navarro v. Ressac, Case No.
20 19STCP00319 (Los Angeles County Superior Court); Villalta v. Stars Recreation Center, Case
21 No. FCS054507 (Solano County Superior Court); Anglin v. Sonnikson and Stahl Construction,
22 Case No. CIVMSC19-00149 (Contra Costa County Superior Court); Rosendahl v. Riverside
23 Metro Auto Group, Case No. RIC1903707 (Riverside County Superior Court); Hawkins v. SAS
24 Retail Services, Inc., Case No. 30-2017-00958467-CU-OE-CXC (Orange County Superior
25 Court); Salazar v. National Labor Contractors, et al., Case No. CIVDS1905225 (San Bernardino
26 County Superior Court); Reyes v. Assa Abloy Door Controls and Accessories Group, Inc., Case
27 No. 56-2019-00523849-CU-OE-VTA (Ventura County Superior Court); Valencia v The Original
28 Mowbray's Tree Service, Incorporated, Case No. CIVDS1825518 (San Bernardino County

1 Superior Court); Castillo v. Gaither's Family Homes, Inc., Case No. VCU277188 (Tulare County
2 Superior Court); Canales v. Fashion Design, LLC, Case No. 30-2019-010529520CU-OD-CXC
3 (Orange County Superior Court); and Thomas v Californian-Magnolia Convalescent Hospital,
4 Inc., Case No. RIC1901197 (Riverside County Superior Court).

5 33. During the approximately five years I was associated with DCC, the firm was
6 appointed class counsel in over 20 class actions alleging violations of federal and California wage
7 and hour laws. I played an integral role in litigating these matters, which included some of the
8 largest and most complex wage and hour class actions ever brought in California. For instance,
9 while I was with DCC, the firm was co-lead counsel in Bahramipour v. Citigroup Global
10 Markets, Inc., Case No. 04-0440-CW (N.D. Cal.), a class action on behalf of stockbrokers
11 employed by Citigroup (as well as several predecessor entities) for unpaid overtime,
12 reimbursement of business expenses, and improper deductions from wages. Although the matter
13 initially was filed on behalf of a class of California-only employees, it eventually evolved into a
14 nationwide class action on behalf of over 17,000 class members, and ultimately settled for
15 approximately \$106 million. Likewise, I played a prominent role in litigating Takacs v. A.G.
16 Edwards & Sons, Inc., Case No. 04-CV-1852 JAH (S.D. Cal.), one of the first class actions
17 brought in California on behalf of stock brokers seeking recovery of overtime wages and
18 reimbursement for business expenses and improper wage deductions, and one of the most
19 extensively litigated such cases. The matter resulted in a comprehensive opinion denying
20 defendant's motion for summary judgment, found at 444 F.Supp.2d 1100, which opinion decided
21 several issues present in all of the stock broker overtime cases in the plaintiffs' favor.

22 34. My firm has obtained several multi-million dollar wage and hour class
23 action/PAGA settlements while serving as lead counsel in recent years, including a \$9.75 million
24 wage and hour class action/PAGA settlement in Freeman v. Bank of America, N.A., a \$1.4
25 million dollar wage and hour class action settlement in Mendoza v. Bear Stearns Residential
26 Mortgage Corporation, a \$1.2 million dollar class action settlement in In re: First Franklin
27 Employment Cases, and a \$1.2 million dollar wage and hour class action/PAGA settlement in
28 George v. Retail Merchandising Solutions, Inc.

1 35. Based upon the qualifications and experience set forth above, I believe an hourly
2 rate of \$850 is reasonable for my time, and for my paralegal Adriana Barba I believe an hourly
3 rate of \$200 is reasonable.

