

1 **JUSTICE FOR WORKERS, P.C.**

William C. Sung SB# 280792

2 E-Mail: william@justiceforworkers.com

Tiffany L. Luu SB# 335127

3 E-Mail: tluu@justiceforworkers.com

3600 Wilshire Boulevard, Suite 1815

4 Los Angeles, CA 90010

Tel: 323-922-2000

5 Fax: 323-922-2000

6 Attorneys for Plaintiff NORMA BORQUEZ

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF YOLO**

10 NORMA BORQUEZ, an individual and on
11 behalf of all others similarly situated;

12 Plaintiff,

13 vs.

14 SMART METALS RECYCLING LLC, a
15 Limited Liability Company; and DOES 1
through 50,

16 Defendants.

Case No.: CV2024-0050

[Assigned for All Purposes to:
Hon. David Rosenberg, Dept. 14]

**DECLARATION OF WILLIAM C. SUNG
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

(Filed concurrently with Motion for
Preliminary Approval of Class Action
Settlement; Declarations of Tiffany L. Luu,
Norma Borquez, and Jodey Lawrence; and
[Proposed] Order)

DATE: November 5, 2024

TIME: 9:00 a.m.

DEPT.: 14

Action Filed: January 3, 2024

Trial Date: Not Set

1 I, William C. Sung, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the state of California and have been
3 admitted to practice before this Court. I am an attorney with the law firm of Justice for Workers,
4 P.C., counsel of record for Plaintiff Norma Borquez (“Plaintiff”) in this action. I am lead counsel
5 for Plaintiff in this case and I have personal knowledge of the matters stated herein and if called and
6 sworn as a witness, I would and could competently testify under oath thereto.

7 **ATTORNEY QUALIFICATIONS**

8 2. My qualifications are as follow: I received my J.D. from the University of Southern
9 California Gould School of Law in 2011. During law school, I served as the Senior Content Editor
10 on the Southern California Law Review where I published the article: *Taking the Fight Back to Title*
11 *VII: A Case for Redefining “Because of Sex” to Include Gender Stereotypes, Sexual Orientation,*
12 *and Gender Identity*, Southern California Law Review, Volume 84:2 (Jan. 2011). During law
13 school, I also served as a judicial extern to U.S. Ninth Circuit Judge, Hon. Kim M. Wardlaw, and
14 U.S. Bankruptcy Court Judge, Hon. Ernest M. Robles; served as a law clerk to the General Counsel
15 of JM Eagle; and participated in the law school’s Employer Legal Advice Clinic.

16 3. After passing the California Bar, in December 2011, I began practicing management-
17 side employment law at the Los Angeles office of Lewis Brisbois Bisgaard & Smith LLP
18 (“LBBS”). In 2013, I began focusing my practice at Lewis Brisbois on representing employers in
19 wage and hour class and PAGA action lawsuits. In January 2017, I was elevated to the position of
20 partner and vice chair of Lewis Brisbois’ Wage & Hour Class Action Practice Group. In November
21 2020, I was elevated as the co-chair of Lewis Brisbois Wage & Hour Class Action Practice Group,
22 becoming one of the youngest attorneys to chair a practice group at LBBS. In January 2022, I was
23 voted in as an equity partner, becoming one of the youngest equity partners and the third Asian-
24 American equity partner in the history of this 1,500-attorney firm.

25 4. In May 2023, I left LBBS and co-founded Barber Ranen LLP.

26 5. In July 2023, I joined Justice for Workers, P.C. (“JFW”) and began heading its
27 Complex Litigation Practice Group where I focus my practice on representing employees in wage
28 and hour class and PAGA action lawsuits.

1 6. During my tenure as a wage and hour class action defense attorney, I have
2 represented employers in over 80 wage and hour class and/or PAGA action lawsuits. The following
3 is a list of wage and hour class and/or PAGA actions where I served as lead defense counsel or
4 primary handling attorney and in which final settlement approval was granted, I tried the case to
5 verdict, or I obtained a denial of motion for class certification: *Sylvia Martinez v. CCS Engineering*
6 *Fresno, Inc., et al.*, Los Angeles Superior Court, No. 22STCV14985, filed May 4, 2022 (PAGA
7 settlement approved on May 13, 2023); *Fidel Cruz v. Crescent Hotels & Resorts, LLC*, Sacramento
8 Superior Court, No. 34-2021-00299126, filed April 20, 2021 (PAGA settlement approved on
9 January 14, 2022); *Sidney Judge v. Aliso Viejo Brewing Company*, Orange County Superior Court,
10 No. 30-2021-01178139-CU-OE-CXC, filed January 8, 2021 (Class/PAGA settlement approved on
11 January 18, 2023); *Joseph Montgomery v. Copart, Inc.*, Sacramento Superior Court, No. 34-2020-
12 00280733, filed June 15, 2020 (Class/PAGA settlement approved on February 14, 2023); *Khawla*
13 *Majdoub v. Argent Hotel Management, LLC, et al.*, San Francisco Superior Court, No.
14 CGC20582921, filed February 13, 2020 (Class/PAGA settlement approved on September 9, 2022);
15 *Irene Quesada v. California Commerce Club, Inc.*, Los Angeles Superior Court, No.
16 19STCV41482, filed November 18, 2019 (PAGA settlement approved on November 17, 2021); *FPI*
17 *Management Wage and Hour Cases*, Los Angeles Superior Court, No. JCCP5050, filed August 19,
18 2019 (Class/PAGA settlement of two included cases approved on September 9, 2022); *Stephanie*
19 *Ouellette v. MKTG, Inc, et al.*, Los Angeles Superior Court, No. 19STCV27487, filed August 2,
20 2019 (Class/PAGA settlement approved on March 21, 2023); *Naomi Guynn-Neupane v. Magna*
21 *Legal Services, LLC, et al.*, U.S. District Court, Northern District of California, No. 5:19-CV-
22 02652, filed May 15, 2019 (Plaintiff's motion for class certification denied and defendant's motion
23 for summary judgment granted on October 6, 2021); *Janelle Murphy v. BBVA Compass*,
24 Sacramento Superior Court, No. 34-2018-00241658, filed September 28, 2018 (Class/PAGA
25 settlement approved on November 20, 2020); *George Gunn v. Shimadzu Precision Instruments,*
26 *Inc.*, Los Angeles Superior Court, No. BC719424, filed August 31, 2018 (Class/PAGA settlement
27 approved on June 22, 2020); *Lizbeth Garcia v. The Bay Clubs Company LLC*, San Diego Superior
28 Court, No. 37-2018-00029247-CU-OE-CTL, filed June 13, 2018 (PAGA settlement approved on

March 14, 2022); *Miguel Casillas v. FPI Management, Inc.*, Sacramento Superior Court, No. 34-2018-00227643, filed February 22, 2018 (PAGA settlement approved on October 10, 2018); *Jesus A. Hernandez v. J.V.C. Trucklines, Inc.*, San Bernardino Superior Court, No. CIVDS1714857, filed August 3, 2017 (Class/PAGA settlement approved on May 22, 2018); *Mireya Castrejon v. CCS Orange County Janitorial, Inc.*, Orange County Superior Court, No. 30-2017-00920076-CU-OE-CXC, filed May 12, 2017 (Class/PAGA settlement approved on November 17, 2021); *Alfonso Valadez v. California Commerce Club, Inc.*, Los Angeles Superior Court, No. BC644587, filed December 20, 2016 (PAGA settlement approved on December 17, 2021); *Loreta B. Gharghani v. Gefer Farms, Inc., et al.*, Los Angeles Superior Court, No. BC624938, filed June 23, 2016 (PAGA settlement approved on January 14, 2021); *Salvador Magana v. Normandie Club Incorporated*, Los Angeles Superior Court, No. BC621737, filed May 25, 2016 (Class/PAGA settlement approved on October 26, 2018); *Kejuan Moore v. Farwest Insulation Contracting*, Los Angeles Superior Court, No. BC588118, filed July 15, 2015 (PAGA settlement approved on August 26, 2016); *Maria Dominguez v. Viva Bargain Center, Inc., et al.*, Los Angeles Superior Court, No. BC588049, filed July 14, 2015 (Class/PAGA settlement approved on June 13, 2017); *Valentin Maracine v. Mesa Verde Convalescent Hospital, Inc.*, Orange County Superior Court, No. 30-2015-00780115-CU-OE-CXC, filed April 1, 2015 (Class/PAGA settlement approved on July 7, 2017); *Judy Pittacora, et al. v. Aurora Vista Del Mar, LLC*, Ventura County Superior Court, No. 56-2014-00454445-CU-OE-VTA, filed June 20, 2014 (Class/PAGA settlement approved on October 20, 2016); *Iffat "Iffy" Khan v. FPI Management, Inc.*, Los Angeles Superior Court, No. BC541747, filed April 4, 2014 (Class/PAGA settlement approved on January 4, 2018); *Michael Luparello v. VIP Tours of California, Inc., et al.*, Los Angeles Superior Court, No. BC538570, filed March 6, 2014 (First-chaired certified class action trial through judgment on behalf of one of the defendants on August 16, 2019); *Bertram Riddick v. WDI International, Inc.*, Los Angeles Superior Court, No. BC507786, filed May 2, 2013 (Class settlement approved on February 21, 2017); *Pedro Aviles v. Super A Foods, Inc.*, Los Angeles Superior Court, No. BC504376, filed March 29, 2013 (Class/PAGA settlement approved on March 9, 2016); *Jose Chavez v. Vallarta Food Enterprises, Inc., et al.*, Los Angeles Superior Court, No. BC490630, filed August 21, 2012 (Class/PAGA settlement approved

1 on November 10, 2014); and *Melinda Gonzalez v. Workforce Outsourcing, Inc., et al.*, Los Angeles
2 Superior Court, No. BC489320, filed July 31, 2012 (Class/PAGA settlement approved on February
3 5, 2016).

4 7. In my current practice at JFW, I serve as the lead plaintiff's counsel on over 75
5 pending class and/or PAGA actions. In addition to this matter, I have resolved 12 other class and/or
6 PAGA actions at mediation. On August 2, 2024, the Hon. Harold W. Hopp of the Riverside County
7 Superior Court granted preliminary approval of class settlement and appointed me as class counsel
8 in *Lampkin v. Sunstates Security, Inc.*, Case No. CVRI2305600. The remaining matters are either
9 pending preliminary approval or in the pre-motion for preliminary approval process of negotiating
10 the long-form class and PAGA settlement agreements.

11 8. As counsel for Plaintiff and the proposed Class, I have been intimately involved in this
12 case since its inception and I believe that the proposed class settlement is an excellent result for the
13 Class. Enclosed as **Exhibit 1** is a true and correct copy of the parties' fully executed Joint
14 Stipulation of Class Action and PAGA Settlement and Release (the "Agreement").

15 **THE PARTIES AND BRIEF PROCEDURAL HISTORY**

16 9. Defendant Smart Metals Recycling LLC owns and operates an electronics recycling
17 facility that recycled computer parts and harvested hard drives, RAMs, memory cards, etc. for
18 resale and is based in Woodland, California.

19 10. On January 3, 2024, Plaintiff commenced this Action by filing a Class Action
20 Complaint, alleging the following seven causes of action against Defendant: (1) failure to pay
21 overtime wages; (2) failure to provide meal periods; (3) failure to provide rest breaks; (4) failure to
22 provide accurate wage statements; (5) failure to provide timely pay at separation – waiting time
23 penalties; and (6) unfair competition in violation of Business and Professions Code sections 17200
24 *et seq.*

25 11. Previously, on January 1, 2024, Plaintiff sent a notice letter under the California
26 Private Attorneys General Act ("PAGA") to the Labor and Workforce Development Agency
27 ("LWDA"). Enclosed as **Exhibit 2** is a true and correct copy of the November 3, 2023 Amended
28 LWDA Letter.

1 12. Subsequently, on March 13, 2024, Plaintiff filed the operative First Amended Class
2 and Representative Action Complaint (“FAC”), adding a cause of action for civil penalties under
3 the PAGA. Enclosed as **Exhibit 3** is a true and correct copy of the operative FAC.

4 **PLAINTIFF’S CLAIMS AND DEFENDANT’S DEFENSES**

5 13. Plaintiff contends that Defendant failed to pay Class Members all overtime wages
6 due to its allegedly unlawful AWS schedule. In September 2022, Defendant’s workforce voted on
7 and passed 9/80 workweek AWS policy in which employees would, over a two-week period, work
8 eight 9-hour days and one 8-hour day with one day off, totaling 80 hours and without payment of
9 overtime for the 8th to 9th hour of work. Plaintiff contends in this action, however, that Defendant
10 allegedly violated its own AWS policy by having Class Members work eight 9-hour days and two
11 4-hour days over two weeks without payment of overtime for the 8th to 9th hour of work. Plaintiff
12 contends that the AWS schedule is void because Defendant failed to follow its AWS policy and the
13 Class is entitled to overtime pay for the 8th to 9th hour of work. Defendant denies Plaintiff’s
14 allegations with regard to its AWS. In response, Defendant argues that it has a lawfully voted on
15 AWS policy and its implemented AWS schedule substantially complied with the AWS policy such
16 that it is not required to pay overtime for the 8th to 9th hour of work. Defendant further contends
17 that damages are limited because Defendant did not implement any AWS schedule until July 2023.

18 14. Plaintiff alleges that Defendant failed to pay all overtime wages owed to Plaintiff and
19 Class Members by failing to include the value of all non-discretionary remuneration, including
20 bonuses, into the “regular rate” of pay. Defendant denies this claim and contends that it properly
21 paid overtime and the bonuses were non-discretionary in nature and need not be factored into the
22 regular rate of pay. Defendant further argues that Class Members received different types of
23 bonuses throughout the Class Period, creating substantive differences among the Class Members
24 with respect to the incentives received, making class certification unlikely.

25 15. Plaintiff alleges that due to Defendant’s scheduling policies and operational needs,
26 Class Members’ first and second meal periods were frequently late (commencing after the fifth hour
27 of work) and/or short (i.e., less than a full 30 minutes). As to rest breaks, Plaintiff alleges that Class
28 Members were sometimes not permitted to take compliant rest breaks due to Defendant’s

1 scheduling policies and operational needs. Defendant denies these claims and counters that it has
2 maintained compliant written meal and rest period policies throughout the Class Period and has
3 always provided compliant meal and rest periods in line with those policies. Defendant further
4 argues that any non-compliant meal periods or rest periods resulted from lawful employee waiver or
5 choice, rather than any systemic policy and/or practice of Defendant. Finally, Defendant maintains
6 Plaintiff's meal and rest period claims are not suited for class certification since individual inquiries
7 would be needed to assess which employees, if any, took non-compliant or missed meal or rest
8 periods, how many meal or rest periods were non-compliant or missed, the reasons why a particular
9 employee did not take a meal or rest period on a particular shift, and for second meal periods,
10 whether they waived the meal period.

11 16. As a result of the allegedly unpaid wages and unpaid meal and rest period premium
12 wages described above, Plaintiff contends that Defendant failed to comply with its final pay
13 obligations set forth in Labor Code §§ 201 to 203 to former employees and failed to issue accurate
14 itemized wage statements to Class Members as set forth in Labor Code § 226(a). Thus, the claims
15 for waiting time and wage statement penalties are derivative of the underlying unpaid wages and
16 meal/rest period claims. Defendant denies liability for such derivative claims.

17 17. Defendant argues that it possesses a variety of strong, good faith defenses to
18 Plaintiff's underlying claims, thus precluding recovery of waiting time penalties, which are only
19 available for the "willful" failure to pay wages. Defendant further argues that any alleged wage
20 statement violations were not "knowing and intentional," and that Plaintiff cannot show the Class
21 "suffer[ed] injury" due to the alleged wage statement violations, as required by Labor Code §
22 226(e) for the imposition of penalties. Notably, Defendant relies on *Naranjo v. Spectrum Security*
23 *Services, Inc.* (2024) 15 Cal.5th 1056, 1065, for the proposition that an employer's good-faith
24 defenses precludes a "willfulness" finding under Labor Code § 203 and a "knowing and intentional"
25 finding under Labor Code § 226(e) for the imposition of statutory penalties. Defendant further
26 asserts that Plaintiff's waiting time and wage statement penalty exposure was grossly inflated as not
27 every employee experienced the alleged Labor Code violations.

28 ///

18. As a result of the foregoing alleged Labor Code violations, Plaintiff contends that Defendant is liable for civil penalties under the PAGA. Defendant denies liability for PAGA civil penalties. Since Plaintiff's PAGA claim is derivative of Plaintiff's underlying wage claims, Defendant asserts the PAGA claim would fail with those claims. Defendant further maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendant liable for any of Plaintiff's claims.

DISCOVERY AND MEDIATION

19. Defendant produced (1) a 20% random sampling of employee time and payroll records in Excel format; (2) Defendant's relevant personnel policies and employee handbooks in effect during the Class Period; (3) Plaintiff's personnel file, time records, and wage statements; and (4) class and PAGA statistics, including the number of workweeks worked by Class Members during the Class Period and pay periods worked by Aggrieved Employees during the PAGA Period.

20. In preparation for mediation, Plaintiff's counsel conducted a comprehensive analysis and extrapolation of the payroll and timekeeping data produced by Defendant to create a detailed exposure analysis for all claims at issue. This discovery allowed the Parties to assess the merits and value of Plaintiff's claims, the chances of certification of Plaintiff's claims, and Defendant's potential defenses.

21. On September 12, 2024, the Parties participated in a full-day mediation with Russ Wunderli, Esq., a well-respected wage and hour class action mediator. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. The Parties reached a tentative class and PAGA settlement at the mediation. During the weeks that followed, the Parties finalized the terms of the Settlement and executed the long-form Settlement now before the Court. The Settlement is attached hereto as **Exhibit 1** and the Class Notice is attached to the Settlement as **Exhibit A**.

/ / /

///

///

/ / /

THE PROPOSED SETTLEMENT

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

a.	Gross Settlement Amount:	\$400,000.00
b.	Minus Court-approved attorneys' fees:	\$133,333.33
c.	Minus Court-approved verified costs (up to):	\$20,000.00
d.	Minus Court-approved Service Payment:	\$7,500.00
e.	Minus amount set aside as PAGA penalties:	\$40,000.00
f.	Minus estimated settlement administration costs:	\$7,950.00
g.	Net Settlement Amount:	\$191,216.67
h.	Plus 25% "PAGA Penalties" to Class:	\$10,000.00
	Total Amount Paid to Class Members:	\$201,216.67

23. According to Defendant, there are approximately 172 Class Members. Therefore, the average Individual Class Payment from the Net Settlement Amount is projected to be approximately \$1,111.72. There are also approximately 146 Aggrieved Employees during the PAGA Period who will each receive an average of approximately \$68.49 as Individual PAGA Payments.

24. On Final Approval, JFW will apply for an attorneys' fees award of one-third of the Gross Settlement Amount, which is currently estimated to be \$133,333.33, and up to \$20,000.00 in verified costs reimbursement. The requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. JFW has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, conducting extensive informal discovery, analyzing Class Members' payroll records, creating a comprehensive damages model, preparing for and attending mediation, negotiating and preparing Joint Stipulation of Settlement, preparing this Motion, and otherwise litigating the case. JFW expects to expend additional attorney time in attending the hearing on this Motion, overseeing the Class Notice process and fielding questions from Class Members, preparing the Final Approval papers, and attending the Final Approval hearing.

