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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PHILLIP JR PLASENCIA individually and on behalf of himself and all others similarly situated, Plaintiff, v. ONNI PROPERTIES LLC, an Arizona Limited Liability Company, ONNI MANAGEMENT CALIFORNIA, INC., a Delaware Corporation, Defendant ONNI LEVEL PROPERTIES (CALIFORNIA), LLC, a Delaware limited liability company, Defendant CAPILANO PROPERTIES, LLC, a Nevada limited liability company, Defendant ONNI 888 OLIVE STREET LIMITED PARTNERSHIP, a Nevada limited partnership, and ONNI CONTRACTING (CALIFORNIA), INC., a California corporation, and DOES 1-50, inclusive, Defendants.	Case No. 24STCV04598 *Assigned for All Purposes To:* Hon. Timothy Patrick Dillon Dept.: 15 **DECLARATION OF JAMES R. HAWKINS IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AGREEMENT, APPROVAL OF NOTICE TO CLASS MEMBERS, APPROVAL OF SETTLEMENT ADMINISTRATOR, AND SETTING HEARING FOR FINAL APPROVAL OF SETTLEMENT** Date: September 15, 2025 Time: 11:00 A.M. Complaint Filed: February 23, 2024 FAC Filed: March 10, 2025 Trial Date: None Set

I, James R. Hawkins, declare as follows:

1. I am an individual over the age of 18. I am the founding partner at the Law Firm of James Hawkins, APLC. We are the attorneys of record for Plaintiff Phillip Jr. Plasencia ("Plaintiff" or "Class Representative"), who filed this Class and PAGA action on behalf of himself and the proposed settlement class (the "Class") and Aggrieved Employees in the above-captioned matter against Defendants Onni Properties, LLC, Onni Management California, Inc., Onni Level Properties (California), LLC, Capilano Properties, LLC, Onni 888 Olive Street Limited Partnership, and Onni Contracting (California), Inc. ("Defendants") (collectively with Plaintiff, the "Parties"). I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. I submit this Declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement, Approval of Class Notice, Approval of Settlement Administrator and Setting Hearing for Final Approval of Settlement (the "Preliminary Approval Motion"), which is filed concurrently herewith, along with the Memorandum of Points and Authorities. For the Court's convenience, the Class Action and PAGA Settlement is attached hereto as **Exhibit 1**, and the Class Notice is attached hereto as **Exhibit 2**.

3. I have no knowledge of the existence of any conflicts of interest between my firm and any of its attorneys, and Plaintiff or any other Class Member.

4. After a full-day arms' length mediation facilitated by an experienced neutral (Jeffrey D. Fuchsman) and subsequent mediator's proposal, the Plaintiff and Defendants have entered into the Class Action and PAGA Settlement Agreement ("Settlement") attached hereto as Exhibit 1.

5. Pursuant to the terms of the Settlement, Plaintiff and the Class will fully release and discharge Defendants from the claims brought against it in this matter in exchange for Defendants' agreement to pay $875,000.00 on a non-reversionary basis (each Settlement Class Member will receive his/her share of the Net Settlement Amount without having to submit a claim form or taking action, except for those who opt-out). Plaintiff seeks to represent a settlement class of all persons who are or were employed by Defendants as hourly paid, non-exempt employees in the State of

California during the Class Period (December 2, 2019 through February 2, 2025) and asserts claims for (1) failure to pay minimum wages; (2) failure to pay overtime owed; (3) failure to provide lawful meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay wages during employment; (6) failure to timely pay wages owed upon separation from employment; (7) failure to reimburse necessary expenses; (8) failure to pay sick pay wages; (9) failure to comply with itemized wage statement provisions; (10) failure to produce personnel files upon request (11) unfair competition; and (12) penalties pursuant to the Private Attorneys General Act of 2004, Labor Code § 2698 *et seq.* ("PAGA"). The Parties agree for the purposes of this settlement only that Plaintiff's allegations meet the commonality requirement The claims are as follows:

a. <u>Failure to Pay Minimum Wages:</u> Plaintiff alleges that he and the Class Members were required to perform work while off the clock, including without limitation for arriving ten to fifteen minutes every early morning because Defendants would not allow them to check in for work early, and performing tasks after their scheduled shifts. Plaintiff and the Class Members allege they were not fully compensated for this time in violation of the Labor Code and applicable Wage Orders.