4 36. I request the Court apply the above hourly billing rates in this case, as it reasonable
5 in the California legal market for attorneys handling wage and hour class and PAGA actions. I
6 have personal knowledge of the hourly rates charged by a number of plaintiff-side wage and hour
7 class action firms in major California legal markets for partner-level attorneys with experience
8 comparable to mine. These rates have ranged from \$750 to \$900 per hour for calendar years
9 2018-2023. Some examples include attorney Ron Makarem of Makarem & Associates in Los
10 Angeles, with 28 years of experience, \$900/hour (2023), Matthew Matern of Matern Law Group
11 in Los Angeles, with approximately 26 years of experience \$850/hour (2018); Craig Ackermann
12 of Ackermann & Tilajef, PC in Los Angeles with approximately 25 years of experience
13 \$850/hour (2021), Michael Singer and Isam Khoury of Cohelan Khoury & Singer in San Diego,
14 35 years and 45 years of experience respectively, both \$825/hour (2018), Zachary Crosner of
15 Crosner Legal PC in Los Angeles, 13 years of experience \$750/hour (2022), and James Kawahito
16 of Kawahito Law Group in Los Angeles, with approximately 16 years of experience \$750/hour
17 (2020).

18 37. The requested rates also comport with the adjusted Laffey Matrix, which provides
19 that reasonable hourly rates for attorneys with 20+ years of experience, such as myself, are almost
20 \$1000/hour. The adjusted Laffey Matrix may be found at <http://www.laffeymatrix.com/see.html>.
21 Similarly, the Westlaw Court Express Legal Billing Report Volume 17, Number 3, for the
22 California region suggests billing rates for partner-level attorneys with experience comparable to
23 mine ranged from \$810-1,220/hour as of 2015. A true and correct copy of the Billing Report is
24 attached hereto as Exhibit ____.

25 38. Fourth, my office has been representing Plaintiff (and the State of California) in
26 this matter on a strictly contingent basis and as such, had to forego other financial opportunities to
27 litigate other cases, incurred the risk of non-recovery after a substantial investment of time,
28 money, and resources, and have done so since the inception of this case without any payment or

1 compensation. This is not an easy burden for a small firm. If, despite these hardships and risks,
2 the best this office could hope for is merely to be paid our customary hourly rate multiplied by the
3 number of hours worked on the case, then we would not be compensated for the hardships and
4 serious risks it faced litigating this contingency case, and would not be incentivized to take on
5 similar private attorney general cases in the future.

6 39. Fifth, the request for attorney's fees in the amount of one-third of the common
7 fund falls well within the norms accepted by state and federal courts in California in comparable
8 wage and hour actions actually handled by this office. Moreover, the award of a one-third fee
9 recovery under the common fund doctrine was recently approved by the California Supreme
10 Court in Laffitte v. Robert Half Int'l, Inc. (2016) 1 Ca1.5th 480. For all of the above reasons, a
11 common fund fee award here in the amount of one-third of the \$60,000 common fund, or
12 \$20,000.00, is fair and reasonable.

13 40. I have reviewed the work performed on the case and the billing inputted, and the
14 hours worked on this case total 40.7 attorney and paralegal hours. Accordingly, my firm's
15 lodestar totals approximately \$30,215.00, exclusive of time for attending the hearing on the
16 approval motion and time to be incurred thereafter to implement and administer the settlement.
17 The aggregated lodestar is summarized in Exhibit ___ hereto. On a lodestar basis, the requested
18 fees are actually less than the unadorned lodestar, and accordingly there is no request to apply a
19 lodestar modifier.

20 41. As noted, my firm has represented Plaintiff for two years with respect to this
21 matter and has expended a significant amount of time and resources in that representation. My
22 firm agreed to litigate this case on a purely contingent basis and in so doing assumed considerable
23 risk of non-payment for its fees and costs, as discussed above, and as is the case with these
24 matters in general. Under all relevant factors (as outlined herein and in the accompanying
25 memorandum), I respectfully request the Court award the requested fees of \$20,000.00 based on
26 the common fund theory with a corresponding lodestar cross-check and no lodestar enhancement.

27 39. I also request reimbursement of my firm's actual out-of-pocket expenses incurred
28 to prosecute this action. These expenses were incidental and necessary to the effective

1 representation of the employees.