PRELIMINARY APPROVAL IS WARRANTED

25. Although the Parties engaged in significant informal discovery prior to mediation, the Parties still had substantial formal discovery to complete had the matter not been settled. This would have required the expenditure of substantial time and resources by both Parties that would have very likely spanned several years. Even if Plaintiff were to certify the classes, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion,

1 trial, and possible appeal. This Settlement avoids those risks and the accompanying expense.

2 26. Absent settlement, there was a risk that there would not be a certified class at the
3 time of trial, or if there were, it would consist of a significantly smaller group of employees than the
4 proposed Class (either due to a narrowing of the class definition in a Court order on a contested
5 motion for class certification, or through settlement agreements entered into by Defendant with
6 individual Class Members by way of *Pick Up Stix* type settlement agreements), and the expected
7 recovery could be significantly reduced, given the settlement amounts that are typically offered
8 through the *Pick Up Stix* process.

9 27. As discussed above, Plaintiff contends that Defendant failed to pay Class Members
10 all overtime wages due to its allegedly unlawful AWS schedule. Based on Plaintiff's analysis of the
11 sampling time and payroll records, Class Members allegedly on average experienced 24.55 hours of
12 unpaid overtime hours at premiums rates (1/2 times regular rate). Extrapolated to 172 Class
13 Members, Plaintiff contends that putative class member had an average hourly rate of \$20.68, and
14 that Defendant's alleged maximum exposure for this claim is \$43,671.85. Defendant denies these
15 allegations and argues that it has a lawfully voted on AWS policy and its implemented AWS
16 schedule complied with the AWS policy such that it is not required to pay overtime for the 8th to
17 9th hour of work. Defendant further contends that damages are limited because Defendant did not
18 implement any AWS schedule until July 2023. In light of these defenses and arguments, Plaintiff
19 discounted Defendant's maximum exposure by 10% to account for the risk of non-certification, and
20 an additional 25% to account for Defendant's defenses on the merits or failing to recover the full
21 amount sought to arrive at an estimated potential recovery for these claims of approximately
22 \$29,478.50.

23 28. Plaintiff alleges that Defendant miscalculated employees' regular rate of pay by
24 failing to include non-discretionary bonuses into the "regular rate" when calculating overtime pay.
25 Based on the data provided by Defendant, Plaintiff calculated Defendant's alleged maximum
26 potential liability to be approximately \$12,949.50 in unpaid wages due to the regular rate violations
27 during the Class Period. Defendant denies these claims and contends that it properly paid overtime
28 and the bonuses were non-discretionary in nature and need not be factored into the regular rate of

1 pay. Defendant further argues that Class Members received different types of bonuses throughout
2 the Class Period, creating substantive differences among the Class Members with respect to the
3 incentives received, making class certification unlikely. In light of these defenses and arguments,
4 Plaintiff discounted Defendant's maximum exposure by 10% to account for the risk of non-
5 certification, and an additional 25% to account for Defendant's defenses on the merits or failing to
6 recover the full amount sought to arrive at an estimated potential recovery for these claims of
7 approximately \$8,740.91.

8 29. Plaintiff alleges that Defendant failed to provide compliant meal periods to Class
9 Members. Based on Plaintiff's analysis of the sampling time and payroll records, Plaintiff alleges
10 that an average of 1.54 meal period violations per pay period occurred. Extrapolating across the
11 entire Class Period, Plaintiff estimates the alleged maximum exposure for this claim to be
12 \$231,688.38. Defendant denies these allegation with regard to meal period liability.

13 30. As noted above, Defendant contends that it maintained compliant meal period
14 policies and practices throughout the Class Period and provided compliant meal periods to putative
15 class members in line with those policies and practices. Defendant also asserts that, under *Brinker*,
16 it is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are
17 taken, and that, as described above, it has always done so, and any non-complaint first meal periods
18 in the timekeeping records were the result of lawful employee waiver or voluntary choice.
19 Defendant also maintains that its meal period waivers with Class Members were enforceable.
20 Finally, Defendant further argues that meal period claim is not suited for class certification, since
21 individual inquiries would be needed to assess which employees took non-compliant meal periods
22 or missed meal periods, how many meal periods were non-compliant or missed, and the reasons
23 why a particular employee did not take a compliant meal period on a particular shift. In light of
24 these defenses and arguments, Plaintiff discounted Defendant's alleged maximum exposure by 25%
25 to account for the risk of non-certification, and an additional 50% to account for Defendant's
26 defenses on the merits or failing to recover the full amount sought, to arrive at an estimated total of
27 approximately \$86,883.14.

28 ///

1 31. Plaintiff also alleges that Defendant failed to provide rest periods to Class Members.
2 Defendant denies any and all liability for Plaintiff's rest break claim. Assuming that each Class
3 Member experienced one rest break violation per week, extrapolated to 7,275 workweeks during the
4 Class Period, Plaintiff alleges that potential damages for rest period premiums to be \$150,447.

5 32. However, as discussed above, Defendant argues that it always maintained and
6 enforced lawful rest period policies and practices during the Class Period. Defendant also maintains
7 that any failure to take rest periods was the result of employee waiver or choice, and that it is not
8 required to police rest periods. Defendant further argues that Plaintiff's rest period claim is not
9 amenable to class treatment as individualized inquiries would be required to determine which
10 employees failed to take rest periods, and the reasons why each employee failed to take a rest period
11 on a particular shift. These considerations are particularly present with respect to rest periods,
12 Defendant argues, as rest periods are not—and need not be—recorded. In light of these defenses,
13 Plaintiff discounted the maximum amount that the class could potentially recover by 50% for risk of
14 non-certification, and discounted an additional 50% for risk of being unsuccessful on the merits or
15 failure to recover the full amount sought, to arrive at a projected exposure of \$37,611.75.

16 33. Defendant's records show approximately 91 formerly employed Class Members who
17 separated their employment with Defendant since January 3, 2021 (i.e., three years prior to filing of
18 the original Complaint) and are therefore eligible for waiting time penalties. Thus, Plaintiff
19 estimated alleged maximum waiting time penalty exposure to be approximately \$451,651.20
20 ($\$20.68 * 8 \text{ hours per day} * 30 \text{ days}$). Defendant denies liability for Plaintiff's claim.

21 34. Defendant presented several defenses to Plaintiff's claim for waiting time penalties,
22 most notably its assertion that because they possessed good-faith defenses to the underlying claims
23 for unlawful rounding, regular rate miscalculation, and meal and rest period violations, and any
24 failure to pay wages was not "willful" as a matter of law. Defendant further asserts that Plaintiff's
25 waiting time penalty exposure was grossly inflated as not every former employee experienced the
26 alleged Labor Code violations. Moreover, because the waiting time claim is derivative of Plaintiff's
27 underlying wage claims, Plaintiff would need to overcome Defendant's defenses, both as to class
28 certification and on the merits, as to the underlying claims. Plaintiff discounted the maximum

1 exposure by 90% for the risk of non-certification and an additional 65% for the risk of losing on the
2 merits and/or not receiving the maximum penalties sought to arrive at an estimated exposure of
3 approximately \$142,270.13.

4 35. Plaintiff alleges that Defendant is liable for wage statement penalties as a result of
5 the unpaid wages and unpaid meal and rest period premiums. Those penalties are calculated as \$50
6 for each “initial” violation and \$100 for each “subsequent” violation, with a maximum of \$4,000
7 per employee. *See* Labor Code § 226(e). Defendant’s data reflected there were approximately 4,099
8 wage statements issued to Class Members since January 3, 2023 (one year prior to the filing of the
9 Complaint). Plaintiff alleges that, at \$50 for the first wage statement and \$100 for each subsequent
10 wage statement, maximum exposure for wage statement penalties is \$404,400. Defendant again
11 denies liability for Plaintiff’s wage statement claim.

12 36. As discussed above, Defendant presented several defenses to Plaintiff’s wage
13 statement claim, most notably its assertion that because they possessed good-faith defenses to the
14 underlying claims for an allegedly unlawful AWS, regular rate miscalculation, and meal and rest
15 period violations, and any failure to pay wages was not “willful” as a matter of law. Moreover,
16 because the wage statement claim is derivative of Plaintiff’s underlying wage claims, Plaintiff
17 would need to overcome Defendant’s defenses, both as to class certification and on the merits, as to
18 his underlying claims. To account for Defendant’s defenses, Plaintiff discounted the maximum
19 exposure by 90% for the risk of non-certification and an additional 65% for the risk of losing on the
20 merits and/or not receiving the maximum penalties sought to arrive at an alleged estimated exposure
21 of approximately \$127,386.

22 37. Plaintiff alleged an estimated maximum total PAGA exposure of approximately
23 \$409,900 (4,099 pay periods during the PAGA Period x \$100 “initial” penalty). However, these
24 penalties derive from the underlying wage and hour violations discussed above, which Defendant
25 disputes vigorously. Defendant further denies any liability for Plaintiff’s PAGA claim. Moreover,
26 Defendant asserts that the Court would drastically reduce any award of PAGA penalties as
27 “confiscatory.” Therefore, Plaintiff discounted the maximum figure by 80% to account for the risk
28 of losing on the merits and/or not recovering a PAGA penalty for each and every pay period and to

1 account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of
2 approximately \$81,980.

3 38. Using these alleged figures for each of the claims described above, Plaintiff alleges
4 that the potential realistic recovery for the Class would be approximately of \$514,350.43. The
5 proposed Settlement of \$400,000 represents approximately 77.77% of the reasonably forecasted
6 recovery for the Class.

7 39. The Administrator's bid includes translation of the Class Notice into Spanish and the
8 Class Notice will be distributed in English and Spanish

9 40. On or around October 7, 2024, I caused a copy of the Motion for Preliminary
10 Approval of Class Settlement, supporting Declarations, and Proposed Order to be uploaded to the
11 LWDA's website.

12 41. Based on Defendant's disclosures, I am not aware of any other pending matter
13 asserting claims that will be extinguished or affected by the Settlement.

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

16 Executed on October 7, 2024 at Los Angeles, California.

17
18 

19 _____
William C. Sung

EXHIBIT 1

JUSTICE FOR WORKERS, P.C.

William Sung (SBN 280792)
William@justiceforworkers.com

Tiffany L. Luu (SBN 335127)

tluff@justiceforworkers.com

3600 Wilshire Boulevard, Suite 1815

Los Angeles, CA 90010

Telephone: (323) 922-2000

Facsimile: (323) 922-2000

Attorneys for Plaintiff

NORMA BORQUEZ, individually and
on behalf of all others similarly situated,

JACKSON LEWIS P.C.

CARY G. PALMER (SBN 186601)

SAMUEL J. MASELLI (SBN 219503)

400 Capitol Mall, Suite 1600

Sacramento, CA 95814

Telephone: (916) 341-0404

Facsimile: (916) 341-0141

E-mail: cary.palmer@jacksonlewis.com

samuel.maselli@jacksonlewis.com

Attorneys for Defendant

SMART METALS RECYCLING, LLC

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF YOLO

NORMA BORQUEZ, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

SMART METALS RECYCLING, LLC, a
California limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No. CV2024-0050

ASSIGNED FOR ALL PURPOSES TO:
THE HONORABLE SAMUEL T.
MCADAM, DEPARTMENT 14

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT
AND RELEASE BETWEEN PLAINTIFF
NORMA BORQUEZ AND
DEFENDANTS SMART METALS
RECYCLING, LLC**

Complaint Filed: May 30, 2023
FAC Filed: August 22, 2023
Trial Date: Not Set

///

///

///

///

1 This Joint Stipulation of Class Action and PAGA Settlement and Release (“Stipulation of
2 Settlement,” “Agreement,” or “Settlement”) is made and entered into by and between Plaintiff
3 Norma Borquez, individually and on behalf of all similarly situated and aggrieved employees
4 (“Plaintiff”) and Defendant Smart Metals Recycling, LLC. (“Defendant”). Plaintiff and Defendant
5 are collectively referred to herein as “Parties” or individually as “Party.”

6 This Stipulation of Settlement is subject to the approval of the Court pursuant to California
7 Rules of Court, Rule 3.769(c), (d) and (e), and is made for the sole purpose of attempting to
8 consummate settlement of the Action on a class-wide basis subject to the terms and conditions set
9 forth herein. As detailed below, in the event the Court does not enter an Order granting final
10 approval of the Class Settlement, as defined below, or the conditions precedent are not met for any
11 reason, this Agreement is void and of no force or effect whatsoever.

12 THE PARTIES STIPULATE AND AGREE as follows:

13 **1. DEFINITIONS**

14 As used in this Agreement, the following terms shall have the meanings specified below.
15 To the extent terms or phrases used in this Agreement are not specifically defined below, but are
16 defined elsewhere in this Agreement, they are incorporated by reference into this definition
17 section.

18 1.1 “Action” means and refers to Plaintiff’s class action lawsuit alleging wage and hour
19 violations against Defendant entitled *Norma Borquez v. Smart Metals Recycling, LLC*, Yolo
20 County Superior Court Case No. CV2024-0050, filed on January 3, 2024, amended to add PAGA
21 claims on March 13, 2024, and currently pending in the Yolo County Superior Court.

22 1.2 “Administrator” or “Settlement Administrator” means Phoenix Class Action
23 Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the
24 Settlement.

25 1.3 “Administration Expenses Payment” means the amount the Administrator will be
26 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses, which are
27 anticipated to not exceed \$7,950.00.

28 ///

1.4 “Aggrieved Employee(s)” means all current and former hourly-paid or non-exempt employees of Defendant in California during the PAGA Period.

1.5 “Class” means all current and former hourly-paid or non-exempt employees of Defendant in California during the Class Period.

1.6 “Class Counsel” means William C. Sung and Tiffany Luu of Justice for Workers, P.C.

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

1.8 “Class Member Information” or “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Workweeks and PAGA Pay Periods (or sufficient information to calculate the number of such workweeks).

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

1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11 “Class Notice” means the Court-Approved Notice of Class and PAGA Action Settlement and Hearing Date for Final Court Approval, to be mailed to Class Members, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.12 “Class Period” means the period from January 3, 2020 through December 31, 2024 (unless modified pursuant to Section 8 of this Agreement).

1.13 “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.

///

1.14 "Class Representative Service Payment" mean the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15 "Court" means the Superior Court of California, County of Yolo.

1.16 "Defendant" means named Defendant Smart Metals Recycling, LLC

1.17 "Defense Counsel" means Cary G. Palmer and Samuel J. Maselli of Jackson Lewis P.C.

1.18 "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment if an appeal is not filed; or if an appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur upholding the Settlement as provided in this Stipulation of Settlement.

1.19 "Final Approval" means the Court's order granting final approval of the Settlement.

1.20 "Final Approval Hearing" or "Final Fairness Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

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

1.22 "Gross Settlement Amount" means Four Hundred Thousand Dollars (\$400,000), which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8, below. The Gross Settlement Amount will be used to pay Individual Class Payments, Employee's Taxes and Required Withholdings, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the Administration Expenses Payment. The Gross Settlement Amount does not include the employer's share of payroll taxes for the Wage Portion of Individual Class Payments which will be separately paid by Defendant in addition to the Gross Settlement Amount.

///

1.23 “Individual Class Payment” means a Participating Class Member’s *pro rata* share of the Net Settlement Amount calculated according to the number of Class Workweeks worked during the Class Period, less Employee’s Taxes and Required Withholding.

1.24 “Individual PAGA Payment” means the Aggrieved Employee’s *pro rata* share of twenty-five percent (25%) of the PAGA Penalties calculated according to the number of PAGA Workweeks worked during the PAGA Period.

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

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

1.27 “LWDA PAGA Payment” means the seventy-five percent (75%) of the PAGA Penalties paid to the LWDA under Labor Code section 2699(i).

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

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

1.30 “Operative Complaint” means the operative complaint in the Action, which will be the First Amended Complaint dated March 13, 2024 and will encompass any claims articulated and alleged therein.

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

1.32 “PAGA Notice” means Plaintiff’s January 1, 2024 letter to the LDWA and Defendant, providing notice pursuant to Labor Code section 2699.3(a).

1.33 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated twenty-five percent (25%) to the Aggrieved

///

Employees (\$10,000) and seventy-five percent (75%) to the LWDA (\$30,000) in settlement of PAGA claims.

1.34 “PAGA Period” means the period from January 1, 2023 through December 31, 2024 (unless modified pursuant to Section 8 of this Agreement).

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

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

1.37 “Plaintiff” means Norma Borquez, the named Plaintiff and Class Representative in the Action.

1.38 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.39 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.40 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.41 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.42 “Released Parties” means: (i) Defendant Smart Metals Recycling, LLC; (ii) each of Defendant’s respective past and present parents, subsidiaries, partners, affiliates, brands, including any corporation, limited liability company, or partnership; (iii) the past and present board members, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing.

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

///

1 1.44 “Response Deadline” means forty-five (45) days after the Administrator mails
2 Notice to Class Members and Aggrieved Employees and shall be the last date on which Class
3 Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, e-
4 mail, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are
5 present after having been returned undeliverable to the Administrator shall have an additional
6 fourteen (14) calendar days beyond the Response Deadline has expired.

7 1.45 “Settlement” means the disposition of the Action effected by this Agreement and
8 the Judgment.

9 1.46 “Response Deadline” means forty-five (45) days after the Administrator mails
10 Notice to Class Members and Aggrieved Employees and shall be the last date on which Class
11 Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, e-
12 mail, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are
13 resent after having been returned undeliverable to the Administrator shall have an additional
14 fourteen (14) calendar days beyond the Response Deadline has expired.

15 1.47 “Qualifying Workweeks” are weeks worked by Class Members and/or PAGA
16 Members during the Class Period and/or PAGA Period, respectively, in California. Defendant
17 will calculate the number of workweeks worked in California for each Class Member and PAGA
18 Member during the Class Period and PAGA Period, respectively, based on time clock data.
19 Defendant’s workweek data will be presumed to be correct, unless a particular Class Member
20 and/or PAGA Member proves otherwise to the Settlement Administrator by credible written
21 evidence. Defendant will provide time clock data to the Settlement Administrator who will
22 calculate the amount to be paid to each Class Member based on this data. All workweek disputes
23 will be resolved and decided by the Settlement Administrator, and the Settlement Administrator’s
24 decision on all workweek disputes will be final and non-appealable, subject to Court approval. The
25 amount to be paid per workweek to eligible Class Members will be calculated by the Settlement
26 Administrator by dividing the Net Settlement Amount by the total number of workweeks for all
27 Class Members who do not opt out of the Settlement; any person who opts out of the Settlement
28 is not a Class Member. The amount to be paid per workweek to PAGA Members will be calculated

1 by the Settlement Administrator by dividing the portion of the PAGA Penalty Amount (25%)
2 payable to PAGA Members pursuant to statute by the aggregate number of weeks worked by
3 PAGA Members during the PAGA Period.

4 1.48 “Workweek(s)” means any week(s) during which a Class Member worked for
5 Defendant for at least one day, during the Class Period.