b. <u>Failure to Pay Overtime Owed:</u> To the extent that the alleged failure to compensate for tasks such as vacuuming after clocking out and using elevator fobs each day before clocking in and out is established, those activities also contributed to the uncompensated overtime hours. Furthermore, Plaintiff alleges Defendants failed to pay overtime at the regular rate of pay because Defendants failed to incorporate non-discretionary bonuses and incentives into the regular rate of pay for purposes of calculating overtime pay.

c. <u>Failure to Provide Meal Periods:</u> Plaintiff alleges that he and other Class Members were consistently required to work through their designated meal breaks. Plaintiff also alleges that meal periods (including second meal periods) were not lawfully provided as a matter of policy and practice. Plaintiff alleges that premiums were not paid for these missed, short, or late lunch breaks. Plaintiff alleges that to the extent premiums were paid, they were paid at the wrong rate, because such premiums were not paid at the correct regular rate.

d. Failure to Authorize and Permit Rest Periods: Plaintiff alleges that Defendants failed to authorize and permit lawful rest periods. Specifically, Plaintiff and Class Members were unable to take rest periods due to the volume of work assigned, unrealistic work requirements, and frequent interruptions of rest breaks. Defendants' policy put the onus on employees to provide their own breaks. Further, Defendants did not pay premiums for these late, short, or missed rest periods. Plaintiff alleges that to the extent premiums were paid, they were paid at the wrong rate, because such premiums were not paid at the correct regular rate.

e. Failure to Timely Pay Wages During Employment: Plaintiff asserts direct and derivative violations. Plaintiff alleges that Defendants failed to pay Plaintiff and the Class Members rest period premiums, meal period premiums, and all minimum wages and overtime wages owed at the time of their employment.

f. Failure to Timely Pay Wages Owed Upon Separation from Employment: Plaintiff asserts direct and derivative violations. Plaintiff alleges that Defendants failed to pay Plaintiff and the Class Members whose employment ended during the relevant time period rest period premiums, meal period premiums, and all minimum wages and overtime wages owed at the time of their termination/separation.

g. Failure to Reimburse Necessary Expenses: Plaintiff alleges that Defendants required Class Members to use their personal cell phones for work purposes and they were not reimbursed for this expense.

h. Failure to Pay Sick Pay Wages: Plaintiff alleges that Defendants failed to provide Plaintiff and the Class Members with paid sick leave. Plaintiff alleges that after working for Defendants for more than 30 days, he and the other Class Members were entitled to accrue paid sick leave at a rate of one hour for every 30 hours worked. However, Plaintiff alleges that he and the Class Members did not accrue any paid sick leave and received no wages for time off that would have qualified as sick leave.

i. Failure to Provide Accurate, Itemized Wage Statements: Plaintiff alleges that

Defendants intentionally and knowingly failed to provide Plaintiff and employees with accurate itemized wage statements as required by Labor Code § 226, as Plaintiff and others have not been properly compensated by Defendants for all hours worked and have not been paid all compensation due and owing, including all minimum and overtime wages, and meal and rest period premiums. Accordingly, the wage statements issued by Defendants allegedly do not include the correct amount of gross and net wages earned, total hours worked by the employee, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee as required under Labor Code section 226.

j. <u>Failure to Produce Personnel Files Upon Request:</u> Plaintiff alleges that Defendant failed to comply with Labor Code section 1198.5, by implementing the policies and procedures causing the failure to provide personnel records upon request.

k. <u>UCL Violations:</u> Plaintiff alleges that by failing to provide compliant rest and meal periods, rest and meal period premiums, minimum wages, overtime wages, accurate itemized wage statements, reimbursement for business expenses, final pay, and other statutory penalties to Class Members, and committing the above-described Labor Code violations, Defendants engaged in unlawful, unfair, and/or fraudulent business practices and are liable for restitution to the Class Members under the Unfair Competition Law.

l. <u>PAGA Penalties:</u> Plaintiff further argues that he and the other Aggrieved Employees were entitled to penalties under PAGA.

6. In response to Plaintiff's allegations, Defendants argued that courts routinely significantly reduce PAGA penalties. Defendants also contended that Plaintiff's PAGA claims are unmanageable, though this point of law is similarly no longer a concern following *Estrada v. Royalty Carpet Mills, Inc.* (2024) 15 Cal.5th 582, 582.

7. With respect to Plaintiff's claims for meal and rest period violations, Defendants argued that there is no common policy or practice to deprive employees of meal or rest periods and that Defendants' meal and rest period policies comply with California law, and that rest periods are

not recorded which inherently makes certification more difficult.