2 40. My firm's costs are \$6,870.43, including court filing/service of process fees,
3 mediation fees, and postage. Notably, the requested costs do not include any and all printing and
4 research charges. The requested costs are reasonable and uncontested and should be approved and
5 a true and correct itemization of the costs and expenses incurred is set forth below:

Expense Category	Amount
Court Filing Fees/Service of Process/Attorney Service	\$751.69
Mediation Fees	\$6,000.00
PAGA Filing Fee	\$75.00
Postage	\$43.74
Total Costs and Expenses	\$6,870.43

13 41. For the foregoing reasons, it is respectfully requested that the Court approve the
14 settlement.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct. Executed on June 20, 2025, at Carlsbad, California.

17
18 
19 _____
20 Declarant

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Rudis O. Carranza (“Plaintiff”) and defendants Brisbane Recycling Company, Inc. and Joseph Nubla (together “Brisbane”). The Agreement refers to Plaintiff and Brisbane collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Brisbane, *Carranza v. Brisbane Recycling Company, Inc., et al.*, Case No. 24-CIV-01496, initiated on March 8, 2024 and pending in the Superior Court of the State of California, County of San Mateo.
- 1.2 “Administrator” means Phoenix Settlement Administrators the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4 “Aggrieved Employee” means a person employed by Brisbane as a non-exempt employee in California at any time during the PAGA Period.
- 1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in Brisbane’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number and number of PAGA Pay Periods.
- 1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces and direct contact by the Administrator with Aggrieved Employees.
- 1.7 “Court” means the Superior Court of California, County of San Mateo.
- 1.8 “Defense Counsel” means Eric Casher and Steve Ngo, and Redwood Public Law.
- 1.9 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the day the Court enters Judgment.
- 1.10 “Gross Settlement Amount” means \$60,000.00, which is the total amount Brisbane agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual PAGA Payments, Plaintiff’s PAGA Enhancement Award, the LWDA PAGA

Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administrator's Expenses Payment.

- 1.11 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period. "Individual PAGA Payments" means the total or sum of each Individual PAGA Payment.
- 1.12 "Judgment" means the judgment entered by the Court upon final approval of the Settlement.
- 1.13 "LWDA" means the California Labor and Workforce Development Agency, the agency entitled under Labor Code section 2699, subdivision (i).
- 1.14 "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.15 "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, Plaintiff's PAGA Enhancement Award, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16 "PAGA Counsel" means J. Kirk Donnelly and the Law Offices of J. Kirk Donnelly, APC, the attorneys representing the Plaintiff in the Action.
- 1.17 "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.18 "PAGA Enhancement Award" means the amount of \$2,500.00 payable to Plaintiff for his service as the named plaintiff in the Action, subject to Court approval.
- 1.19 "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Brisbane in California during the PAGA Period.
- 1.20 "PAGA Period" means the period from January 2, 2023 to February 19, 2025.
- 1.21 "PAGA" means the Private Attorneys General Act (Lab. Code, §§ 2698, et seq.).
- 1.22 "PAGA Notice" means Plaintiff's December 22, 2023 letter to Brisbane and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.23 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and 75% to LWDA in settlement of PAGA claims.

- 1.24 “Plaintiff” means Rudis O. Carranza, the named plaintiff in the Action.
- 1.25 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.26 “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27 “Released Parties” means Brisbane, and each of its former, present and future owners, parents, and subsidiaries, and all of their current, former, and future , officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.
- 1.28 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.29 “Brisbane” means named Defendants Brisbane Recycling Company, Inc. and Joseph Nubla.

2. RECITALS.

- 2.1 On March 8, 2024, Plaintiff commenced this Action by filing a Complaint alleging individual claims on behalf of Plaintiff, and a cause of action against Brisbane for violation of the Private Attorneys General Act, based on the alleged failure to pay all wages due, including both minimum and overtime wages, failure to provide meal periods, failure to provide rest periods, failure to provide accurate wage statements, failure to reimburse expenses, and failure to pay all wages due on separation of employment. The Complaint is the operative complaint in the Action (the “Operative Complaint”). Brisbane denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff provided timely written notice to Brisbane and the LWDA by sending the PAGA Notice.
- 2.3 After Plaintiff filed the Complaint, the Parties agreed to mediate. On February 19, 2025, the Parties mediated the matter with Craig Ackermann, Esq., which led to this Agreement to settle the Action.
- 2.4 Prior to mediation and negotiating the Settlement, Plaintiff obtained, through informal discovery, information and documents including Plaintiff’s personnel file, the number of potential Aggrieved Employees, the number of aggregate pay periods, and relevant policy documents regarding Defendant’s time keeping and reporting policies and meal and rest break policies.