6 **2. RECITALS**

7 2.1 On January 3, 2024, Plaintiff commenced this Action by filing a Class Action
8 Complaint, alleging the following six causes of action against Defendant: (1) failure to pay
9 overtime wages; (2) failure to provide meal periods; (3) failure to provide rest breaks; (4) failure to
10 provide accurate wage statements; (5) failure to provide timely pay at separation – waiting time
11 penalties; and (6) unfair competition in violation of Business and Professions Code sections 17200
12 *et seq.* On March 13, 2024, Plaintiff filed a First Amended Class and Representative Action
13 Complaint, adding a cause of action for violations of the PAGA. Defendant timely answered
14 Plaintiff’s First Amended Class and Representative Action Complaint (the “Operative Complaint”).
15 Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the
16 laws identified in the Operative Complaint and denies any and all liability for the causes of action
17 alleged. Defendant further denies that, for any purpose other than settling this Action, these claims
18 are appropriate for class or representative treatment.

19 2.2 Pursuant to Labor Code section 2699.3(a), Plaintiff gave timely written notice to
20 Defendant and the LWDA by sending the PAGA Notice on January 3, 2024.

21 2.3 Prior to mediation, Plaintiff obtained, through informal discovery, documents, and
22 information obtained pertaining to their wage and hour claims, including, but not limited to, wage
23 and hour policy and procedure documents, an adequate sampling of employee time and payroll
24 records, and the exchanges of relevant data points pertaining to the Class and PAGA claims.
25 Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v.*
26 *Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.*
27 (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

28 ///

2.4 On September 12, 2024, the Parties participated in a full-day mediation, which was presided over by Russ Wunderli, Esq. and led to this Agreement to settle the Action.

2.5 The Parties agree that this Agreement is for settlement purposes only and if, for any reason, the Agreement is not approved, the Agreement will be of no force or effect. In such event, nothing in this Agreement shall be used or construed by or against any party as a determination, admission, or concession of any issue of law or fact in the Action; and the Parties do not waive, and instead expressly reserve, their respective rights with respect to the prosecution and defense of this Action as if this Agreement never existed.

2.6 The Court has not granted class certification.

2.7 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.

2.8 The Agreement set forth herein intends to achieve the following: (1) an entry of an order approving the Settlement; (2) entry of judgment of the Action; (3) discharge of Released Parties from liability for any and all of the Released Claims; and (4) discharge of Defendant from liability for any and all claims arising out of the Action.

3. TERMS OF THE SETTLEMENT

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Four Hundred Thousand Dollars (\$400,000) and no more as the Gross Settlement Amount and to separately pay any and all Employer Taxes owed on the Wage Portions of the Individual Class Payments. The Gross Settlement Amount includes payments to Participating Class Members, Aggrieved Employees, all attorneys' fees, costs and litigation expenses related to the Action incurred to date, as well as all such fees and costs incurred in documenting the Agreement, administering the Agreement (including Settlement Administration Costs), and obtaining final approval of the Agreement, the Class Representative Service Payment to the Class Representative, and the PAGA Penalties. Any monies necessary to satisfy Defendants' tax obligations on the Wage Portion of the Individual Settlement Payments (*e.g.* employer FICA, FUTA and SDI contributions on wage payments) on any monies distributed to Participating Class

Members will be paid in addition to the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1 Class Representative Service Payment to Plaintiff. The Administrator shall pay the Class Representative Service Payment to the Class Representatives of not more than \$7,500.00 (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 Plaintiff's request for Class Representative Service Payment that does not exceed this amount. As part of the Final Approval motion, Plaintiff will seek Court approval for any Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 Attorneys' Fees and Costs to Class Counsel. The Administrator shall pay a Class Counsel Fees Payment of not more than thirty-three and one-third percent (33 1/3%), which is currently estimated to be \$133,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments provided that the requests do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the

1 Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall
2 have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any
3 portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The
4 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment
5 using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes
6 owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and
7 shall hold Defendant harmless, and shall indemnify Defendant, from any dispute or controversy
8 regarding any division or sharing of any of these Payments.

9 3.2.3 Settlement Administrator Costs. The Administrator shall pay an
10 Administrator Expenses Payment not to exceed Seven Thousand Nine-Hundred Fifty Dollars and
11 Zero Cents (\$7,950.00, except for a showing of good cause and as approved by the Court. The
12 difference between any actual costs and the allocated \$7,950.00 shall be added to the Net Settlement
13 Amount to be distributed to Participating Class Members on a pro rata basis.

14 3.2.4 Individual Class Payments. The Administrator shall pay Individual
15 Class Payments to Class Members calculated by (a) dividing the Net Settlement Amount by the
16 total number of Workweeks worked by all Participating Class Members during the Class Period
17 and (b) multiplying the result by each Participating Class Member's Workweeks.

18 3.2.4.1. Tax Allocation of Individual Class Payments. Twenty
19 percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to
20 settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding
21 and will be reported on an IRS W-2 Form. The Parties agree that the Employee's Taxes and
22 Required Withholdings with respect to the wage portion of the Individual Class Payment will be
23 withheld from the Individual Class Payment. Eighty percent (80%) of each Participating Class
24 Member's Individual Class Payment will be allocated to settlement of claims for interest and
25 penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings
26 and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility
27 and liability for any employee taxes owed on their Individual Class Payment.

28 ///

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

3.2.5 PAGA Penalties. The Administrator shall pay PAGA Penalties in the amount of \$40,000.00 from the Gross Settlement Amount, with 75% (\$30,000.00) allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the Individual PAGA Payments.

3.2.5.1 Calculation of Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$10,000.00) by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period; and (b) multiplying the result by each Aggrieved Employee's Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2 Approval of Less Than Proposed PAGA Award and Tax Reporting. 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 Forms 1099.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1 Class Workweeks and Aggrieved Employee PAGA Workweeks. Based on a review of its records through July 31, 2024, Defendant estimates approximately 172 Class Members collectively worked a total of 7,660 Workweeks, and approximately 146 Aggrieved Employees who worked a total of 4,099 Pay Periods.

4.2 Class Data. Defendant will provide the Administrator with the Class Members' names, last-known addresses, last-known telephone numbers, Social Security numbers ("Class Member Information") and workweek data from the Class Period within thirty (30) calendar days after the Preliminary Approval Date, and any other information the Administrator needs to calculate Individual Class and PAGA Payments and to effectuate notice to Class Members and PAGA Members as outlined herein or ordered by the Court. To protect Class Members' privacy rights, the

1 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of
2 this Settlement and for no other purpose, and restrict access to the Class Data to Administrator
3 employees who need access to the Class Data to effect and perform under this Agreement. Class
4 Counsel shall not receive a copy of the Class Data or any content thereof. Defendant has a
5 continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted
6 class member identifying information and to provide corrected or updated Class Data as soon as
7 reasonably feasible. Without any extension of the deadline by which Defendant must send the Class
8 Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good
9 faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

10 4.3 Funding of Gross Settlement Amount. Defendant shall fully pay the Gross
11 Settlement Amount and the amount necessary to fully pay Defendant's share of payroll taxes by
12 transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.
13 At least five (5) business days prior to Defendant's deadline for funding of the Gross Settlement
14 Amount, the Administrator shall calculate the total Employer Taxes due on the wage portion of the
15 Individual Class Payments and issue Defendant instructions and the amount of the Employer Taxes.

16 4.4 Payments from the Gross Settlement Amount. Within fourteen (14) days after
17 Defendant funds the Gross Settlement Amount, the Administrator will mail checks and/or wire
18 payment for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA
19 Payment, the Administration Expenses Payment, Class Representative Service Payment, the Class
20 Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment.

21 4.4.1 The Administrator will issue checks for the Individual Class Payments
22 and/or Individual PAGA Payments and send them to the Class Members *via* First Class U.S. Mail,
23 postage prepaid. The face of each check shall prominently state the date (not less than one-hundred
24 eighty (180) days after the date of mailing) when the check will be voided. The Administrator will
25 cancel all checks not cashed by the void date. The Administrator will send checks for Individual
26 Settlement Payments to all Participating Class Members (including those for whom Class Notice
27 was returned undelivered). The Administrator will send checks for Individual PAGA Payments to
28 all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved

1 Employees (including those for whom Class Notice was returned undelivered). The Administrator
2 may send Participating Class Members a single check combining the Individual Class Payment and
3 the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must
4 update the recipients' mailing addresses using the National Change of Address Database.

5 4.4.2 The Administrator must conduct a Class Member Address Search for all
6 other Class Members whose checks are returned undelivered without USPS forwarding address.
7 Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the
8 USPS forwarding address provided or to an address ascertained through the Class Member Address
9 Search. The Administrator need not take further steps to deliver checks to Class Members whose
10 re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement
11 check to any Class Member whose original check was lost or misplaced, requested by the Class
12 Member prior to the void date.

13 4.4.3 For any Class Member whose Individual Class Payment check or Individual
14 PAGA Payment check is uncashed and cancelled after the void date, within ten (10) calendar days
15 of the check void date, the Administrator shall transmit the funds represented by such checks to the
16 State of California State Controller's Office, in the Class Member's name to be held as unclaimed
17 property for the Class Member.

18 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments
19 shall not obligate Defendant to confer any additional benefits or to make any additional payments
20 to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this
21 Agreement.

22 **5. RELEASES OF CLAIMS**

23 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
24 funds all the employer's share of payroll taxes owed on the Wage Portion of the Individual Class
25 Payments, Class Members (including the Class Representative), and Aggrieved Employees will
26 release claims against all Released Parties as follows:

27 5.1 Plaintiff's Release. Plaintiff and Plaintiff's representatives, agents, attorneys, heirs,
28 administrators, successors, and assigns generally, release and discharge Released Parties from all

1 claims, transactions, or occurrences that occurred during the Class Period, including, but not limited
2 to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in
3 the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged
4 based on facts contained in the Operative Complaint and Plaintiff's PAGA Notices. ("Plaintiff's
5 Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement,
6 or to any claims for vested benefits, unemployment benefits, disability benefits, social security
7 benefits, workers' compensation benefits that arose at any time, or based on occurrences outside
8 the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or
9 in addition to, the facts or law that Plaintiff now know or believes to be true but agrees, nonetheless,
10 that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different
11 or additional facts or Plaintiff's discovery of them.

12 5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
13 purposes of Plaintiff's Release, subject to applicable carve out listed above, Plaintiff expressly
14 waive and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California
15 Civil Code, which reads:

16 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
17 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
18 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
19 **RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE**
 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
 DEBTOR OR RELEASED PARTY.

20 5.2 Release by Participating Class Members. All Participating Class Members, on
21 behalf of themselves and their respective former and present representatives, agents, attorneys,
22 heirs, administrators, successors, and assigns, release the Released Parties from all claims under
23 federal, state, and local law arising during the Class Period that were or could have been asserted
24 based on the facts and allegations made in the Operative Complaint, including without limitation,
25 California Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 218.6, 225.5, 226, 226.3,
26 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197.1, 1198, and 6720, California
27 Industrial Commission Wage Orders, California Code of Regulations, Title. 8, sections 11040 *et*
28 *seq.* and 3203 *et seq.*, Business and Professions Code sections 17200 *et seq.* and 3203 *et seq.*,

1 California Code of Civil Procedure section 1021.5, California Civil Code sections 3287 and 3289,
2 and including all claims for or related to alleged unpaid wages, minimum wages, hours worked,
3 overtime or double time wages, regular rate of pay, bonus and incentive pay, timely payment of
4 wages during employment, timely payment of wages at separation, wage statements, payroll
5 records and recordkeeping, meal periods and meal period premiums, rest breaks and rest break
6 premiums, excessive temperature working conditions, failure to pay additional 401(k) benefits
7 and/or deferred compensation benefits and/or matching benefits for payments received under the
8 Settlement, unfair competition, unfair business practices, unlawful business practices, fraudulent
9 business practices, class actions, representative actions, aggrieved party claims, declaratory relief,
10 penalties of any nature (including but not limited to civil penalties, waiting-time penalties, and
11 PAGA penalties), interest, fees, costs, as well as all other claims and allegations alleged in the
12 Action (collectively “Released Class Claims”). Expressly excluded from the release are claims for
13 retaliation, discrimination, unemployment insurance, disability, workers compensation, and claims
14 outside the Released Class Claims.

15 5.3 Release by Aggrieved Employees. All Aggrieved Employees are deemed to release,
16 on behalf of themselves and their respective former and present representatives, agents, attorneys,
17 heirs, administrators, successors, and assigns, the Released Parties from all claims arising during
18 the PAGA Period seeking civil penalties under PAGA, that Plaintiff as proxy for the State of
19 California and/or the LWDA, to the maximum extent permitted by law, and as a private attorney
20 general acting on behalf of Plaintiff and the PAGA Members, asserted or could reasonably have
21 asserted based on the facts alleged in the Actions and/or the LWDA letter, including but not limited
22 to all claims arising under the California Labor Code including, but not limited to sections 201,
23 202, 203, 204, 210, 216, 218.5, 218.6, 225.5, 226, 226.3, 226.7, 246, 256, 510, 512, 516, 558, 558.1,
24 1174, 1194, 1197.1, 1198, 2698 *et seq.*, and 6720, California Industrial Commission Wage Orders,
25 California Code of Regulations, Title. 8, sections 1040 *et seq.* and 3203 *et seq.* Business and
26 Professions Code sections 17200 *et seq.*, California Code of Civil Procedure section 1021.5,
27 California Civil Code sections 3287 and 3289, as alleged in the Action (collectively “Released
28 PAGA Claims”). The Settlement shall release and bar all Released PAGA Claims by or on behalf

1 of Plaintiff and all Aggrieved Employee during the PAGA Period, regardless of whether Plaintiff
2 and/or an Aggrieved Employee negotiates (cashes) their/his/her settlement checks sent pursuant to
3 this Settlement. The Parties agree that there is no statutory right for any Aggrieved Employee to
4 opt out or otherwise exclude himself or herself from the PAGA settlement and the associated release
5 of claims and rights under PAGA. The Parties also agree that Aggrieved Employee do not have a
6 right to intervene in or object to the Settlement, or to require a court to receive and consider
7 objections to the Settlement, and that Aggrieved Employee do not have a right to move to vacate a
8 judgement entered in the Action. As such, an individual Aggrieved Employee opting out of the
9 Class has no impact as to his/her standing and/or inclusion in the PAGA settlement assuming
10 they/he/she qualifies as an Aggrieved Employee. Class Counsel agrees to provide timely notice of
11 the Settlement to the LWDA as required under PAGA. Any Aggrieved Employees who submit a
12 valid and timely Request for Exclusion are still entitled to their Individual PAGA Payment and
13 have no right or ability to opt out of the portion of this Settlement releasing the Released PAGA
14 Claims.

15 **6. MOTION FOR PRELIMINARY APPROVAL.**

16 Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary
17 Approval”) presenting this Joint Stipulation of Settlement and all appended exhibits to the Court
18 for consideration and preliminary approval.

19 6.1 Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for
20 obtaining Preliminary Approval, including but not limited to (i) a Notice of Motion for Preliminary
21 Approval, Memorandum in Support of the Motion for Preliminary Approval, which shall include
22 an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement
23 under Labor Code section 2699(f)(2); (ii) a proposed Class Notice (**Exhibit A**); (iii) a Proposed
24 Order Granting Preliminary Approval of the Class and PAGA Settlement (**Exhibit B**); (iii) a
25 Proposed Order Granting Final Approval of the Class and PAGA Settlement (**Exhibit C**); (iv) a
26 signed declaration from each Class Counsel firm attesting to its competency to represent the Class
27 Members and its timely transmission to the LWDA of all necessary PAGA documents (e.g., initial
28 notice of violations, Operative Complaint, and this Agreement. (Labor Code §§ 2699(l), 2699.3(a).)

1 6.2 Responsibilities of Parties' Counsel. Class Counsel is responsible for appearing in
2 Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible
3 for delivering the Court's Preliminary Approval Order to the Administrator. Defendant's Counsel
4 agrees to not oppose Class Counsel's Motion for Preliminary Approval so long as Defense Counsel
5 has five (5) calendar days to review it before filing and it is consistent with this Settlement
6 Agreement.

7 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
8 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
9 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or
10 by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
11 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
12 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
13 in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the
14 Court's concerns.

15 6.4 Injunction Pending Final Approval. The proposed Preliminary Approval Order shall
16 include the following provision for approval by the Court: "To facilitate administration of the
17 Settlement pending final approval, the Court hereby enjoins Plaintiff and all Class Members from
18 filing or prosecuting any other cases, claims, suits or administrative proceedings (including filing
19 claims with the Division of Labor Standards Enforcement of the California Department of
20 Industrial Relations) regarding the Released Claims unless and until such Class Members have filed
21 valid Requests for Exclusion with the Settlement Administrator and the time for filing Requests for
22 Exclusion with the Settlement Administrator has elapsed.

23 **7. SETTLEMENT ADMINISTRATION**

24 7.1 Selection of Administrator. The Parties have jointly selected Phoenix Class Action
25 Administration Solutions to serve as the Administrator and verified that, as a condition of
26 appointment, Phoenix Class Action Administration Solutions agrees to perform, as a fiduciary, all
27 duties specified in this Agreement in exchange for payment of Administration Expenses. The
28 Parties and their respective counsel represent that they have no interest or relationship, financial or

1 otherwise, with the Administrator other than a professional relationship arising out of prior
2 experiences administering settlements.

3 7.2 Employer Identification Number. The Administrator shall have and use its own
4 Employer Identification Number for purposes of calculating payroll tax withholdings and providing
5 reports to state and federal tax authorities.

6 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that
7 meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation
8 section 468B-1.

9 7.4 Notice to Class Members.

10 7.4.1 No later than three (3) business days after receipt of the Class Data, the
11 Administrator shall notify Class Counsel that the list has been received and state the number of
12 Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

13 7.4.2 Using best efforts to perform as soon as possible, and in no event later than
14 fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members
15 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class
16 Notice substantially in the form attached to this Agreement as **Exhibit A**. Concurrently with the
17 mailing of the Class Notice, The Administrator will also post a copy of the Class Notice on its
18 website at least until the date of the Final Approval Hearing. The first page of the Class Notice shall
19 prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA
20 Payment payable to the Class Member, and the number of Class Workweeks and PAGA
21 Workweeks (if applicable) used to calculate these amounts. Before mailing Class Notices, the
22 Administrator shall update Class Member addresses using the National Change of Address
23 database.

24 7.4.3 Not later than three (3) business days after the Administrator’s receipt of any
25 Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
26 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
27 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class
28 Notice to the most current address obtained. Other than verifying that Defendant does not have

1 any additional information to locate or send the Class Notice, the Administrator has no obligation
2 to make further attempts to locate or send Class Notice to Class Members whose Class Notice is
3 returned by the USPS a second time.

4 7.4.4 The deadlines for Class Members' written objections, Challenges to
5 Workweeks, and Requests for Exclusion will be extended an additional fourteen (14) days beyond
6 the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice
7 is re-mailed. The Administrator will inform the Class Member of the extended deadline with the
8 re-mailed Class Notice.

9 7.4.5 If the Administrator, Defense Counsel, or Class Counsel are contacted by or
10 otherwise discover any persons who believe they should have been included in the Class Data and
11 should have received Class Notice, the Parties will expeditiously meet and confer in good faith, in
12 an effort to agree on whether to include them as Class Members. If the Parties agree, such persons
13 will be Class Members entitled to the same rights as other Class Members, and the Administrator
14 will send, *via* e-mail or overnight delivery, a Class Notice requiring them to exercise options under
15 this Agreement not later than fourteen (14) after receipt of Class Notice, or the deadline dates in
16 the Class Notice, whichever are later.

17 7.5 Requests for Exclusion (i.e., Opt-Outs).

18 7.5.1 The request to opt-out must (a) state the Class Member's full name and date
19 of birth; (b) a statement that he or she does not want to be a Class Member, does not want to
20 participate in the settlement, and/or wants to be excluded from the settlement; (c) identify the case
21 name and number; (d) be signed; and (e) be post-marked no later than the conclusion of the Notice
22 Period or the re-mailing timeline stated in Section 7.7.3. The Class Member must personally sign
23 the request to opt-out. No request to opt-out may be made on behalf of a group of Class Members.
24 The date of the postmark on the return-mailing envelope shall be the exclusive means used to
25 determine whether a request to opt-out has been timely submitted. Any Class Member who requests
26 to opt-out of the Agreement will not be entitled to any portion of the Net Settlement Amount nor
27 will they have any right to object, appeal or comment thereon. The name of any Class Member who
28 submits a valid and timely opt out request will be specifically identified in any proposed order

1 granting final approval. Class Members who fail to submit a valid and timely request to opt-out
2 shall be bound by all terms of the Agreement and any order or final judgment thereon. Regardless
3 of whether an PAGA Member opts out of being a Class Member, they will still receive their share
4 of the PAGA Penalty Amount as PAGA Members cannot opt out of this Agreement as it relates to
5 the PAGA Penalty Amount or Released PAGA Claims.

6 7.5.2 Pursuant to this Agreement and the preliminary approval order, Class
7 Members will be enjoined from filing claims before the California Division of Labor Standards
8 Enforcement (DLSE), or from initiating other proceedings regarding the Released Class Claims
9 against the Released Parties unless and until they opt out of the Class; this provision is intended to
10 provide all Class Members the opportunity to participate in or to opt out of the Settlement, and to
11 ensure finality of the Settlement and the Released Class Claims to the fullest extent permitted by
12 law.

13 7.5.3 Class Members who wish to exclude themselves (opt-out of) the Class
14 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
15 Exclusion not later than forty-five (45) days after the Administrator mails the Class Notice (plus an
16 additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for
17 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
18 the Class Member's election to be excluded from the Settlement and includes the Class Member's
19 name, address and email address or telephone number. To be valid and legally effective, a Request
20 for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

21 7.5.4 The Administrator shall accept any Request for Exclusion as valid if the
22 Administrator can reasonably ascertain the identity of the person as a Class Member and the Class
23 Member's desire to be excluded. The Administrator's determination shall be final and not
24 appealable or otherwise susceptible to challenge, though the Court may make a final determination
25 of any dispute. If the Administrator has reason to question the authenticity of a Request for
26 Exclusion, the Administrator may demand additional proof of the Class Member's identity. The
27 Administrator's determination of authenticity shall be final and not appealable or otherwise
28 susceptible to challenge, except by the Court.

1 7.5.5 Every Class Member who does not submit a timely and valid Request for
2 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
3 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
4 Members' Releases of Released Class Claims, under Paragraphs 5.2 and 5.3 of this Agreement,
5 regardless of whether the Participating Class Member actually receives the Class Notice or objects
6 to the Settlement.

7 7.5.6 Every Class Member who submits a valid and timely Request for Exclusion
8 is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the
9 right to object to the class action components of the Settlement. Because future PAGA claims are
10 subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are
11 Aggrieved Employees are deemed to release the Released PAGA Claims, identified in Paragraph
12 5.3 of this Agreement, and are eligible for an Individual PAGA Payment.

13 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five
14 (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for
15 Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and
16 PAGA Workweeks (if any) allocated to the Class Member in the Class Notice. The Class Member
17 may challenge the allocation by communicating with the Administrator via fax, email or mail. The
18 Administrator must encourage the challenging Class Member to submit supporting documentation.
19 In the absence of any contrary documentation, the Administrator is entitled to presume that the
20 Workweeks contained in the Class Notice are correct so long as they are consistent with the Class
21 Data. The Administrator's determination of each Class Member's allocation of Workweeks shall
22 be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly
23 provide copies of all challenges to calculation of Workweeks to Defense Counsel and redacted
24 copies to Class Counsel and the Administrator's determination of the challenges. The Administrator
25 will provide similar copies of challenges to Class Counsel after redacting Class Member identifying
26 information, including but not limited to name, address, social security number, email address, and
27 phone number.

28 ///

1 7.7 Objections to Settlement.

2 7.7.1 Only Participating Class Members may object to the class action
3 components of the Settlement and/or this Agreement, including contesting the fairness of the
4 Settlement, and/or amounts requested for the Class Representative Service Payment, Class Counsel
5 Fees Payment, and/or Class Counsel Litigation Expenses Payment.

6 7.7.2 Participating Class Members may send written objections to the
7 Administrator, by fax, e-mail, or mail. In the alternative, Participating Class Members may appear
8 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
9 Hearing. A Participating Class Member who elects to send a written objection to the Administrator
10 must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice
11 (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

12 7.7.3 Non-Participating Class Members have no right to object to any of the class
13 action components of the Settlement.

14 7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks
15 to be performed or observed by the Administrator contained in this Agreement or otherwise. The
16 Settlement Administrator shall be responsible for: 1) receiving Class Member and Aggrieved
17 Employee contact information and confirming addresses are valid; 2) calculating estimated
18 Individual Settlement Awards and any and all taxes associated with the Individual Settlement
19 Awards, including employer taxes; 3) taking appropriate steps to trace and locate any individual
20 Class Members and Aggrieved Employees whose address or contact information as provided to the
21 Settlement Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class
22 Members; 4) providing notification to the appropriate state and federal officials of this Agreement
23 as required under the law; 5) receiving, independently reviewing, and resolving any challenges (in
24 consultation with Class Counsel and Defendant's Counsel) from Class Members or Aggrieved
25 Employees, including any associated documentation, regarding their Qualified Workweek
26 calculations; 6) receiving and serving on Class Counsel, Defendant's Counsel, and the Court, copies
27 of any written objections, and/or any opt out statements; 7) establishing a toll free telephone line
28 and responding to inquiries and requests for information or assistance from Class Members and/or

1 Aggrieved Employees; 8) maintaining a QSF; 9) determining and paying the final amounts due to
2 be paid under the Agreement after resolution of all challenges, disputes, opt-outs, awarded
3 attorneys' fees and costs, Settlement Administrator Costs, PAGA Penalty Amount, taxes, any
4 Service Award, and for funds that cannot be distributed due to the inability to locate Class Members
5 or Aggrieved Employees; 10) determining the validity of any disputes or late opt-outs by previously
6 unidentified Class Members or Aggrieved Employees; 11) paying any residual funds from
7 uncashed checks; 12) reporting to Class Counsel and Defendant's Counsel regarding the statistics
8 of the administration, including (a) the number of initial Notice of Settlements mailed; (b) the
9 number of forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d)
10 the number of total undeliverable Notice of Settlements; (e) the number of address traces performed
11 for undeliverable Notice of Settlements; (f) the number of Notice of Settlements undeliverable from
12 traced addresses; (g) the number of total objections received; (h) the number of opt-out requests
13 received; (i) the number of disputes received; (j) the number of disputes resolved; 13) providing a
14 declaration to the Court regarding the final statistics of the administration and compliance with all
15 payment obligations under the Agreement; 14) completing all necessary tax reporting on the QSF
16 and payment of the Individual Settlement Awards to Participating Class Members and Aggrieved
17 Employees; and 15) carrying out other related tasks as necessary to effectuate the terms of this
18 Agreement and any Order of the Court. All disputes relating to the Settlement Administrator's
19 ability and need to perform its duties shall be referred to the Court, if necessary, which will have
20 continuing jurisdiction over the terms and conditions of this Agreement, until all payments and
21 obligations contemplated by the Agreement have been fully executed.

22 7.8.1 Website, E-mail Address and Toll-Free Number. The Administrator will
23 establish and maintain and use an internet website to post information of interest to Class Members
24 including the date, time and location for the Final Approval Hearing and copies of the Settlement
25 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the
26 Motion for Final Approval, the Motion for Class Counsel Fees Payment, and Class Counsel
27 Litigation Expenses Payment, the Final Approval and the Judgment. The Administrator will also
28 maintain and monitor an email address and a toll-free telephone number to receive Class Member

1 calls, faxes and emails. If Final Approval is granted, the Administrator will post the above-listed
2 information of interest for at least 180 days after the date of mailing Individual Class Payments and
3 Individual PAGA Payments.

4 7.8.2 Requests for Exclusion (i.e., Opt-Outs) and Exclusion List. The
5 Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their
6 validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for
7 Exclusion, the Administrator shall email a list to: (a) Class Counsel and Defense Counsel
8 containing the names and other identifying information of Class Members who have timely
9 submitted valid Requests for Exclusion (“Exclusion List”), along with copies of all valid and timely
10 Requests for Exclusion; (b) Defense Counsel containing the names and other identifying
11 information of Class Members who have submitted invalid Requests for Exclusion, along with
12 copies of all invalid or untimely Requests for Exclusion from Settlement submitted.

13 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written
14 reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
15 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether
16 valid or invalid) received, objections received, challenges to Workweeks received and/or resolved,
17 and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly
18 Report”). The Weekly Reports must provide the Administrator’s assessment of the validity of
19 Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
20 The Administrator must, on a weekly basis, provide Defense Counsel the names and identifying
21 information of Class Members whose Class Notices have been returned as undeliverable for the
22 purpose of determining if Defendant can provide any additional information to successfully mail
23 the Class Notice.

24 7.8.4 Workweek Challenges. The Administrator has the authority to address and
25 make final decisions consistent with the terms of this Agreement on all Class Member challenges
26 over the calculation of Workweeks. The Administrator’s decision shall be final and not appealable
27 or otherwise susceptible to challenge in any manner.

28 ///

1 7.8.5 Employer's Share of Payroll Taxes. The Administrator shall handle all tax
2 document preparation and reporting, including W-2 and/or 1099 Forms, and any other state and
3 federal tax forms. The Administrator shall calculate the amount of the Employer's Taxes and shall
4 remit and report the applicable portions of the payroll tax payment to the appropriate taxing
5 authorities in a timely manner.

6 7.8.6 Administrator's Declaration of Due Diligence. Not later than fourteen (14)
7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the
8 Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed
9 declaration suitable for filing in Court attesting to its due diligence and compliance with all of its
10 obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the
11 Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class
12 Members, the total number of Requests for Exclusion from Settlement it received (both valid or
13 invalid), the number of written objections and attach the Exclusion List. The Administrator will
14 supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is
15 responsible for filing the Administrator's declaration(s) in Court.

16 7.8.7 Posting of Final Judgment. Within ten (10) days after the Court has held a
17 Final Approval Hearing and entered the Judgment certifying the Class for settlement purposes only
18 and approving the Settlement, the Administrator will give notice of judgment to Class Members
19 pursuant to California Rules of Court, rule 3.771(b) by posting a copy of said Judgment on its
20 website at a web address to be included in the Class Notice.

21 7.8.8 Final Report by Settlement Administrator. Within ten (10) days after the
22 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide
23 Class Counsel and Defense Counsel with a final report detailing its disbursements by employee
24 identification number only of all payments made under this Agreement. At least fifteen (15) days
25 before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel
26 and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement
27 of all payments required under this Agreement. Class Counsel is responsible for filing the
28 Administrator's declaration in Court.

1 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

2 Based on a review of its records through July 31, 2024, Defendant estimated that the Class
3 Members have worked approximately 7,660 Workweeks from January 3, 2020 to July 31, 2024.
4 The Parties further agree that if the final Workweeks from January 3, 2020 to July 31, 2024, which
5 formed the basis of the Settlement, increases by more than ten (10) percent above 7,660 Workweeks
6 (e.g., to greater than 8,426 Workweeks), Defendant at its sole discretions shall either: (1) increase
7 the Gross Settlement Amount by the proportional amount for the percentage of Workweeks above
8 ten percent (10%) (i.e., by the percentage of Workweeks above 8,426 Workweeks); or (2) end the
9 Class Period at the point in time where Workweeks equal 8,426 Workweeks. The Gross Settlement
10 Amount will not be reduced due to Defendant's estimate.

11 **9. DEFENDANT'S RIGHT TO WITHDRAW**

12 If the number of valid Requests for Exclusion identified in the Exclusion List equals or
13 exceeds five percent (5%) of the total of all Class Members, Defendant may, but is not obligated,
14 elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the
15 Settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither Party will
16 have any further obligation to perform under this Agreement; provided, however, Defendant will
17 remain responsible for paying all Settlement Administration Expenses incurred to that point.
18 Defendant must notify Class Counsel and the Court of its election to withdraw not later than
19 fourteen (14) days after the Administrator sends the final Exclusion List to Defense Counsel, with
20 late elections after such time having no effect.

21 **10. MOTION FOR FINAL APPROVAL**

22 Not later than sixteen (16) court days before the calendared Final Approval Hearing,
23 Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for
24 approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval
25 Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide
26 drafts of these documents to Defense Counsel not later than two (2) calendar days prior to filing
27 the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and

28 ///

1 confer in person or by telephone, and in good faith, to resolve any disagreements concerning the
2 Motion for Final Approval.

3 10.1 Response to Objections. Each Party retains the right to respond to any objection
4 raised by a Participating Class Member, including the right to file responsive documents in Court
5 no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or
6 accepted by the Court.

7 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
8 Approval on any material change to the Settlement (including, but not limited to, the scope of
9 release to be granted by Class Members), the Parties will expeditiously work together in good faith
10 to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval.
11 The Court's decision to award less than the amounts requested for the Class Representative Service
12 Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or
13 Administrator Expenses Payment shall not constitute a material modification to the Agreement
14 within the meaning of this paragraph.

15 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,
16 the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
17 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
18 and (iii) addressing such post-Judgment matters as are permitted by law.

19 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
20 conditions of this Agreement, specifically including but not limited to the Gross Settlement
21 Amount, the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment
22 reflected as set forth in this Settlement, the Parties, their respective counsel, and all Participating
23 Class Members who did not object to the Settlement as provided in this Agreement, waive all rights
24 to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the
25 right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals.
26 The waiver of appeal does not include any waiver of the right to oppose such motions, writs or
27 appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this

28 ///

1 Agreement will be suspended until such time as the appeal is finally resolved and the Judgment
2 becomes final upholding the Settlement as provided in this Stipulation of Settlement.

3 10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
4 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
5 modification of this Agreement (including, but not limited to, the scope of release to be granted by
6 Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously
7 work together in good faith to address the appellate court's concerns and to obtain Final Approval
8 and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses
9 reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's
10 award of the Class Representative Service Payment or any payments to Class Counsel shall not
11 constitute a material modification of the Judgment within the meaning of this paragraph, as long as
12 the Gross Settlement Amount remains unchanged.

13 **11. AMENDED JUDGMENT**

14 If any amended judgment is required under Code of Civil Procedure section 384, the Parties
15 will work together in good faith to jointly submit a proposed amended judgment.

16 **12. ADDITIONAL PROVISIONS**

17 12.1 No Effect on Employee Benefit Plans. Neither this Agreement nor any amounts paid
18 under the Settlement will modify any previously credited hours, days, or weeks of service under
19 any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will
20 not form the basis for additional contributions to, benefits under, or any other monetary entitlement
21 under Defendant's sponsored benefit plans, policies or bonus programs. The payments made under
22 the terms of this Settlement shall not be applied retroactively, currently, or on a going forward
23 basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of
24 Defendant's benefit plan, policy or bonus program. Defendant retains the right to modify the
25 language of its benefits plans, policies and bonus programs to effect this intent and to make clear
26 that any amounts paid pursuant to this Settlement are not for "weeks worked," "weeks paid,"
27 "weeks of service," or any similar measuring term as defined by applicable plans, policies and
28 bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that

1 additional contributions or benefits are not required by this Settlement. Defendant does not consider
2 the Individual Class Payments “compensation” for purposes of determining eligibility for, or
3 benefit accrual within, any benefit plans, policies, or bonus programs, or any other plan sponsored
4 by Defendant.

5 12.2 No Admission of Liability, Class Certification or Representative Manageability for
6 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
7 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
8 any of the allegations in the Operative Complaint have merit or that Defendant has any liability for
9 any claims asserted; nor should it be intended or construed as an admission by Plaintiff that
10 Defendant’s defenses in the Action have merit. The Parties agree that class certification and
11 representative treatment is for purposes of this Settlement only. If, for any reason the Court does
12 grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to
13 contest certification of any class for any reasons, and Defendant reserves all available defenses to
14 the claims in the Action, and Plaintiff reserves the right to move for class certification on any
15 grounds available and to contest Defendant’s defenses. The Settlement, this Agreement and
16 Parties’ willingness to settle the Action will have no bearing on, and will not be admissible in
17 connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and
18 this Agreement).

19 12.3 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant
20 and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
21 is filed, they and each of them will not disclose, disseminate or publicize, or cause or permit another
22 person to disclose, disseminate or publicize, any of the terms of the Agreement directly or
23 indirectly, specifically or generally, to any person, corporation, association, government agency, or
24 other entity except: (1) to the Administrator and the Parties’ attorneys, accountants, or spouses, all
25 of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3)
26 to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court
27 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
28 government agency. Plaintiff and Class Counsel agree that the terms of this Settlement, the

1 negotiations leading to this Settlement, and all documents related to the Settlement shall not be
2 discussed with, publicized, or promoted to the public, except for public filings as necessary to
3 obtain preliminary and final court approval of the Settlement. Each Party agrees to immediately
4 notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such
5 information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to,
6 directly or indirectly, initiate any conversation or other communication, before the filing of the
7 Motion for Preliminary Approval, with any third party regarding this Agreement or the matters
8 giving rise to this Agreement except to respond only that “the matter was resolved,” or words to
9 that effect. This paragraph does not restrict Class Counsel’s communications with Class Members
10 in accordance with Class Counsel’s ethical obligations owed to Class Members.

11 12.4 No Solicitation. The Parties separately agree that they and their respective counsel
12 and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
13 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability
14 to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed
15 to Class Members.

16 12.5 Integrated Agreement. Upon execution by all Parties and their counsel, this
17 Agreement together with its attached exhibits shall constitute the entire agreement between the
18 Parties relating to the Settlement, superseding any and all oral representations, warranties,
19 covenants, or inducements made to or by any Party.

20 12.6 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
21 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
22 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its
23 terms, and to execute any other documents reasonably required to effectuate the terms of this
24 Agreement including any amendments to this Agreement.

25 12.7 Cooperation. The Parties and their counsel will cooperate with each other and use
26 their best efforts, in good faith, to implement the Settlement by, among other things, modifying the
27 Settlement Agreement, submitting supplemental evidence and supplementing points and authorities
28 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.

12.8 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Agreement.

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

12.10 No Oral 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.

12.11 Authority of Signatories. The respective signatories to the Agreement represent that they are fully authorized to enter into this Agreement and bind the respective Parties to its terms and conditions.

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

12.13 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.