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

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Brisbane promises to pay \$60,000.00 and no more as the Gross Settlement Amount. Brisbane has no obligation to pay the Gross Settlement Amount prior to or in any manner consistent with the payment schedule stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Brisbane.

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

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 1/3 of the Gross Settlement Amount, currently estimated to be \$20,000.00, and a PAGA Counsel Litigation Expenses Payment of not more than \$10,000.00. Brisbane will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Brisbane harmless, and indemnifies Brisbane, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2 To Plaintiff: a PAGA Enhancement Payment to the Plaintiff of not more than \$2,500 in addition to any Individual PAGA Payment Plaintiff is entitled to receive as an Aggrieved Employee. Defendant will not oppose Plaintiff's request for PAGA Enhancement Payment that does not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for approval of the PAGA settlement that includes a request for approval of the PAGA Enhancement Payment in the Action. If the Court approves a PAGA Enhancement Award less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed

\$5,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$5,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$22,500.00 to be paid from the Gross Settlement Amount, with 75% (\$16,875.00) allocated to the LWDA PAGA Payment and 25% (\$5,625.00) allocated to the Individual PAGA Payments.

3.2.4.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,625.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Aggrieved Employee Pay Periods. Based on a review of its records to date, Brisbane estimates there are 17 Aggrieved Employees who worked a total of 1,500 PAGA Pay Periods during the PAGA Period.

4.2 Aggrieved Employee Data. Within 15 days of the Effective Date, Brisbane will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Brisbane has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Brisbane must send the Aggrieved Employee 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 Aggrieved Employee Data.

4.3 Funding of Gross Settlement Amount. Brisbane shall fund the Gross Settlement Amount by wiring the funds to the Settlement Administrator within 65 days of the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within 10 days after Brisbane fully funds the entire Gross Settlement Amount, the Administrator will mail checks for all Individual

PAGA Payments, Plaintiff's PAGA Enhancement Award, and the LWDA PAGA Payment, pay itself the Administration Expenses Payment, and send the PAGA Counsel the PAGA Counsel Expenses Payment and PAGA Counsel Fee Payment by wire transfer. Disbursement of the PAGA Counsel Litigation Expenses Payment and PAGA Counsel Fee Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3 For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, subject to Court approval the Administrator shall transmit the funds represented by such checks to East Bay Community Law Center as *cy pres* beneficiary.

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

5. RELEASES OF CLAIMS. Effective on the date when Brisbane fully funds the entire Gross Settlement Amount Plaintiff, PAGA Counsel, and the Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Release by Plaintiff: Plaintiff will release, upon final approval of the Settlement and payment by Defendant of the Gross Settlement Amount, the Released Parties, from any and all claims he has or may have against them at this time and will waive any and all rights he has or may have under California Civil Code § 1542, which reads as follows:

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

5.2 Release by Aggrieved Employees:

All Aggrieved Employees will release, upon final approval of the Settlement and payment by Defendant of the Gross Settlement Amount, the Released Parties from all claims during the PAGA Period against for all PAGA and/or civil penalties under Labor Code 2698, et seq., based on all underlying Labor Code and/or Wage Order causes of action and sections identified in Plaintiff's LWDA PAGA Letter and/or in the pending Complaint in the Action, including claims for unpaid minimum wages, unpaid overtime, meal period violations, rest period violations, unreimbursed expenses, inaccurate wage statements, failure to timely pay final wages, and violations of Labor Code sections 201-203, 204, 210, 221-223, 225.5, 226, 226.3, 226.7, 256, 432, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and all applicable Wage Orders. The Released Claims do not include any claims that cannot be released as a matter of law.

5.3 Release by PAGA Counsel:

PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. **MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subdivision (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee 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 Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Lab. Code, §2699, subd. (l)(1)), this Agreement (Lab. Code, § 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In its Declaration, PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly

responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. Subject to Court approval, the Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Apex agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

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

- 8.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and

conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9. ADDITIONAL PROVISIONS.

- 9.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Brisbane that any of the allegations in the Operative Complaint have merit or that Brisbane has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Brisbane's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If for any reason the Court does not approve this Settlement, Brisbane reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Brisbane's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 9.2 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.
- 9.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Brisbane, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 9.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 9.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.
- 9.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Brisbane 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.
- 9.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 9.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 9.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 9.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 9.11 Confidentiality. To the extent permitted by law, all agreements made and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 9.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Brisbane 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 California Rules of Court rule. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Brisbane unless, prior to the Administrator's payment of all Settlement Funds, Brisbane makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.
- 9.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 9.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall

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

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

To Plaintiff:

J. Kirk Donnelly
Law Offices of J. Kirk Donnelly, APC
2173 Salk Ave., Ste. 250
Carlsbad CA 92008
kdonnelly@jkd-law.com

To Brisbane:

Eric Casher
Steve Ngo
Redwood Public Law
409 13th Street, Ste. 600
Oakland CA 94612
eric@redwoodpubliclaw.com
steve.ngo@redwoodpubliclaw.com

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

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

SIGNATURES ON THE FOLLOWING PAGE

AGREED AS TO FORM AND CONTENT

Date: 05 / 14 / 2025

PLAINTIFF RUDIS O. CARRANZA



Rudis O. Carranza

DEFENDANT BRISBANE RECYCLING
COMPANY, INC.

Date: _____

Sign: _____

Print Name: _____

Its: _____

DEFENDANT JOSEPH NUBLA

Date: _____

Joseph Nubla

AGREED AS TO FORM

Date: 5/14/25

LAW OFFICES OF J. KIRK DONNELLY,
APC



J. Kirk Donnelly
Attorneys for Plaintiff Rudis O. Carranza

REDWOOD PUBLIC LAW

Date: _____

Eric Casher
Steve Ngo
Attorneys for Defendants Brisbane Recycling
Company, Inc. and Joseph Nubla

EXHIBIT 2

LAW OFFICES OF J. KIRK DONNELLY, APC

2173 Salk Avenue, Suite 250 · Carlsbad, California 92008
(760) 209-5894 · www.jkd-law.com

December 22, 2023

J. Kirk Donnelly
kdonnelly@jkd-law.com

VIA ELECTRONIC SUBMISSION

California Labor & Workforce Development
Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL

Brisbane Recycling Co., Inc.
Joseph Nubla, CEO
c/o Erica C. Gonzalez
Meyers Nave
1999 Harrison St., 9th Floor
Oakland CA 94612

Subject: *Rudis Carranza adv. Brisbane Recycling Co., Inc. and Joseph Nubla*
Cal. Labor Code section 2699.3 Notice of Labor Code Violations

Dear LWDA PAGA Administrator:

This office represents Rudis Carranza (“Complainant”) in connection with his claims under the California Labor Code. Complainant is a former employee of Brisbane Recycling Co., Inc. and its owner/CEO Joseph Nubla (together, “Brisbane” or “Employer”).

Complainant intends to seek civil penalties, attorney’s fees, costs and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). This letter is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This letter further reserves any and all rights by Complainant to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1 -- Complainant reserves any and all rights to add, substitute, or change the name of employer

entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, employer is on notice that Complainant continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. If Employer intends to cure the alleged violations within the statutory time period set forth in Labor Code sections 2699 and 2699.3(a), the employer shall provide notice including a description of actions taken to cure. If the alleged violation is not cured within the statutory time period, employee will commence a civil action pursuant to Section 2699.