12.14 Attorneys' Fees and Costs. Except as otherwise specifically provided for herein, each party shall bear his or its own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by them or arising out of the Action and shall not seek reimbursement thereof from any other party in this Agreement. In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover his or its reasonable attorneys' fees and costs.

///

1 12.15 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
2 of this Agreement. This Agreement will not be construed against any Party on the basis that the
3 Party was the drafter or participated in the drafting.

4 12.16 Confidentiality. To the extent permitted by law, all agreements made, and orders
5 entered during Action and in this Agreement relating to the confidentiality of information shall
6 survive the execution of this Agreement.

7 12.17 Use and Return of Class Data. Information provided to Class Counsel pursuant to
8 California Evidence Code section 1152, and all copies and summaries of the Class Data provided
9 to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or
10 in connection with the Settlement, may be used only with respect to this Settlement, and no other
11 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
12 or rule of court. Not later than ninety (90) days after the date when the Court discharges the
13 Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement
14 funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from
15 Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant
16 makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

17 12.18 Headings. The descriptive heading of any section or paragraph of this Agreement
18 is inserted for convenience of reference only and does not constitute a part of this Agreement.

19 12.19 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
20 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
21 weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

22 12.20 Notices. All notices, demands, or other communications between the Parties in
23 connection with this Agreement will be in writing and deemed to have been duly given as of the
24 third business day after mailing by United States mail, or the day sent by e-mail or messenger,
25 addressed as follows:

26 ///

27 ///

28 ///

To Plaintiff:

William C. Sung, Esq.
 Tiffany L. Luu, Esq.
 JUSTICE FOR WORKERS, P.C.
 3600 Wilshire Blvd., Suite 1815
 Los Angeles, CA 90010
 Telephone: (323) 922-2000
 Facsimile: (323) 922-2000
 E-mail: william@justiceforworkers.com
tluu@justiceforworkers.com

To Defendant:

Cary G. Palmer, Esq.
 Samuel J. Maselli, Esq.
 JACKSON LEWIS P.C.
 400 Capitol Mall, Suite 1600
 Sacramento, CA 95814
 Telephone: (916) 341-0404
 Facsimile: (916) 341-0141
 E-mail: cary.palmer@jacksonlewis.com
samuel.maselli@jacksonlewis.com

12.21 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.

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

///

///

///

7 Dated: _____

**DEFENDANT SMART METALS RECYCLING,
LLC**

12 Dated: 10/1/2024

By: Ezekiel Whitley
Authorized Officer or Agent
Smart Metals Recycling, Inc.

14 APPROVED AS TO FORM:

Dated: _____

By: _____
William C. Sung
Tiffany L. Luu

**Attorney for Plaintiff Norma Borquez,
Class Members, and PAGA Members**

Dated: September 30, 2024

By: _____
Cary G. Palmer
Samuel J. Maselli

Attorney for Defendant
SMART METALS RECYCLING, LLC

1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
2 Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and
3 Defendant as of the date(s) set forth below:

4 **PLAINTIFF AND CLASS REPRESENTATIVE**

5
6
7 Dated: 09 / 30 / 2024

By: *Norma Borquez*
Norma Borquez

8
9 **DEFENDANT SMART METALS RECYCLING, LLC**

10
11
12 Dated: _____

By: _____
Authorized Officer or Agent
Smart Metals Recycling, Inc.

13
14 APPROVED AS TO FORM:

15 **JUSTICE FOR WORKERS, P.C.**

16
17
18 Dated: September 30, 2024

By: *William C. Sung*
William C. Sung
Tiffany L. Luu

Attorney for Plaintiff Norma Borquez,
Class Members, and PAGA Members

19
20
21 **JACKSON LEWIS P.C.**

22
23
24 Dated: September 30, 2024

By: *Samuel J. Maselli*
Cary G. Palmer
Samuel J. Maselli

Attorney for Defendant
SMART METALS RECYCLING, LLC

EXHIBIT A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN YOLO**

NORMA BORQUEZ, individually
and on behalf of others similarly situated,

Plaintiff,

vs.

SMART METALS RECYCLING, LLC; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: CV2024-0050

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

ATTENTION: ALL PERSONS EMPLOYED BY SMART METALS RECYCLING, LLC AS NON-EXEMPT EMPLOYEES IN CALIFORNIA FROM JANUARY 3, 2020 THROUGH DECEMBER 31, 2024:

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ELIGIBLE TO RECEIVE MONEY FROM A SETTLEMENT THAT WAS REACHED IN CONNECTION WITH A PROPOSED CLASS ACTION LAWSUIT AGAINST SMART METALS RECYCLING, LLC FOR ALLEGED WAGE AND HOUR VIOLATIONS. IF YOU ARE A CLASS MEMBER, THIS NOTICE CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO RECEIVE OR TO OPT OUT OF OR OBJECT TO THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

IF YOU DO NOT WISH TO RECEIVE MONEY UNDER THE SETTLEMENT OR PARTICIPATE IN THE SETTLEMENT, YOU MUST REQUEST TO BE EXCLUDED FROM THE SETTLEMENT CLASS ON OR BEFORE [REDACTED].

Pursuant to the Order Granting Preliminary Approval of Class Action and PAGA Settlement of the Superior Court of the State of California in and for Yolo County entered [REDACTED], YOU ARE HEREBY NOTIFIED AS FOLLOWS:

Based on Smart Metals Recycling, LLC's records, and the Parties' current estimates, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholdings) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Smart Metals Recycling, LLC's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on SMR's records showing that you worked [REDACTED] workweeks during the Class Period and you worked [REDACTED] workweeks during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 2.F. of this Notice.

You have received this notice because records indicate you worked for Defendant as a non-exempt employee in California during the Class Period and/or PAGA Period (defined below). This notice has been approved by the Yolo County Superior Court, and you are urged to read it carefully. This notice is not junk mail, spam, an advertisement, or solicitation by any attorney. You are also not being sued. This notice is to advise you of how you can either participate in the Settlement or be excluded from the Settlement. You may be eligible to receive money from this lawsuit.

A class action settlement ("Settlement") has been reached between the Parties in the above-captioned lawsuit pending in the Superior Court of the State of California for the County of Yolo on behalf of all persons currently and formerly employed by Smart Metals Recycling, LLC ("Defendant") as non-exempt employees in California from January 3, 2020 through December 31, 2024 (the "Class" or "Class Members"). The Class does not include persons who submit valid Requests for Exclusion (as explained below), or who previously settled, released or received awards for claims covered

by the Settlement. All Class Members who worked any hours for Defendant in California during any work week from January 1, 2023 through December 31, 2024 are aggrieved employees with respect to the California Private Attorneys General Act (“PAGA”) (“Aggrieved Employees”), and will be paid their Individual PAGA Payment and release the Released PAGA Claims regardless of whether they submit a timely and valid Request for Exclusion from the Settlement.

The “Released Parties” in the Action include: (i) Defendant Smart Metals Recycling, LLC.; (ii) each of Defendant’s respective, present and future parents, subsidiaries, partners and affiliates, including, without limitation, any corporation, limited liability company or partnership; (iii) the past, present and future board members, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Settlement Class Members to give up their rights to assert certain claims against Defendant. If you worked for Defendant as non-exempt employee in California between January 3, 2020 and December 31, 2024, you have three options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for payment. However, if you choose to participate, you will give up your right to assert claims against the Defendant that are being resolved by the Settlement.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class portion of the Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Class portion of the Settlement, you will not receive any payment from the Settlement, but you will have the right to pursue any claims you believe you may have against Defendant. You cannot opt-out of the PAGA portion of the Settlement.
- (3) **Object to the Settlement.** To object to the Settlement, you may mail a written explanation of why you do not agree with the Settlement to the Administrator, appear at the final approval hearing, or hire an attorney at your expense to object for you. This option is available only if you do not exclude yourself from the Settlement. Do not submit a Request to be Excluded if you wish to object.

Defendant will not take any adverse action against you for whatever decision you make with respect to participating in the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don’t Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims).
You Can Opt-Out of the Class Settlement but not the PAGA Settlement.	The opt-out deadline is . If you don’t want to fully participate in the proposed Settlement, you can opt-out of the class portion of the Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You Cannot Opt-out of the PAGA Settlement	You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement	Written objections must be submitted by [REDACTED]. All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. You can object to the Settlement as provided in Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [REDACTED]. You need not attend, but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks	Written challenges Must be submitted by [REDACTED]. The amount of your Individual Class Payment and Individual PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number of workweeks and pay periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.

I. BACKGROUND OF THE CASE

Plaintiff Norma Borquez is a former employee of Defendant. On January 3, 2024, Plaintiff filed her Class Action Complaint against Defendant in the Yolo County Superior Court, Case No. CV2024-0050, on behalf of herself and other non-exempt employees who worked for Defendant in California alleging the following six (6) causes of action: (1) failure to pay overtime wages; (2) failure to provide meal periods; (3) failure to provide rest breaks; (4) failure to provide accurate wage statements; (5) failure to provide timely pay at separation – waiting time penalties; and (6) unfair competition in violation of Business and Professions Code sections 17200 *et seq.* On March 13, 2024, Plaintiff filed a First Amended Class and Representative Action Complaint, adding a cause of action for violations of the PAGA. Defendant timely answered Plaintiff’s First Amended Class and Representative Action Complaint. Defendant denies the allegations in the First Amended Class and Representative Action Complaint, denies any failure to comply with the laws identified in the First Amended Class and Representative Action Complaint and denies any and all liability for the causes of action alleged. Defendant further denies that, for any purpose other than settling this Action, these claims are appropriate for class or representative treatment. Plaintiff’s First Amended Class and Representative Action Complaint includes all Released Class Claims (defined below) and Released PAGA Claims (defined below) (“Operative Complaint” or “Action”).

Plaintiff’s Operative Complaint alleges a failure to pay minimum wages, failure to pay overtime wages, failure to provide meal periods and meal period premiums, failure to provide rest periods and rest period premiums, failure to furnish accurate itemized wage statements, failure to provide timely wages during employment, failure to provide all wages due upon separation of employment, unfair competition, and a PAGA cause of action, which includes alleged Labor Code violations premised on Plaintiff’s underlying class claims and an excessive temperature claim premised on Labor Code section 1198. Plaintiff’s Operative Complaint seeks recovery of compensatory damages, restitution, penalties, interest, and attorneys’ fees and costs. Defendant denies all claims and denies that Plaintiff and the Class Members and Aggrieved Employees are entitled to any recovery.

The Action has been actively litigated. There have been investigations and there has been an exchange of extensive documentation and data. Furthermore, the Parties participated in arms-length settlement negotiations and private mediation on September 12, 2024. Based upon the negotiations and mediation, and all known facts and circumstances, including the various risks and uncertainties related to legal actions including the complete defenses to liability potentially available to Defendant, the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation, the Parties reached settlement and executed a confidential Memorandum of Understanding on September 13, 2024. Under the terms of the Parties' Settlement, the Class Period is from January 3, 2020 through December 31, 2024 (the "Class Period"). The PAGA Period is from January 1, 2023 through December 31, 2024 ("PAGA Period"). By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to the Settlement, Defendant continues to deny all allegations and claims, and entering into the Settlement is not an admission of wrongdoing or liability.

The Parties have entered into a Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendant ("Joint Stipulation" or "Settlement"), which has been preliminarily approved by the Court. If you are part of the Settlement Class, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. Aggrieved Employees are not eligible to exclude themselves from, or to opt out of, the Released PAGA Claims.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Settlement, Defendant agrees to pay a Gross Settlement Amount of \$400,000.00 for all claims, attorneys' fees and costs, enhancement award, penalties of any nature, including PAGA penalties and settlement administration expenses ("Gross Settlement Amount"). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount, attorneys' costs not to exceed \$20,000.00, a Class Representative Service Payment to the Class Representative not to exceed \$7,500.00, the fees and expenses of Administrator estimated not to exceed \$7,950.00, \$10,000.00 payable to Aggrieved Employees, and \$30,000.00 payable to the California Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties, which will result in a "Net Settlement Amount" for distribution to all Class Members. As explained further below, the amount of each Class Member's Individual Class Payment will depend on the number of weeks worked by Participating Class Members during the Class Period.

This Notice includes for each Class Member the number of weeks each Class Member worked during the Class Period based upon each Class Member's time clock data, and their/his/her estimated Individual Class Payment. This notice will also list for each Aggrieved Employee the number of pay periods worked during the PAGA Period based upon each Aggrieved Employee's time clock data.

B. Settlement Formula, and Settlement Awards

Defendant will pay Individual Class Payments through an Administrator, as described below, to each Class Member who does not submit a Request for Exclusion from the Settlement. All Individual Class Payments will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action, that all Individual Class Payments payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as follows: twenty percent (20%) will be allocated to alleged unpaid wages for which IRS Forms W-2 will issue; and eighty percent (80%) will be allocated to alleged unpaid penalties and interest for which IRS Forms 1099-MISC will issue. Individual PAGA Payments for the Aggrieved Employees will be paid from the PAGA Penalties, after the required payment to the LWDA, as alleged penalties for which IRS Form 1099 will issue. Receipt of Individual Class Payments will not entitle any Class Member to additional compensation or benefits under any company compensation or benefit plan or agreement in place during period covered by Settlement.

C. Calculations to Be Based on Defendant's Records

Defendant will calculate the number of weeks worked by all Class Members during the Class Period, and the number of pay periods worked by Aggrieved Employees during the PAGA Period, based on each person's time clock data. Partial workweeks will not be counted; however, if a Class Member or Aggrieved Employee worked only one day as a Class

Member or Aggrieved Employee, such Class Member or Aggrieved Employee will be credited with having worked one workweek or pay period for purposes of the Settlement. Defendant's records will be presumed correct unless evidence to the contrary is provided to the Administrator.

D. Need to Promptly Cash Payment Checks

The front of every check issued to Class Members and Aggrieved Employee will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Unclaimed Property Fund, you should consult rules of the Fund to determine how to retrieve your money.

E. Release of Claims

The Joint Stipulation contains a release, which releases Defendant and the Released Parties from all claims under state, federal, and local law alleged in the Action and that reasonably could have been alleged in the Action based on the factual allegations contained in the Operative Complaint in the Action and any amendments thereto, as to the Class Members, including without limitation, California Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 218.6, 225.5, 226, 226.3, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197.1, 1198, and 6720, California Industrial Commission Wage Orders, California Code of Regulations, Title. 8, sections 11040 *et seq.* and 3203 *et seq.*, Business and Professions Code sections 17200 *et seq.* and 3203 *et seq.*, California Code of Civil Procedure section 1021.5, California Civil Code sections 3287 and 3289, and including all claims for or related to alleged unpaid wages, minimum wages, hours worked, overtime or double time wages, regular rate of pay, bonus and incentive pay, timely payment of wages during employment, timely payment of wages at separation, wage statements, payroll records and recordkeeping, meal periods and meal period premiums, rest breaks and rest break premiums, excessive temperature working conditions, failure to pay additional 401(k) benefits and/or deferred compensation benefits and/or matching benefits for payments received under the Settlement, unfair competition, unfair business practices, unlawful business practices, fraudulent business practices, class actions, representative actions, aggrieved party claims, declaratory relief, penalties of any nature (including but not limited to civil penalties, waiting-time penalties, and PAGA penalties), interest, fees, costs, as well as all other claims and allegations alleged in the Action (collectively "Released Class Claims") from January 3, 2020 through December 31, 2024 ("Class Period"). Expressly excluded from the release are claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims outside the Class Period.

The claims to be released by Aggrieved Employees include all claims arising during the PAGA Period seeking civil penalties under PAGA that Plaintiffs as proxy for the State of California and/or the LWDA, to the maximum extent permitted by law, and as a private attorney general acting on behalf of Plaintiffs and the Aggrieved Employees, asserted or could reasonably have asserted based on the facts alleged in the Action and/or the LWDA letter, including but not limited to all claims arising under the California Labor Code including, but not limited to, California Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 218.6, 225.5, 226, 226.3, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197.1, 1198, 2698 *et seq.*, and 6720, California Industrial Commission Wage Orders, California Code of Regulations, Title. 8, sections 1040 *et seq.* and 3203 *et seq.* Business and Professions Code sections 17200 *et seq.*, California Code of Civil Procedure section 1021.5, California Civil Code sections 3287 and 3289, as alleged in the Action (collectively "Released PAGA Claims"). The Settlement shall release and bar all Released PAGA Claims by or on behalf of Plaintiffs and all Aggrieved Employees from January 1, 2023 through December 31, 2024 ("PAGA Period"), and for the entire PAGA Period, regardless of whether Plaintiff and/or an Aggrieved Employee negotiates (cashes) their/his/her settlement checks sent pursuant to the Settlement, and regardless of whether any Aggrieved Employee opts out of the Released Class Claims. Aggrieved Employees are not permitted to opt out of the Released PAGA Claims.

F. Resolution of Workweek Disputes

If a Class Member or Aggrieved Employee disputes the accuracy of Defendant's time clock records as to the number of weeks worked, any documentation supporting such dispute must be submitted by the Class Member or Aggrieved Employee to the Settlement Administrator. Defendant's records, time clock data and any additional evidence will be provided to and reviewed by the Administrator in the event of a dispute about the number of weeks worked by a Class

Member or Aggrieved Employee. All workweek disputes will be resolved and decided by the Administrator, and the Administrator's decision on all disputes will be final and binding.

III. YOUR RIGHTS AS A CLASS MEMBER

A. Exclude Yourself from Class Action Portion of the Settlement

If you do not wish to participate in the Settlement, you may be excluded from being a Class Member (i.e., "opt out") by submitting a timely written request to the Administrator stating you have received notice of the Settlement, decided not to participate in the Settlement, and desire to be excluded from the Settlement, or words to that effect ("Request for Exclusion"). Your Request for Exclusion must also state your full name, address, and email address or telephone number. The Request for Exclusion must be signed, dated, and faxed, emailed, or mailed by First-Class U.S. Mail, or the equivalent, to:

Phoenix Class Action Administration Solutions
P.O. Box 7208
Orange, CA, 92863
Telephone: (800) 523-5773
Facsimile:
E-mail:

The Request for Exclusion must be faxed, emailed, or postmarked no later than [REDACTED]. If you submit a Request for Exclusion which is not faxed, emailed, or postmarked by [REDACTED], your Request for Exclusion will be rejected, and you will be bound by the Released Class Claims and all other Settlement terms. If the Request for Exclusion is sent from within the United States, it must be sent through the United States Postal Service by First-Class Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your Request for Exclusion. Please note you may only exclude yourself as a Class Member and may not exclude yourself as an Aggrieved Employee.

Any person who submits a complete and timely Request for Exclusion shall, upon receipt by the Administrator, no longer be a Class Member, shall be barred from participating as a Class Member in the Settlement, shall not be entitled to object to the Settlement, shall receive no payment as a Class Member from the Settlement, shall not be deemed to have relinquished the Released Class Claims against the Released Parties, and, at his or her own expense, may pursue any claims he or she may have against the Released Parties. Aggrieved Employees are not entitled to opt out of the Released PAGA Claims and will receive their Individual PAGA Payment regardless of whether they/he/she opt(s) out as a Class Member.