Based on the following summary of the facts and theories upon which Complainant will base his claims, Complainant requests the LWDA regard this Notice as written notice of his intent to seek civil penalties against Employer. The specific provisions of the California Labor Code Employer has violated requiring this notice include, but are not limited to California Labor Code sections 201-203, 204, 216, 221-224, 226, 226.7, 432, 510, 512, 514, 1174, 1194, 1197, 1198, 1198.5, 1199, 2810.5, and all applicable Wage Orders. These violations subject Employer to civil penalties as set forth in (1) the foregoing statutes, (2) Labor Code sections 210, 225.5, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and (3) IWC Wage Order 7-2001, section 20.

Employer is Liable for All Temporary Agency Workers

Labor Code section 2810.3 requires a client employer to share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor in California for the payment of wages. Section 2810.3 prohibits a client employer from shifting to the labor contractor legal duties or liabilities under workplace safety provisions with respect to workers provided by the labor contractor. It defines a client employer as a business entity that obtains or is provided workers to perform labor within the usual course of business from a labor contractor. It defines a labor contractor as an individual or entity that supplies workers, either with or without a contract, to a client employer to perform labor within the client employer's usual course of business.

Pursuant to section 2810.3, if Employer secured temporary labor from a labor contractor, Employer shares in all legal responsibility and civil liability with its labor contractor(s), for all workers supplied by such labor contractor(s), for payment of wages.

The Employer; Summary of Labor Code Violations

Employer and its CEO/Owner own, operate, or otherwise manage a rock crushing business.

While Employer may be a successful company/may have a noble mission, it does not comply with California labor law. Among other things, Employer failed/fails to keep accurate and complete time records for employees; failed/fails to pay employees for all hours worked; failed/fails to pay employees at least minimum wage for all hours worked or overtime rates for overtime work; failed/fails to provide employees with proper meal and/or rest breaks, and/or compensate Complainant and similarly situated aggrieved employees an additional hour of

premium pay for missed/improper meal and rest periods; failed/fails to provide proper and accurate wage statements to employees; failed/fails to provide proper notices regarding employee pay; failed/fails to provide payroll records and personnel records on request; and failed/fails to pay employees all earned and unpaid wages when they separated/separate from employment. Further descriptions of the above-mentioned violations and others are explained below.

Complainant and the Aggrieved Employees

At all relevant times, Complainant was a non-exempt employee working for employer in its rock crushing business. Throughout this time, he was paid an hourly rate for time counted by Employer as hours worked.

At all relevant times, Complainant was an aggrieved employee as defined in Labor Code §2699(c) (“any person who was employed by the alleged violator who was employed by the alleged violator and against whom one or more of the violations was committed”). He seeks recovery for the Labor Code violations set forth herein on behalf of himself and other similarly aggrieved employees, defined to include all current and former non-exempt employees of Brisbane, who were employed by Employer in the State of California within one year of the filing of this Notice. Complainant believes and hereon alleges that Employer has employed an unknown number of similarly aggrieved non-exempt employees California, and further alleges on information and belief that there may 25 or more aggrieved employees.

Labor Code Violations

Failure to Pay Wages Due (Minimum Wages, Straight Time and Overtime): California Labor Code section 1197 requires that employees must be paid at least the minimum wage fixed by the IWC for all hours worked. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day or work in a work week. The minimum wage standard applies to each hour employees worked for which they were not paid. An employer’s failure to pay for any time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. California Labor Code section 510 and the IWC Wage Orders also require employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week.

Complainant and other aggrieved employees worked hours for which they were not paid at least the applicable minimum wage, including without limitation hours worked after clocking out for a shift that was “rounded off” such that Complainant and other aggrieved employees lost compensable hours worked. Further, Employer paid for overtime hours based on the base hourly rate of pay instead of the regular rate of pay, and failed to incorporate bonuses and other non-discretionary income into the regular rate of pay. Accordingly, Employer failed to pay Complainant and other aggrieved employees for all compensable hours worked at the appropriate minimum wage, regular rate, and/or overtime rate.

Employer's failure to pay for all hours worked by Complainant and other aggrieved employees, and failure to properly calculate and pay for overtime, violates Labor Code sections 512, 1194-1199, and Wage Order 7-2001, sections 3-4. These violations subject Employer to civil penalties under said sections and Labor Code section 2699. Each violation of each Labor Code section and Wage Order provision, for each aggrieved employee, results in a separate civil penalty

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by all non-exempt employees. IWC Wage Order 7-2001, section 7 similarly requires employers to keep time records showing when the employees begin and end each work period, and reflecting the time during which a meal period(s) was provided each day.

At all relevant times, Employer has failed, and continues to fail, to keep the required time records. Employer did not accurately record all of Complainant and aggrieved employees hours worked, including time spent working after clocking out for shifts and the start and stop times for meal periods.

Employer's failure to keep "accurate and complete" payroll records for Complainant and other aggrieved employees violates Labor Code sections 1174, 1198, 1199, and Wage Order 7-2001, section 7. These violations subject Employer to civil penalties under Labor Code sections 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.¹

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code § 512; IWC Wage Order 7-2001, § 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived.

Employers covered by Wage Order 7-2001 have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. IWC Wage Order 7-2001, § 7(A)(3) ("Meal periods . . . shall also be recorded"); *Donohue v. AMN Servs.* (2021) 11 Cal.5th 58, 61.

¹ See Lab. Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or improper (e.g., less than 30 minutes, interrupted meal period, first meal period provided after 5 hours, second meal period provided after 10 hours) meal period. Lab. Code § 226.7; IWC Wage Order 7-2001, § 11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided").

Employer failed to maintain a company meal period policy compliant with California law and failed to provide Complainant and other aggrieved employees with proper meal periods, and/or meal periods were not provided until after the start of the fifth hour work. Complainant and other aggrieved employees had their meal periods interrupted by work or otherwise cut short. Complainant and other aggrieved employees also were restricted from certain activities during work hours, including meal periods, and therefore did not receive meal periods that were completely free from Employer's control. Liability for aggrieved employees can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Orders requirements. The fact that employees may legally waive meal breaks does not affect this result. Because Employer failed to maintain a compliant written meal period policy, failed to provide Complainant and other aggrieved employees with all required meal periods, failed to provide Complainant and other aggrieved employees with timely meal periods and/or meal periods lasting a full 30 minutes free from all employer control, it also failed to provide Complainant and other aggrieved employees with all meal breaks required under California law. Employer failed to pay them premiums for such missed and non-compliant meal breaks in violation of California law.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and IWC Wage Order 7-2001, § 11(A) and (C). These violations subject Employer to civil penalties under Labor Code sections 226.7 and 2699, and Wage Order 7-2001, § 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each aggrieved employee for each pay period during which the referenced statutes and Wage Order provisions were violated.²

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. IWC Wage Order 7-2001, § 12(A). Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s)) rest period. Lab. Code §226.7; IWC Wage Order 7-2001, § 12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the

² See Lab. Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code § 558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); IWC Wage Order 7-2001, § 20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

Employer did not maintain a company rest period policy and/or practice compliant with California law, and Employer frequently did not provide Complainant and other aggrieved employees with appropriate rest periods. Per Employer's policy and/or practice, Complainant and other aggrieved employees were not adequately informed and instructed about, and thereby were not afforded an adequate opportunity to take, proper rest breaks per California law and, in particular, Complainant and other aggrieved employees were not permitted and/or were not able to take rest breaks. Complainant and other aggrieved employees also were restricted from certain activities during work hours, including meal periods, and therefore did not receive meal periods that were completely free from Employer's control. Further, Employer failed to pay Complainant and other aggrieved employees with an additional hour of pay at Complainant's and other aggrieved employees' regular rates of pay for each missed or improper rest period.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and IWC Wage Order 7-2001, § 12(A). These violations subject Employer to civil penalties under Labor Code sections 226.7 and 2699, and Wage Order 7-2001, § 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each aggrieved employee for each pay period during which the referenced statutes and Wage Order provisions were violated.³

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his, her, or its employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Lab. Code § 226.