C. Objecting to Class Action Portion of the Settlement

If you do not exclude yourself from the Settlement, you can object to the terms of the Settlement before Final Approval. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. To object, you may send written objections to the Administrator by fax, email, or First-Class Mail, or the equivalent, to the Administrator (see above for contact information). Any written objection must state each specific reason in support of your objection. Your objection must also state your full name, address, and email address or telephone number. Any written objection to the Administrator must be faxed, emailed, or postmarked no later than [REDACTED]. **PLEASE DO NOT TELEPHONE THE COURT.**

You may appear at the Final Approval Hearing either in person or through your own attorney as your expense, and may object to the Settlement and any of its terms without submitting a prior objection in the manner and by the deadline specified above. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section V of this Notice (below) for specifics regarding the Final Approval Hearing.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

Upon Final Approval being granted by the Court, each and every Class Member, who does not opt out of the Settlement, will release Defendant and the Released Parties from the Released Class Claims as described above. In other words, if you were employed as a Class Member by Defendant in California during the Class Period, and you do not exclude

yourself from the Settlement Class, you will be deemed to have entered into this release and to have released the above-described Released Class Claims. Further, each and every Aggrieved Employee will release Defendant and the Released Parties from the Released PAGA Claims. In addition, Class Members and Aggrieved Employees will be barred from suing Defendant and the Released Parties with respect to the Released Class Claims and the Released PAGA Claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue as though it never existed.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a final approval hearing in Department 14 of the Yolo County Superior Court, [REDACTED], on [REDACTED], at [REDACTED] a.m./p.m. (Pacific Time), to determine whether the Settlement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the costs of settlement administration, and the Service of Award to be paid to the Class Representative. Check the Court's website (<https://www.yolo.courts.ca.gov/online-services/remote-appearances>) for the most current remote appearance information. The hearing may be continued without further notice to the Class. It is not necessary for you to appear at this hearing unless you wish to object to the Settlement.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you should consult the Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiffs and Defendant ("Joint Stipulation or "Settlement"), which is on file with the Clerk of the Court. The pleadings and other records in this Action, including the Joint Stipulation, may be examined at any time during regular business hours at the Office of the Clerk of the Yolo County Superior Court, at 1000 Main Street, Woodland, California 95695. You may also visit [www.\[REDACTED\]](http://www.[REDACTED]), which will include links to the Joint Stipulation, Class Notice, Motions for Preliminary and Final Approval, and Motion for Attorneys' Fees as they become available. If you want additional information, please contact Class Counsel or the Administrator:

Class Counsel:

William C. Sung, Esq.
Tiffany L. Luu, Esq.
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard, Suite 1815
Los Angeles, CA 90010

Telephone: (323) 922-2000
Facsimile: (323) 922-2000
E-mail: william@justiceforworkers.com
tluu@justiceforworkers.com

Administrator:

Phoenix Class Action Administration Solutions
P.O. Box 7208
Orange, CA, 92863

Telephone: (800) 523-5773
Facsimile:
E-mail:

VII. 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 https://www.sco.ca.gov/search_upd.html for instructions on how to retrieve the funds.

VIII. 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.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS. BY ORDER OF THE SUPERIOR COURT.

EXHIBIT B

1 **JUSTICE FOR WORKERS, P.C.**

William Sung (SBN 280792)

2 William@justiceforworkers.com

Tiffany L. Luu (SBN 335127)

3 tluff@justiceforworkers.com

3600 Wilshire Boulevard, Suite 1815

4 Los Angeles, CA 90010

Telephone: (323) 922-2000

5 Facsimile: (323) 922-2000

6 Attorneys for Plaintiff

NORMA BORQUEZ, individually and

7 on behalf of all others similarly situated,

8 **JACKSON LEWIS P.C.**

CARY G. PALMER (SBN 186601)

9 SAMUEL J. MASELLI (SBN 219503)

400 Capitol Mall, Suite 1600

10 Sacramento, CA 95814

Telephone: (916) 341-0404

11 Facsimile: (916) 341-0141

E-mail: cary.palmer@jacksonlewis.com

12 samuel.maselli@jacksonlewis.com

Attorneys for Defendant

13 SMART METALS RECYCLING, LLC

14 **SUPERIOR COURT OF CALIFORNIA**

15 **FOR THE COUNTY OF YOLO**

16 NORMA BORQUEZ, individually and
on behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 SMART METALS RECYCLING, LLC, a
20 California limited liability company; and
DOES 1 through 50, inclusive,

21 Defendants.
22

Case No. CV2024-0050

ASSIGNED FOR ALL PURPOSES TO:
THE HONORABLE SAMUEL T.
MCADAM, DEPARTMENT 14

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT
AND RELEASE BETWEEN PLAINTIFF
NORMA BORQUEZ AND DEFENDANT
SMART METALS RECYCLING, LLC**

Complaint Filed: May 30, 2023
FAC Filed: August 22, 2023
Trial Date: Not Set

25 ///

26 ///

27 ///

28 ///

1 The Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion”) of
2 Plaintiff Norma Borquez (“Plaintiff”) came before this Court on [REDACTED] in Department 14
3 before the Honorable Samuel T. McAdam, presiding. The Court having considered the papers
4 submitted in support of the Motion and good cause appearing therefor,

5 IT IS HEREBY ORDERED:

6 1. The Court grants preliminary approval of the Settlement based upon the terms set
7 forth in the Joint Stipulation of Class Action and PAGA Settlement and
8 Release Between Plaintiffs and Defendant (“Stipulation of Settlement”) filed with the Motion. All
9 terms used herein shall have the same meaning as defined in the Stipulation of Settlement.

10 2. The Settlement set forth in the Stipulation of Settlement appears to be fair, adequate
11 and reasonable to the Class. The Settlement falls within the range of reasonableness and appears to
12 be presumptively valid, subject only to any objections that may be raised at the final fairness hearing
13 and final approval by this Court.

14 3. A final fairness hearing on the question of whether the proposed Settlement,
15 attorneys’ fees and costs to Class Counsel, Class Representative’s Service Payment, penalties of
16 any nature and costs of settlement administration should be finally approved as fair, reasonable and
17 adequate as to the members of the Class is scheduled in Department 14 on the date and time set
18 forth in the Implementation Schedule in Paragraph 10 below.

19 4. This Court approves, as to form and content, the Notice of Proposed Class Action
20 and PAGA Settlement and Hearing Date for Final Court Approval of Settlement (“Class Notice”)
21 (**Exhibit A**). The Court approves the procedure for Class Members to opt out of and to object to
22 the Settlement as set forth in the Stipulation of Settlement and Class Notice.

23 5. The Court directs the mailing of the Class Notice by first-class mail to the Class
24 Members in accordance with the Implementation Schedule set forth in Paragraph 10 below. The
25 Court finds the dates selected for the mailing and distribution of the Class Notice, as set forth in the
26 Implementation Schedule, meet the requirements of due process and provide the best notice
27 practicable under the circumstances and shall constitute due and sufficient notice to all persons
28 entitled thereto.

6. It is ordered that the following Class is preliminarily certified for settlement purposes only:

All current and former hourly-paid or non-exempt employees of Defendant Smart Metals Recycling, LLC in California from January 3, 2020 through December 31, 2024.

7. The Court confirms Plaintiff as Class Representative and Justice for Workers, P.C. as Class Counsel.

8. The Court confirms the appointment of Phoenix Class Action Administration Solutions as the Administrator.

9. To facilitate administration of the Settlement pending final approval, the Court hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or administrative proceedings (including filing claims with the Division of Labor Standards Enforcement of the California Department of Industrial Relations) regarding claims released by the Settlement, unless and until such Class Members have filed valid Requests for Exclusion with the Administrator and the time for opting out of the class has elapsed.

10. The Court orders the following Implementation Schedule for further proceedings:

a.	Deadline for Defendant to Submit Class Member Information to Settlement Administrator	30 calendar days after Order Granting Preliminary Approval
b.	Deadline for Administrator to Mail Class Notice to Class Members	14 calendar days after receiving Class Member Information from Defendant
c.	Deadline for Class Members to Postmark Requests for Exclusion	45 calendar days after mailing of Class Notice (plus 14 additional days for those Class Members who had their Notice remailed)
d.	Deadline for Defendant to provide written Notice of Rescission of Settlement to Class Counsel (if applicable)	14 calendar days after the opt-out deadline
e.	Deadline for Receipt by Court, Administrator and Counsel of any Objections to Settlement	45 calendar days after mailing of Class Notice

f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees and Costs, and Service Payment	16 Court days before Final Approval Hearing
g.	Deadline for Administrator to Provide Parties' Counsel with a Declaration of Due Diligence and Proof of Mailing	14 calendar days before the deadline for Plaintiff to file a Motion for Final Approval of the Class and PAGA Settlement
h.	Final Fairness Hearing and Final Approval	Date: Time: Department: 14
i.	Deadline for Defendant to fund the Gross Settlement Amount	30 calendar days after Effective Date
j.	Deadline for Administrator to mail Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Service Payment, and to wire transfer Attorneys' Fees and Costs (if Settlement is Effective)	14 calendar days after Defendant funds the Gross Settlement Amount
k.	Deadline (i.e., void date) for Class Members to cash Settlement checks (if Settlement is Effective)	180 calendar days after Settlement Administrator mails Individual Class, PAGA Payments, and Service Payment
l.	Deadline for Administrator to distribute uncashed Settlement checks amount to the California Controller's Unclaimed Property Fund in name of the Class Members (if Settlement is Effective)	Within 10 calendar days after deadline (i.e., void date) for Class Members to cash Settlement checks
m.	Administrator to provide final report to Class and Defense Counsel detailing its disbursements by employee identification number only of all payments made under this Agreement (if Settlement is Effective)	Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount
n.	Settlement Administrator to provide to Class and Defense Counsel a signed declaration for filing with Court attesting to all disbursements required under the Agreement (if Settlement is Effective)	At least 15 days before any deadline set by the Court

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS HEREBY ORDERED.

Dated: _____

By: _____
The Honorable Samuel T. McAdam
Judge of the Superior Court

EXHIBIT C

1 **JUSTICE FOR WORKERS, P.C.**

William Sung (SBN 280792)

2 William@justiceforworkers.com

Tiffany L. Luu (SBN 335127)

3 tluff@justiceforworkers.com

3600 Wilshire Boulevard, Suite 1815

4 Los Angeles, CA 90010

Telephone: (323) 922-2000

5 Facsimile: (323) 922-2000

6 Attorneys for Plaintiff

7 NORMA BORQUEZ, individually and
on behalf of all others similarly situated,

8 **JACKSON LEWIS P.C.**

CARY G. PALMER (SBN 186601)

9 SAMUEL J. MASELLI (SBN 219503)

400 Capitol Mall, Suite 1600

10 Sacramento, CA 95814

Telephone: (916) 341-0404

11 Facsimile: (916) 341-0141

E-mail: cary.palmer@jacksonlewis.com

12 samuel.maselli@jacksonlewis.com

13 Attorneys for Defendant

SMART METALS RECYCLING, LLC

14 **SUPERIOR COURT OF CALIFORNIA**

15 **FOR THE COUNTY OF YOLO**

16 NORMA BORQUEZ, individually and
on behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 SMART METALS RECYCLING, LLC, a
20 California limited liability company; and
DOES 1 through 50, inclusive,

21 Defendants.

Case No. CV2024-0050

ASSIGNED FOR ALL PURPOSES TO:
THE HONORABLE SAMUEL T.
MCADAM, DEPARTMENT 14

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT AND
RELEASE BETWEEN PLAINTIFF
NORMA BORQUEZ AND DEFENDANT
SMART METALS RECYCLING, LLC**

Complaint Filed: May 30, 2023
FAC Filed: August 22, 2023
Trial Date: Not Set

25 ///

26 ///

27 ///

28 ///

1 The above-referenced Class Action and PAGA Representative Action (“Action”) having
2 come before the Court on [REDACTED], in Department 14 before the Honorable Samuel T.
3 McAdam, presiding for a hearing and Order Granting Final Approval of Class Action and PAGA
4 Settlement and Judgment (“Final Order”), consistent with the Court’s Preliminary Approval Order
5 (“Preliminary Approval Order”), filed and entered [REDACTED], and as set forth in the Joint
6 Stipulation of Class Action and PAGA Settlement and Release Between Plaintiff Norma Borquez
7 and Defendant Smart Metals Recycling, LLC (“Stipulation of Settlement”) in this Action, and due
8 and adequate notice having been given to all Class Members and Aggrieved Employees as required
9 in the Preliminary Approval Order, and the Court having considered all papers filed and
10 proceedings had herein and otherwise being fully informed, and good cause appearing therefor,

11 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

12 1. All terms used herein shall have the same meaning as defined in the Stipulation of
13 Settlement.

14 2. Consistent with the definitions provided in the Stipulation of Settlement, the terms
15 “Class” and “Class Members” shall mean all persons employed by Defendant in California as a
16 non-exempt employee from January 3, 2020 through December 31, 2024. The Class, however, shall
17 not include any person who previously settled or released the claims covered by this Settlement, or
18 any person who previously was paid or received awards through civil or administrative actions for
19 the claims covered by this Settlement, or any person who submitted a timely and valid Request for
20 Exclusion as provided in this Settlement. The “Class Period” shall be January 3, 2020 through
21 December 31, 2024. All Class Members who worked any hours for Defendant in California during
22 any pay period from January 1, 2023 through December 31, 2024 are aggrieved employees with
23 respect to the California Private Attorneys General Act (“PAGA”) (“Aggrieved Employees”).
24 Aggrieved Employees will be paid their Individual PAGA Payment and release the Released PAGA
25 Claims regardless of whether they submit a timely and valid Request for Exclusion from the
26 Settlement. Aggrieved Employees are not eligible to exclude themselves from, or to opt out of, the
27 Released PAGA Claims (defined below). For purposes of the Settlement and this Final Order,
28 “Released Parties” as referenced herein and as released in the Settlement shall collectively mean:

1 (i) Defendant Smart Metals Recycling, LLC; (ii) each of Defendant's respective, present and future
2 parents, subsidiaries, partners and affiliates, including, without limitation, any corporation, limited
3 liability company or partnership; (iii) the past, present and future board members, directors,
4 officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents,
5 consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors,
6 successors and assigns of any of the foregoing; and (iv) any individual or entity which could be
7 jointly liable with any of the foregoing.

8 3. This Court has jurisdiction over the subject matter of this Action and over all Parties
9 to this Action, including all Class Members and Aggrieved Employees.

10 4. Distribution of the Class and PAGA Notice directed to the Class Members and
11 Aggrieved Employees as set forth in the Stipulation of Settlement and the other matters set forth
12 therein has been completed in conformity with the Preliminary Approval Order, including notice
13 to all Class Members and Aggrieved Employees who could be identified through reasonable effort,
14 and is the best notice practicable under the circumstances. The Class and PAGA Notice provided
15 due and adequate notice of the proceedings and of the matters set forth therein, including the
16 proposed Settlement set forth in the Stipulation of Settlement, to all persons entitled to such Class
17 and PAGA Notice, and the Class and PAGA Notice fully satisfied the requirements of due process.
18 All Class Members, Aggrieved Employees, Released Class Claims and all Released PAGA Claims,
19 are covered by and included within the Settlement and this Final Order.

20 5. The Court hereby finds the Settlement was entered into in good faith pursuant to and
21 within the meaning of California Code of Civil Procedure section 877.6. The Court further finds
22 that the Settlement is fair, adequate and reasonable and that Plaintiff has satisfied the standards and
23 applicable requirements for final approval of this class action Settlement under California law,
24 including the provisions of California Code of Civil Procedure section 382 and Federal Rule of
25 Civil Procedure Rule 23, approved for use by the California state courts in *Vasquez v. Superior*
26 *Court* (1971) 4 Cal.3d 800, 821.

27 6. The Court hereby approves the Settlement set forth in the Stipulation of Settlement
28 and finds that the Settlement is, in all respects, fair, adequate and reasonable, and directs the Parties

1 to effectuate the Settlement according to its terms. The Court finds that the Settlement has been
2 reached as a result of arms-length negotiations and private mediation. The Court further finds that
3 the Parties have conducted investigation and research, and counsel for the Parties are able to
4 reasonably evaluate their respective positions. The Court also finds that Settlement at this time will
5 avoid additional substantial costs, as well as avoid the delay and risks that would be presented by
6 the further prosecution of the Action. The Court has reviewed the benefits that are being granted as
7 part of the Settlement and recognizes the significant value to the Class Members and Aggrieved
8 Employees. The Court also finds that the Class is properly certified as a class for settlement
9 purposes only.

10 7. As of the date of entry of this Final Order, and effective on the date when Defendant
11 fully funds the entire Gross Settlement Amount and funds all the employer's share of payroll taxes
12 owed on the Wage Portion of the Individual Class Payment, the Class Representative and each and
13 every Participating Class Member (i.e., Class Members who have not submitted a valid Request
14 for Exclusion) are hereby released and forever barred and enjoined from prosecuting the Released
15 Class Claims, except as to such rights or claims as may be created by the Settlement, against
16 Defendant and the Released Parties from any and all claims under state, federal and local law
17 ultimately alleged in this Action and that reasonably could have been alleged in this Action based
18 on the factual allegations contained in the operative Complaint in this Action and any amendments
19 thereto, as to the Participating Class Members, including without limitation, California Labor Code
20 sections 201, 202, 203, 204, 210, 216, 218.5, 218.6, 225.5, 226, 226.3, 226.7, 246, 256, 510, 512,
21 516, 558, 558.1, 1174, 1194, 1197.1, 1198, and 6720, California Industrial Commission Wage
22 Orders, California Code of Regulations, Title. 8, sections 11040, *et seq.* and 3203, *et seq.*, Business
23 and Professions Code sections 17200 *et seq.* and 3203 *et seq.*, California Code of Civil Procedure
24 section 1021.5, California Civil Code sections 3287 and 3289, and including all claims for or related
25 to alleged unpaid wages, minimum wages, hours worked, overtime or double time wages, regular
26 rate of pay, bonus and incentive pay, timely payment of wages during employment, timely payment
27 of wages at separation, wage statements, payroll records and recordkeeping, meal periods and meal
28 period premiums, rest breaks and rest break premiums, excessive temperature working conditions,

1 failure to pay additional 401(k) benefits and/or deferred compensation benefits and/or matching
2 benefits for payments received under the Settlement, unfair competition, unfair business practices,
3 unlawful business practices, fraudulent business practices, class actions, representative actions,
4 aggrieved party claims, declaratory relief, penalties of any nature (including but not limited to civil
5 penalties, waiting-time penalties, and PAGA penalties), interest, fees, costs, as well as all other
6 claims and allegations alleged in the Action (collectively “Released Class Claims”). Expressly
7 excluded from the release are claims for vested benefits, wrongful termination, violation of the Fair
8 Employment and Housing Act, unemployment insurance, disability, social security, workers’
9 compensation, and claims outside the Class Period. In addition, as of the date of this Final Order,
10 and effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds
11 all the employer’s share of payroll taxes owed on the Wage Portion of the Individual Class Payment,
12 the Class Representative and Participating Class Members are forever barred and enjoined from
13 instituting or accepting damages or obtaining relief on the Released Class Claims against the
14 Released Parties for any period from January 1, 2020 through December 31, 2024.