As a result of Employer's violations of various Labor Code and Wage Order provisions, as discussed herein, Employer failed to provide accurate wage statements with respect to multiple categories set forth in Labor Code section 226, including without limitation gross wages earned, total hours worked, and net wages earned, and therefore Employer violated section 226. These violations subject Employer to civil penalties under Labor Code sections 226, 226.3, and 2699. Each violation results in a *separate* civil penalty, for each aggrieved employee, for each pay period during which the statute provisions were violated.

³ See Lab. Code § 2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); IWC Wage Order 7-2001, § 20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. Labor Code section 202 states similar provisions with respect to employees who resign. Employer still has not paid Complainant and other aggrieved employees all wages earned and unpaid at the time of discharge, including without limitation: (1) hours worked “off the clock,” and overtime hours worked that were paid at the incorrect rate, and (2) an additional hour of pay for meal and rest periods not provided and/or that were not compliant. These violations subject Employer to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each aggrieved employee for each pay period during which the statute provisions were violated.⁴

Failure to Produce Employment Records

Pursuant to California Labor Code Sections 226, 432, and 1198.5 and the applicable IWC Wage Order(s), including Wage Order 16, Section 6(A), an employer must provide copies of an employee’s wage records within 21 calendar days of a request, must provide copies of personnel records within 30 calendar days of a request, and must provide copies of any instrument relating to the obtaining or holding of employment upon request. Complainant made a written request to Employer to produce records under the above-referenced Labor Code sections, but Employer did not fully and completely respond to the request within the mandated time frames.

The aforementioned conduct results in violations of Labor Code Sections 226, 432, and 1198.5 and the applicable IWC Wage Order(s), including Wage Order 16, Section 6(A). These violations subject Employer to civil penalties under Labor Code Sections 226, 432, 1198.5, and 2699, and Wage Order 16, Section 18. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each aggrieved employee for each pay period during which the referenced statutes were violated.

Employer has violated the above-referenced California Labor Code provisions, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys’ fees, and costs. The civil penalties Complainant and other aggrieved employees seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter to the employer in question and to the Labor Workforce Development Agency setting forth the claims and the basis for the claims, thereby giving the Labor Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by Labor Code §§ 2699 and 2699.3(a) prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the Labor Workforce Development Agency intends to take any action in reference to these claims. We kindly ask that you respond to this notice according to the time frame contemplated by the code.

⁴ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

If the Labor Commissioner elects not to take any action with respect to any of the foregoing claims, Complainant will seek these penalties in a civil action, on behalf of himself and all other California non-exempt aggrieved employees of Employer within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty days of this notice to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

J. Kirk Donnelly
Law Offices of J. Kirk Donnelly, APC
2173 Salk Avenue, Suite 250
Carlsbad, CA 92008
Main: 760-209-5894
Email: kdonnelly@jkd-law.com

Thank you for your attention to this matter.

Sincerely,
LAW OFFICES OF J. KIRK DONNELLY, APC

/s/ *J. Kirk Donnelly*

J. Kirk Donnelly

Thank you for submission of your PAGA Case.

From: LWDA DO NOT REPLY (lwdadonotreply@dir.ca.gov)

To: kdonnelly@jkd-law.com

Date: Friday, December 22, 2023 at 08:28 AM PST

12/22/2023

LWDA Case No. LWDA-CM-1001211-23

Law Firm : Law Offices of J. Kirk Donnelly, APC

Plaintiff Name : Rudis Carranza

Employer: Brisbane Recycling Co., Inc.

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 3

EXHIBIT 4

Carranza v Brisbane Recycling Company, Inc.
San Mateo County Superior Court Case No. 24-CIV-01496

Law Offices of J. Kirk Donnelly Time Report

Tasks	J. Kirk Donnelly	Adriana Barba (Paralegal)
Pre-filing Case Investigation	2.7	2.5
Pleadings and Law and Motion	9.6	0.0
Discovery and Post-Filing Investigation	4.8	0.0
Court Appearances	0.0	0.0
Case Management; Litigation Strategy & Analysis	5.5	1.7
Mediation and Settlement	12.9	1.0
Total Hours	35.5	5.2
Hourly Rate	\$850	\$200
Lodestar	\$30,175	\$1,040

Total Hours: 40.7

Total Lodestar: \$31,215.00