15 8. As of the date of entry of this Final Order, and effective on the date when Defendant
16 fully funds the entire Gross Settlement Amount, the claims to be released by the Aggrieved
17 Employees include all claims arising during the PAGA Period seeking civil penalties under PAGA,
18 that Plaintiff as proxy for the State of California and/or the LWDA, to the maximum extent
19 permitted by law, and as a private attorney general acting on behalf of Plaintiffs and the Aggrieved
20 Employees, asserted or could reasonably have asserted based on the facts alleged in the Action
21 and/or the LWDA letter, including but not limited to all claims arising under the California Labor
22 Code including, but not limited to, sections 201, 202, 203, 204, 210, 216, 218.5, 218.6, 225.5, 226,
23 226.3, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197.1, 1198, 2698 et seq., and
24 6720, California Industrial Commission Wage Orders, California Code of Regulations, Title. 8,
25 sections 1040 et seq. and 3203 et seq., Business and Professions Code sections 17200 et seq.,
26 California Code of Civil Procedure section 1021.5, California Civil Code sections 3287 and 3289,
27 as alleged in the Action (collectively “Released PAGA Claims”). The Settlement shall release and
28 bar all Released PAGA Claims by or on behalf of Plaintiffs and all Aggrieved Employees from

1 January 1, 2023 through December 31, 2024 (“PAGA Period”), and for the entire PAGA Period,
2 regardless of whether Plaintiffs and/or an Aggrieved Employee negotiates (cashes) their/his/her
3 settlement checks sent pursuant to the Settlement. Aggrieved Employees cannot and do not have
4 the right to opt out of the PAGA Group and/or release their PAGA claims against the Released
5 Parties. As such, an individual opting out of the Settlement Class has no impact as to their/his/her
6 standing and/or inclusion in the PAGA Group assuming they/he/she qualify(ies) as an Aggrieved
7 Employee.

8 9. Neither the Settlement nor any of the terms set forth in the Stipulation of Settlement
9 is an admission by Defendant, or any of the other Released Parties, nor is this Final Order a finding
10 of the validity of any claims in this Action, or of any wrongdoing by Defendant or any of the other
11 Released Parties. Neither this Final Order, the Stipulation of Settlement, nor any document referred
12 to herein, nor any action taken to carry out the Stipulation of Settlement, may be construed as, or
13 may be used as, an admission by or against Defendant, or any of the other Released Parties, of any
14 fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Stipulation of
15 Settlement, and any negotiations or proceedings related thereto, shall not in any event be construed
16 as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses
17 by Defendant, or any of the other Released Parties, and shall not be offered in evidence in any
18 action or proceeding in any court, administrative agency or other tribunal for any purpose
19 whatsoever other than to enforce the provisions of this Final Order, the Stipulation of Settlement,
20 the Released Class Claims, the Released PAGA Claims, and any related agreement or release.
21 Notwithstanding these restrictions, any of the Released Parties may file in this Action, or submit in
22 any other proceeding, the Final Order, the Stipulation of Settlement, and any other papers and
23 records on file in this Action as evidence of the Settlement to support a defense of *res judicata*,
24 collateral estoppel, release or other theory of claim or issue preclusion or similar defense as to the
25 Released Class Claims and the Released PAGA Claims.

26 10. The Court hereby enters judgment in the entire Action as of the filing date of this
27 Final Order, pursuant to the terms set forth in the Stipulation of Settlement. Without affecting the
28 finality of this Final Order in any way, the Court hereby retains continuing jurisdiction over the

1 interpretation, implementation and enforcement of the Settlement and all orders entered in
2 connection therewith pursuant to California Code of Civil Procedure section 664.6.

3 11. The Court finds the settlement payments provided for under the Settlement to be fair
4 and reasonable in light of all of the circumstances. The Court orders the calculations and the
5 payments to be made and administered in accordance with the terms of the Settlement.

6 12. The Court hereby confirms Justice for Workers, P.C. as Class Counsel for the
7 Settlement Class and for all Aggrieved Employees.

8 13. The Court further finds that the common fund doctrine is applicable to this Action
9 because there is a sufficiently identifiable class of beneficiaries (“the Class”), the benefits can be
10 accurately traced to the Settlement that the Class Representative and Class Counsel negotiated on
11 behalf of the Class, and the fee can be shifted with exactitude to those benefiting as the fee request
12 is a specific, lump-sum percentage of the common fund. *See Serrano v. Priest* (1977) 20 Cal.3d 25,
13 34-35. The Court finds the attorneys’ fees request of thirty-three and one-third percent (33 1/3%)
14 of the Gross Settlement Amount to be appropriate compensation for Class Counsel. The attorneys’
15 fees request is within the range that has been approved by other courts in similar cases and
16 reasonable in light of the circumstances of this Action, the substantial and beneficial results
17 obtained on behalf of the Class, and the contingent nature of the recovery over the course of this
18 Action, which included potential loss at summary judgment, certification and/or trial proceedings.
19 Pursuant to the terms of the Settlement, and the authorities, evidence, and argument submitted by
20 Class Counsel, the Court hereby awards Class Counsel attorneys’ fees in the amount of \$133,333.33
21 and attorneys’ costs in the amount of \$ _____.00, from the Gross Settlement Amount as final
22 payment for and complete satisfaction of any and all attorneys’ fees and costs incurred by and/or
23 owed to Class Counsel and any other person or entity related to this Action. The Court further
24 orders that the award of attorneys’ fees and costs set forth in this Paragraph shall be administered
25 pursuant to the terms of the Stipulation of Settlement and made payable to and deposited into the
26 bank account of “Justice for Workers, P.C.” as Class Counsel in this Action.

27 ///

28 ///

1 14. The Court also hereby approves and orders payment of a Class Representative
2 Service Payment to Plaintiff and Class Representative Norma Borquez in the amount of \$7,500.00
3 from the Gross Settlement Amount.

4 15. The Court also hereby approves and orders payment in the amount of \$30,000.00
5 from the Gross Settlement Amount for PAGA penalties, payable to the “California Labor and
6 Workforce Development Agency.”

7 16. The Court also hereby approves and orders payment from the Gross Settlement
8 Amount for actual claims administration expenses incurred by the Administrator, Phoenix Class
9 Action Administration Solutions, in the amount of \$7,950.00.

10 17. The Court also hereby approves and orders that any residue from uncashed
11 settlement award checks after the expiration date will be paid out to the California Controller’s
12 Unclaimed Property Fund in the name of the Class Member, thereby leaving no unclaimed residue
13 subject to California Code of Civil Procedure section 384.

14 18. The Court also hereby finds and orders that the Stipulation of Settlement is and
15 constitutes a fair, adequate, and reasonable compromise of the Released Claims against Defendant
16 and the Released Parties.

17 19. Provided the Settlement becomes effective under the terms of the Stipulation of
18 Settlement, the Court also hereby orders that the deadline for mailing the Court-approved Individual
19 Class Payments, Individual PAGA Payments, attorneys’ fees and costs, and Class Representative
20 Service Payment is as set forth in the Implementation Schedule within the Preliminary Approval
21 Order.

22 20. The Court also hereby finds that there were no objections to the Settlement raised
23 by any person on the record at the hearing on the Final Approval Order.

24 ///

25 ///

26 ///

27 ///

28 ///

1 21. Finally, the Court hereby finds that the following Class Members timely opted out
2 of the Settlement:

3 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

4
5 Dated: _____

By: _____
The Honorable Samuel T. McAdam
Judge of the Superior Court

EXHIBIT 2



JUSTICE FOR WORKERS

3600 WILSHIRE BOULEVARD, SUITE 1815, LOS ANGELES, CA 90010

TEL: (323) 922-2000

FAX: (323) 922-2000

www.JusticeForWorkers.com

January 1, 2024

VIA PAGA ONLINE FILING ONLY

California Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

<https://dir.tfaforms.net/308>

**Re: *Norma Borquez v. Smart Metals Recycling LLC*
Notice of Private Attorneys General Act Claim**

Dear PAGA Administrator:

This office has been retained by aggrieved employee Norma Borquez ("Plaintiff") concerning a representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.* ("PAGA") against Smart Metals Recycling LLC f/k/a SMR Asset Recovery, LLC d/b/a Sprout (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as "Defendants") for violations of California wage and hour laws. Plaintiff seeks civil penalties for violations of the Labor Code and all other remedies available under PAGA.

Plaintiff seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the notice requirements of Labor Code § 2699.3.

Defendants own and operate an electronics recycling facility in Woodland, California. Defendants employed Plaintiff as an hourly-paid, non-exempt employee from approximately February 2022 to October 24, 2023 as an operator. The "aggrieved employees" that Plaintiff seeks civil penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Defendants violated and/or continue to violate, among other provisions of the Labor Code and applicable wage law, California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 558, 558.1, 1174, and 1198, and applicable IWC Wage Orders.

Labor Code §§ 226.7, 512, 516, and the Wage Orders require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Defendants required Plaintiff and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods and failed to provide them with a second meal period when they worked more than 10 hours in a workday.

Labor Code §§ 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. On information and belief, during the relevant time period, Defendants implemented an unlawful alternative workweek schedule and failed to properly compensate aggrieved employees for all overtime hours worked.

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Defendants failed to pay Plaintiff and other aggrieved employees all wages due to them within any time period specified by Labor Code §§ 201 and 202, including earned and unpaid overtime and premium wages as discussed above.

Labor Code § 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. Labor Code § 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Defendants failed to pay Plaintiff and other aggrieved employees all wages due to them within any time period specified by Labor Code § 204, including earned and unpaid overtime and premium wages as discussed above.

Labor Code § 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Defendants did not provide Plaintiff and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Defendants were in violation of Labor Code § 226(a). The violations include, but are not limited to, the failure to include the total hours worked, failure to state the correct gross and net wages earned for all time worked, and failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code § 1174 requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Defendants failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Plaintiff and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 1198 provides: "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." Section 15 of the applicable Wage Orders provide: "(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed. (B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F, a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68° F. (C) A temperature of not less than 68° F shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use. (D) Federal and State energy guidelines shall prevail over any conflicting provision of this section." California law requires an employer to endeavor to provide a safe and healthy workplace. (Cal. Code Regs., tit. 8, §3203.) Labor Code section 6720 required the California Division of Occupational Safety and Health ("Cal/OSHA") to propose an indoor heat illness standard by January 1, 2019. (Lab. Code, § 6720.) Cal/OSHA's draft standard applies its proposed regulations to "all indoor work areas where the temperature equals or exceeds 82 degrees Fahrenheit when employees are present." During the relevant time period, Defendants failed to provide Plaintiff and other aggrieved employees with reasonable comfort by maintaining the indoor temperature within the range of industry standards by, *inter alia*, providing adequate heating, air conditioning, and/or ventilation for Plaintiff and other aggrieved employees.

Therefore, on behalf of all aggrieved employees, Plaintiff seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the Labor Code pursuant to PAGA. Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this letter) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA and employer an opportunity to investigate the claims and/or take any action they deem appropriate. If the LWDA and Defendants elect not to take any action with respect to any of the foregoing claims, Plaintiff will seek these penalties in a civil action on behalf of all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

William C. Sung
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard
Suite 1815
Los Angeles, CA 90010
Office: 323-922-2000
Fax: 323-922-2000
Email: william@justiceforworkers.com

Thank you for your attention to this matter.

Very truly yours,



William C. Sung
JUSTICE FOR WORKERS, P.C.

Cc:

Via USPS Certified Mail – Return Receipt Requested

Smart Metals Recycling LLC f/k/a SMR Asset Recovery, LLC d/b/a Sprout
Attn: Human Resources
350 Hanson Way
Woodland, California 95776

Smart Metals Recycling LLC f/k/a SMR Asset Recovery, LLC d/b/a Sprout
Attn: Shelly Li, CEO
Agent for Service of Process
350 Hanson Way
Woodland, California 95776

Courtesy Copy Via Email

Kristen E. Finlon
Senior Counsel
Gardner Skelton
kfinlon@gardnerskelton.com

9589 0710 5270 0840 5333 76

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- | | | |
|--|----|--|
| ☐ Return Receipt (hardcopy) | \$ | |
| ☐ Return Receipt (electronic) | \$ | |
| ☐ Certified Mail Restricted Delivery | \$ | |
| ☐ Adult Signature Required | \$ | |
| ☐ Adult Signature Restricted Delivery | \$ | |

Postmark
Here

Postage

\$

Total Postage and Fees

\$ **8.53**

Sent To

Smart Metals Recycling Attn: Human Resources

Street and Apt. No., or PO Box No.

350 Hansen Way

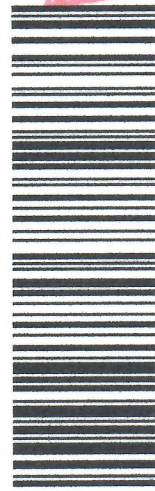
City, State, ZIP+4®

Woodland, California 95776

PS Form 3800, January 2023 PSN 7530-02-000-9047

See Reverse for Instructions

CERTIFIED MAIL®



9589 0710 5270 0840 5333 76

JUSTICE FOR WORKERS, P.C.
3600 Wilshire Blvd Ste 1815
Los Angeles, CA 90010



US POSTAGE

quadrant
FIRST-CLASS MAIL
IMI
\$008.53
01/03/2024 ZIP 92683
044K33212708

Smart Metals Recycling LLC f/k/a SMR Asset Recovery, LLC
d/b/a Sprout
Attn: Human Resources
350 Hansen Way
Woodland, California 95776

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Smart Metals Recycling LLC #11k
SMR Asset Recovery LLC d/b/a Sprout
Attn: Human Resources
350 Hanson Way
Woodland, California 95776



9590 9402 8354 3156 2636 42

2. Article Number (Transfer from service label)

9589 0710 5270 0840 5333 76

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent
☒ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

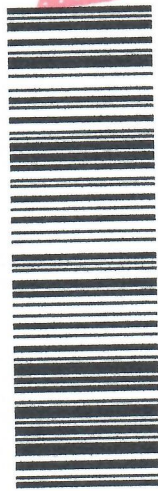
3. Service Type
☒ Adult Signature Restricted Delivery
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Mail
Mail Restricted Delivery

Domestic Return Receipt

JUSTICE FOR WORKERS, P.C.
3600 Wilshire Blvd Ste 1815
Los Angeles, CA 90010

CERTIFIED MAIL®



9589 0710 5270 0840 5333 69



quadrant
FIRST-CLASS MAIL
IMI
\$008.53
01/03/2024 ZIP 92683
044K33212708
US POSTAGE

Smart Metals Recycling LLC f/k/a SMR Asset Recovery, LLC
d/b/a Sprout
Attn: Shelly Li, CEO
Agent for Service of Process
350 Hansen Way
Woodland, California 95776

9589 0710 5270 0840 5333 69

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
Here

Postage

\$

Total Postage and Fees

\$ **8.53**

Sent To

Smart Metals Recycling Attn: Shelly Li

Street and Apt. No., or PO Box No.

350 Hansen Way

City, State, ZIP+4®

Woodland, California 95776

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

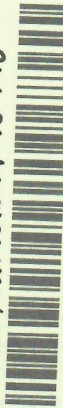
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Smart Metals Recycling LLC #1114
SMR Asset Recovery, LLC dba Sprout
Attn: Shelly Li, CEO
Agent for Service of Process
360 Hansen Way
Woodland, California 95776*



9590 9402 8354 3156 2636 35

2. Article Number (Transfer from service label)

9589 0710 5270 0840 5333 69

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent
☒ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
if YES, enter delivery address below: ☐ No

3. Service Type
☒ Adult Signature
☒ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Mail Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

EXHIBIT 3

1 **JUSTICE FOR WORKERS, P.C.**
William C. Sung, SB# 280792
2 E-Mail: william@justiceforworkers.com
Tiffany L. Luu, SB# 335127
3 E-Mail: tluu@justiceforworkers.com
3600 Wilshire Boulevard, Suite 1815
4 Los Angeles, CA 90010
Tel: 323-922-2000
5 Fax: 323-922-2000

6 Attorneys for Plaintiff NORMA BORQUEZ

ELECTRONICALLY FILED
by Superior Court of CA,
County of Yolo,
on 3/13/2024 12:13 PM
By: M. Narvaez, Deputy

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF YOLO**

10 NORMA BORQUEZ, an individual and on
behalf of all others similarly situated;

11
12 Plaintiff,

13 vs.

14 SMART METALS RECYCLING LLC, a
Limited Liability Company; and DOES 1
15 through 50,

16 Defendants.
17
18
19
20
21
22
23
24
25

Case No.: CV2024-0050

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **OVERTIME WAGE VIOLATIONS
(LABOR CODE §§ 204, 510, 1194,
1198);**
- (2) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 558);**
- (3) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (4) **WAGE STATEMENT PENALTIES
(LABOR CODE § 226);**
- (5) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) **UNFAIR COMPETITION (BUS &
PROF CODE §§ 17200, *et seq.*); and**
- (7) **CIVIL PENALTIES UNDER THE
CALIFORNIA PRIVATE
ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq.*)**

DEMAND FOR JURY TRIAL

1 Plaintiff NORMA BORQUEZ (“Plaintiff”), on behalf of herself and all others similarly
2 situated, hereby brings this First Amended Class and Representative Action Complaint
3 (“Complaint”) against Defendants SMART METALS RECYCLING LLC F/K/A SMR ASSET
4 RECOVERY, LLC D/B/A SPROUT, and DOES 1 to 50 inclusive (collectively “Defendants”), and
5 on information and belief alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
8 Complaint for recovery of unpaid wages and penalties under California Business and Professions
9 Code § 17200, *et seq.*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 558,
10 558.1, 1174, and 1198, 2698, *et seq.*, and applicable Industrial Welfare Commission (“IWC”) Wage
11 Orders (“Wage Orders”), in addition to seeking injunctive relief, declaratory relief, and restitution.
12 This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has
13 jurisdiction over Defendants’ violations of the Labor Code because the amount in controversy
14 exceeds \$25,000.

15 2. Venue is proper in this judicial district because Defendants maintain offices, have
16 agents, and/or transact business in the State of California, including Nolo County, and some of the
17 acts and omissions complained of herein occurred in Nolo County. Furthermore, Plaintiff was
18 employed by Defendants within Nolo County.

19 **PARTIES**

20 3. Plaintiff is, and at all times relevant herein was, an individual over the age of
21 eighteen (18) and is a California resident. Within the statute of limitations periods applicable to
22 each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.
23 Plaintiff was, and is, a victim of Defendants’ policies, practices, and/or customs complained of
24 herein and has been deprived of the rights guaranteed by Business and Professions Code § 17200, *et*
25 *seq.*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 256, 510, 512, 516, 558, 558.1, 1174, and
26 1198, 2698, *et seq.*, and Wage Orders.

27 4. Plaintiff is informed and believes, and based thereon alleges, that during the
28 applicable statute of limitations for each cause of action pled herein and continuing to the present,

1 Defendants engaged in, and continue to engage in, business, and employed Plaintiff and other,
2 similarly-situated non-exempt employees within Nolo County, and the State of California and,
3 therefore, were (and are) doing business in Nolo County and the State of California.

4 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
5 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
6 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
7 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
8 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
9 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
10 and proximately caused Plaintiff and the Classes (as defined below) to be subject to the unlawful
11 employment practices, wrongs, injuries, and damages complained of herein.

12 6. At all times herein mentioned, each of said Defendants participated in the doing of
13 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
14 Defendants, and each of them, were the agents, servants, and employees of each of the other
15 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
16 within the course and scope of said agency and employment.

17 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
18 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
19 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
20 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
21 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
22 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

23 8. At all times herein mentioned, Defendants, and each of them, were members of, and
24 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
25 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

26 9. At all times herein mentioned, the acts and omissions of various Defendants, and
27 each of them, concurred and contributed to the various acts and omissions of each and all of the
28 other Defendants in proximately causing the injuries and damages as herein alleged.

1 **FACTUAL ALLEGATIONS**

2 10. Defendants own and operate an electronics recycling facility in Woodland,
3 California. Defendants employed Plaintiff as an hourly-paid, non-exempt employee from
4 approximately February 2022 to October 24, 2023 as an operator.

5 11. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping
6 and/or payroll policies and practices resulted in Plaintiff and other non-exempt employees not being
7 compensated for all hours actually worked. Plaintiff and other non-exempt employees regularly
8 worked more than eight hours in a workday or 40 hours in a workweek. Upon information and
9 belief, Defendants implemented an unlawful alternative workweek schedule and failed to
10 compensate non-exempt employees for all overtime hours worked at the regular rate of pay when
11 they worked over eight hours in a day and/or 40 hours in a week. As a result, Plaintiff and other
12 non-exempt employees were not compensated for all earned minimum and overtime wages.

13 12. Defendants failed to provide Plaintiff and other non-exempt employees with all
14 legally compliant meal periods due to Defendants' meal period policies/practices, which have
15 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
16 and/or missed meal periods. Upon information and belief, Plaintiff and other non-exempt
17 employees were not able to take their legally compliant meal breaks due to work demands imposed
18 by Defendants, including short, late, and/or missed first meal periods and missed second meal
19 periods when they worked more than 10 hours in a shift. On those occasions when Plaintiff and
20 other non-exempt employees were not provided with all legally compliant meal periods to which
21 they were entitled, Defendants failed to compensate Plaintiff and other non-exempt employees with
22 the required meal period premium(s) for each workday there was a meal period violation as
23 mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no
24 mechanism for the payment of meal period premium payments as required by Labor Code § 226.7
25 in the event that a legally compliant meal period was not provided to their non-exempt employees.

26 13. Plaintiff and other non-exempt employees were not authorized and permitted to take
27 all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to
28 authorize and permit a net 10-minute rest period for every four hours worked, or major fraction

1 thereof. On information and belief, although Plaintiff and other non-exempt employees occasionally
2 worked shifts in excess of 10 hours, Plaintiff and other non-exempt employees were not authorized
3 and permitted a third rest period during shifts in excess of 10 hours. On those occasions when
4 Plaintiff and other non-exempt employees were not authorized and permitted to take all legally
5 compliant rest periods to which they were entitled, Defendants failed to compensate them with the
6 required rest period premium(s) for each workday there was a rest period violation as mandated by
7 Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the
8 payment of rest period premium payments as required by Labor Code § 226.7, in the event that a
9 legally compliant rest period was not authorized and permitted to their non-exempt employees.

10 14. As a result of Defendants' failure to pay all overtime wages, failure to pay all meal
11 and rest period premium wages, and unlawful timekeeping and payroll practices as alleged above,
12 Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff
13 and other non-exempt employees. As a further result of Defendants' failure to pay all overtime
14 wages and meal and rest period premium wages, Defendants failed to timely pay all final wages to
15 Plaintiff and other former non-exempt employees upon their separation of employment from
16 Defendants.

17 15. Labor Code § 1198 provides: "The employment of any employee ... under conditions
18 of labor prohibited by the [Industrial Wage Orders] is unlawful." Section 15 of the applicable Wage
19 Order provide: "(A) The temperature maintained in each work area shall provide reasonable
20 comfort consistent with industry-wide standards for the nature of the process and the work
21 performed. (B) If excessive heat or humidity is created by the work process, the employer shall take
22 all feasible means to reduce such excessive heat or humidity to a degree providing reasonable
23 comfort. Where the nature of the employment requires a temperature of less than 60° F, a heated
24 room shall be provided to which employees may retire for warmth, and such room shall be
25 maintained at not less than 68° F. (C) A temperature of not less than 68° F shall be maintained in
26 the toilet rooms, resting rooms, and change rooms during hours of use. (D) Federal and State energy
27 guidelines shall prevail over any conflicting provision of this section." California law requires an
28 employer to endeavor to provide a safe and healthy workplace. (Cal. Code Regs., tit. 8, §3203.)

1 Labor Code section 6720 required the California Division of Occupational Safety and Health
2 (“Cal/OSHA”) to propose an indoor heat illness standard by January 1,2019. (Lab. Code, § 6720.)
3 Cal/OSHA’s draft standard applies its proposed regulations to “all indoor work areas where the
4 temperature equals or exceeds 82 degrees Fahrenheit when employees are present.” During the
5 relevant time period, Defendants failed to provide Plaintiff and other non-exempt employees who
6 worked at Defendants’ facility with reasonable comfort by maintaining the indoor temperature
7 within the range of industry standards by, inter alia, providing adequate heating, air conditioning,
8 and/or ventilation.

9 **CLASS ACTION ALLEGATIONS**

10 16. **Class Definitions:** Plaintiff brings this action on behalf of herself and the following
11 Classes pursuant to § 382 of the California Code of Civil Procedure:

- 12 a. Overtime Class: All current and former non-exempt employees of Defendants in the
13 State of California who worked more than eight hours per day and/or 40 hours per
14 week and were subject to Defendants’ timekeeping policies and/or practices, during
15 the four years immediately preceding the filing of this action through the present.
- 16 b. Meal Period Class: All current and former non-exempt employees of Defendants in
17 the State of California who: (i) worked at least one shift in excess of 5.0 hours;
18 and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years
19 immediately preceding the filing of this action through the present.
- 20 c. Rest Period Class: All current and former non-exempt employees of Defendants in
21 the State of California who worked at least one shift of 3.5 or more hours, during the
22 four years immediately preceding the filing of this action through the present.
- 23 d. Wage Statement Class: All current and former non-exempt employees of Defendants
24 in the State of California who received a wage statement, during the one year
25 immediately preceding the filing of this action through the present.
- 26 e. Waiting Time Penalty Class: All of Defendants’ formerly employed members of the
27 Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class
28 during the three years immediately preceding the filing of this action through the

1 present.

2 17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
3 joinder of all members would be impractical, if not impossible. The membership of the Classes is
4 unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number
5 greater than 50 individuals. The identity of such membership is readily ascertainable via inspection
6 of Defendants' employment records, including payroll records.

7 18. **Common Questions of Law and Fact Predominate/Well-Defined Community of**
8 **Interest:** There are predominant common questions of law and fact as to Plaintiff and members of
9 the Classes, which predominate over questions affecting only individual members including,
10 without limitation to:

- 11 a. Whether Defendants properly paid all overtime wages to members of the Overtime
12 Class;
- 13 b. Whether Defendants provided all legally compliant meal periods or paid meal period
14 premium wages due to members of the Meal Period Class pursuant to Labor Code §§
15 226.7 and 512;
- 16 c. Whether Defendants authorized and permitted all legally compliant rest periods or
17 paid all rest period premium wages due to members of the Rest Period Class
18 pursuant to Labor Code §§ 226.7 and 516;
- 19 d. Whether Defendants furnished legally compliant wage statements to members of the
20 Wage Statement Class pursuant to Labor Code § 226; and
- 21 e. Whether Defendants timely paid all final wages to members of the Waiting Time
22 Class at the time of their separation of employment pursuant to Labor Code §§ 201
23 and 202.

24 These common questions of law and fact set forth above are numerous and substantial and
25 stem from Defendants' policies and/or practices applicable to each individual class member. As
26 such, the common questions predominate over individual questions concerning each individual
27 class member's showing as to their eligibility for recovery or as to the amount of their damages.

28 ///

1 19. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
2 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
3 of limitations period applicable to each cause of action pled in the Complaint. As alleged herein,
4 Plaintiff, like the members of the Classes, was not paid all overtime wages owed due to Defendants'
5 timekeeping and payroll policies/practices, was not provided all required meal periods, was not
6 authorized and permitted all rest periods, did not receive premium pay for non-compliant meal and
7 rest periods, was not paid all final wages upon separation of employment, and was not provided
8 with accurate, compliant, itemized wage statements.

9 20. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
10 to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
11 attorneys are ready, willing and able to fully and adequately represent the members of the Classes
12 and Plaintiff. Plaintiff's attorneys have litigated numerous wage-and-hour class actions in state and
13 federal courts in the past and are committed to vigorously prosecuting this action on behalf of the
14 members of the Classes.

15 21. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
16 public interest in establishing minimum working conditions and standards in California. These laws
17 and labor standards protect the average working employee from exploitation by employers who
18 have the responsibility to follow the laws and who may seek to take advantage of superior economic
19 and bargaining power in setting onerous terms and conditions of employment. The nature of this
20 action and the format of laws available to Plaintiff and members of the Classes make the class
21 action format a particularly efficient and appropriate procedure to redress the violations alleged
22 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
23 gain an unconscionable advantage since they would be able to exploit and overwhelm the limited
24 resources of each individual plaintiff with their vastly superior financial and legal resources.

25 22. Moreover, requiring each member of the Class(es) to pursue an individual remedy
26 would also discourage the assertion of lawful claims by employees who would be disinclined to file
27 an action against their former and/or current employer for real and justifiable fear of retaliation and
28 permanent damages to their careers at subsequent employment. The claims of the individual

1 members of the Class are not sufficiently large to warrant vigorous individual prosecution
2 considering all of the concomitant costs and expenses attending hereto.

3 23. Furthermore, the prosecution of separate actions by the individual class members,
4 even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
5 with respect to the individual class members against Defendants herein; and which would establish
6 potentially incompatible standards of conduct for Defendants; and/or legal determinations with
7 respect to individual class members which would, as a practical matter, be dispositive of the interest
8 of the other class members not parties to adjudications or which would substantially impair or
9 impede the ability of the class members to protect their interests. As such, the Classes identified
10 hereinabove are maintainable as classes under § 382 of the Code of Civil Procedure.

11 **FIRST CAUSE OF ACTION**

12 **OVERTIME WAGE VIOLATIONS**

13 **(Against All Defendants)**

14 24. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
15 fully set forth herein.

16 25. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and
17 Wage Orders, § 3, which provide that non-exempt employees are entitled to all overtime wages and
18 compensation for all overtime hours worked and provide a private right of action for the failure to
19 pay all overtime compensation for overtime work performed.

20 26. At all times relevant herein, Defendants were required to properly compensate non-
21 exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours
22 worked pursuant to Labor Code § 1194 and Wage Orders. Wage Orders, § 3 requires an employer
23 to pay an employee one and one-half (1½) times and two times the employee's regular rate of pay
24 for overtime and double time hours work. Defendants caused Plaintiff and members of the Overtime
25 Class to work overtime hours but failed to compensate these employees for all overtime hours
26 actually worked.

27 27. As a consequence of Defendants' non-payment of overtime wages, Plaintiff and
28 members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including

1 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
2 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§
3 3287 and 3289.

4 **SECOND CAUSE OF ACTION**

5 **MEAL PERIOD VIOLATIONS**

6 **(Against All Defendants)**

7 28. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
8 fully set forth herein.

9 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
10 in their affirmative obligation to provide all of their non-exempt employees in California, including
11 Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in
12 accordance with the mandates of the Labor Code and Wage Orders, § 11.

13 30. Despite Defendants' violations, Defendants did not pay an additional hour of pay to
14 Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in
15 accordance with California Labor Code §§ 204, 210, 226.7, and 512.

16 31. As a consequence of Defendants' unlawful meal period practices, Plaintiff and
17 members of the Meal Period Class seek recovery of unpaid premium wages for meal period
18 violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code
19 §§ 226.7, 512, 558, Wage Orders, and Civil Code §§ 3287 and 3289.

20 **THIRD CAUSE OF ACTION**

21 **REST PERIOD VIOLATIONS**

22 **(Against All Defendants)**

23 32. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
24 fully set forth herein.

25 33. Labor Code §§ 226.7, 516, 558, and Wage Orders, § 12 and establish the right of
26 employees to be provided with a rest period of at least 10 minutes for each four-hour period
27 worked, or major fraction thereof. Plaintiff is informed and believes, and based thereon alleges, that
28 despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class

1 to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals
2 an additional hour of pay at their respective regular rate for the rest periods that they failed to
3 authorize and permit them to take, as required by Labor Code § 226.7.

4 34. As a consequence of Defendants' unlawful rest period practices, Plaintiff and
5 members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations
6 including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees,
7 and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Orders, and Civil Code §§
8 3287 and 3289.

9 **FOURTH CAUSE OF ACTION**
10 **WAGE STATEMENT PENALTIES**
11 **(Against All Defendants)**

12 35. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
13 fully set forth herein.

14 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
16 and members of the Wage Statement Class with accurate and complete, itemized wage statements
17 that included, among other requirements, all hours worked, total gross wages earned, all rates of pay
18 and corresponding number of hours worked, total net wages earned, the inclusive dates of the pay
19 period, and/or the correct name and address of the legal entity that is the employer in violation of
20 Labor Code § 226.

21 37. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
22 with accurate and complete, itemized wage statements resulted in actual injury, as said failures led
23 to, among other things, the non-payment of overtime wages and meal and rest period premium
24 wages owed and deprived them of the information necessary to identify the discrepancies in
25 Defendants' reported payroll data.

26 38. As a consequence of Defendants' unlawful wage statement practices, Plaintiff and
27 members of the Wage Statement Class seek damages and/or statutory penalties, reasonable
28 attorneys' fees, and costs of suit according to California Labor Code § 226.

FIFTH CAUSE OF ACTION
WAITING TIME PENALTIES
(Against All Defendants)

39. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

40. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

41. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including unpaid overtime wages as well as unpaid meal and rest period premium wages.

42. Furthermore, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-202.

43. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting Time Class their earned wages upon separation from employment results in continued payment of daily wages up to thirty days from the time the wages were due.

44. As a consequence of Defendants' unlawful practices, Plaintiff and members of the Waiting Time Class seek statutory penalties, and costs of suit according to California Labor Code § 203.

///

///

1 **SIXTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(Against All Defendants)**

4 45. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
5 fully set forth herein.

6 46. Defendants have engaged and continue to engage in unfair and/or unlawful business
7 practices in California in violation of Business and Professions Code § 17200, *et seq.*, by:

- 8 a. failing to pay Plaintiff and members of the Overtime Class all overtime wages due;
9 b. failing to provide Plaintiff and members of the Meal Period Class with all meal
10 periods to which they are entitled, and failing to pay them all meal period premium
11 wages due;
12 c. failing to authorize and permit Plaintiff and members of the Rest Period Class all rest
13 periods to which they are entitled, and failing to pay them all rest period premium
14 wages due;
15 d. failing to issue accurate and itemized wage statements to Plaintiff and members of
16 the Wage Statement Class; and
17 e. failing to timely pay all final wages to Plaintiff and members of the Waiting Time
18 Penalty Class.

19 47. Defendants' utilization of these unfair and/or unlawful business practices deprived
20 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
21 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
22 Defendants' competitors who have been and/or are currently employing workers and attempting to
23 do so in honest compliance with applicable wage and hour laws.

24 48. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
25 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
26 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
27 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

28 49. The acts complained of herein occurred within the last four years immediately

1 preceding the filing of the Complaint in this action.

2 **SEVENTH CAUSE OF ACTION**

3 **PRIVATE ATTORNEYS GENERAL ACT**

4 **(Against All Defendants)**

5 50. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
6 fully set forth herein.

7 51. Plaintiff, an “aggrieved employee” within the meaning of Labor Code §§ 2698, *et*
8 *seq.*, acting on behalf of herself and other aggrieved employees (collectively, “Aggrieved
9 Employees”), brings this representative action against Defendants to recover the civil penalties due
10 to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant
11 to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
12 violation for each failure to pay each employee and \$200 for each subsequent violation or willful or
13 intentional violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each
14 employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and
15 \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3)
16 \$100 for each initial violation and \$250 for each subsequent violation pursuant to Labor Code §
17 1197.1 per employee per pay period; (4) \$250 for each initial violation and \$1,000 for each
18 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to
19 Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as
20 waiting time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and
21 \$200 for each subsequent violation per employee per pay period for those violations of the Labor
22 Code for which no civil penalty is specifically provided, based on the following Labor Code
23 violations:

- 24 a. Failing to pay Aggrieved Employees all earned overtime compensation in violation
25 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 26 b. Failing to provide all legally required meal periods, and failure to pay meal period
27 premium wages, to Aggrieved Employees at the regular rate of compensation in
28 violation of Labor Code §§ 226.7, 512, 558, and 1198;

- c. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- d. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- e. Failing to timely pay all final wages and compensation earned by Aggrieved Employees at the time of separation in violation of Labor Code §§ 201-202;
- f. Failing to pay Aggrieved Employees all paid sick leave wages in violation of Labor Code § 246;
- g. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204;
- h. Failing to maintain indoor temperature in accordance with the Wage Orders and Labor Code § 1198; and
- i. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.

52. On or about January 2, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties under Labor Code §§ 2698, *et seq.* with respect to the violations of the Labor Code identified in the preceding paragraph. Now that 33 days and 65 days have passed from Plaintiff notifying Defendants and the LWDA of these violations, Defendants have not cured any curable violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

53. Plaintiff has incurred attorneys’ fees and costs, which Plaintiff is entitled to receive under California Labor Code § 2699(g).

///

///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf
3 this suit is brought against Defendants, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for payment of overtime wages and penalties
8 according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 9 5. Upon the Second Cause of Action, for meal period premium wages according to
10 proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 11 6. Upon the Third Cause of Action, for rest period premium wages according to proof
12 pursuant to Labor Code §§ 226.7, 516, and 558;
- 13 7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code §
14 226;
- 15 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
16 203;
- 17 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
18 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
19 practices declared by this Court to be in violation of Business and Professions Code §§ 17200, *et*
20 *seq.*;
- 21 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
22 Aggrieved Employees, and the State of California according to proof pursuant to Labor Code §§
23 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each
24 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
25 violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each employee, plus
26 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each
27 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
28 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1

1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each
2 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to
3 Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as
4 waiting time under the terms of Labor Code § 203; and/or (6) \$100.00 for each initial violation and
5 \$200 for each subsequent violation per employee per pay period for those violations of the Labor
6 Code for which no civil penalty is specifically provided;

7 11. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
8 and Civil Code §§ 3287 and 3289;

9 12. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
10 218.5, 226, 1194, 2699(g), and Code of Civil Procedure § 1021.5; and

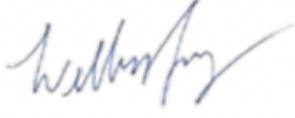
11 13. For such other and further relief, the Court may deem just and proper.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a trial by jury on all claims.

14
15 DATED: March 12, 2024

JUSTICE FOR WORKERS, P.C.

16
17 By: 

18 William C. Sung

19 Tiffany L. Luu

20 Attorneys for Plaintiff NORMA BORQUEZ
21
22
23
24
25
26
27
28