8. With respect to Plaintiff's claims for unpaid minimum and overtime wages, Defendants argued that they properly paid Plaintiff and the Class Members for all hours worked. Defendants also argued that these claims would fail as they were largely derivative, and they would defeat certification on Plaintiff's claims for unpaid overtime wages due to regular rate of pay miscalculations.

9. At the time of mediation and settlement, Defendants contended that Plaintiff's wage statement claim would fail because it is derivative of Plaintiff's other claims. Additionally, Defendants contended that the Class suffered no actual "injury" as required under Labor Code section 226(e) and that any violation of the Labor Code was not "knowing and intentional".

10. Defendants also contended that Plaintiff and the Class were not entitled to waiting time penalties under Labor Code section 203 in any derivative sense, and also because any Labor Code violations were not intentional and as a result Plaintiff would have difficulty proving the requisite willfulness. Defendants denied that there were certifiable direct violations of Labor Code sections 201 and 202.

11. At the time of mediation, Defendants contended that Plaintiff would be unable to certify the expense reimbursement claims since it will involve an individual inquiry as to each specific situation during which the employee used his or her personal cell phone.

12. Based on the figures provided prior to the mediation of 569 class members and 31,400 workweeks, Plaintiff estimated Defendants' maximum liability to be approximately $9,819,040.32 exclusive of PAGA, and $21,599,974.32 inclusive of PAGA. However, in light of the foregoing defenses and risks, despite Defendants' potentially massive maximum exposure, Plaintiff calculated Defendants' realistic, risk-adjusted exposure at $2,865,059.71, inclusive of PAGA, with each claim separately valued as follows:

a. <u>Unpaid Wages (Including Overtime and Regular Rate Underpayments)</u>: Plaintiff calculated Defendants' realistic, risk-adjusted exposure for unpaid wages due to off-the-clock work, including overtime and due to miscalculations in the regular rate of pay, at $124,075.56, after taking a 90% discount for the likelihood that Plaintiff's claim could fail on the merits, difficulties and risks of attaining and maintaining class certification, difficulties in proving the full extent of Plaintiff's claims, and Defendants' strong defenses, including that Defendants' policy was facially valid, and that any failure to pay wages was not knowing and willful.

b. Unpaid Meal Period Premiums: Plaintiff's calculated Defendants' realistic, risk-adjusted exposure for meal period premiums at $921,077.71 after taking a 50% discount for the likelihood that Plaintiff's claim could fail on the merits, difficulties and risks of attaining and maintaining class certification, difficulties in proving the full extent of Plaintiff's claims, and Defendants' strong defenses, including that Defendants' policy was facially valid, that any failure to provide meal periods was due to individual choices by employees to not take meal periods, that Defendants had already paid meal period premiums to employees when they were triggered, and that any failure to pay meal period premiums was not knowing and willful.

c. Unpaid Rest Period Premiums: Plaintiff calculated Defendants' realistic, risk-adjusted exposure for rest period premiums at $168,248.93 after taking a 95% discount for the likelihood that Plaintiff's claim could fail on the merits, difficulties and risks of attaining and maintaining class certification, difficulties in proving the full extent of Plaintiff's claims given that rest periods are typically unrecorded, and Defendants' strong defenses, including that Defendants' policy was facially valid, and that any failure to authorize and permit rest periods was due to individual choices by employees to not take rest periods, and that any failure to pay rest period premiums was not knowing and willful.

d. Unreimbursed Expenses: Plaintiff calculated Defendants' realistic, risk-adjusted exposure for unreimbursed business expenses at $113,877.58 after taking a 75% discount for the likelihood that Plaintiff's claim could fail on the merits, difficulties and risks of attaining and maintaining class certification, difficulties in proving the full extent of Plaintiff's claims, and Defendants' strong defenses, including that Defendants' policy did not require cell phone use or other personal expenditures, Defendants had a policy of reimbursing necessary expenses, and Defendants provided alternative means to complete work duties than using personal cell phones.

e. Waiting Time Penalties: Plaintiff calculated Defendants' realistic, risk-adjusted exposure for waiting time penalties at $246,149.04 after taking a 90% discount for the likelihood that Plaintiff's claim could fail on the merits, difficulties and risks of attaining and maintaining class certification, difficulties in proving the full extent of Plaintiff's claims, and Defendants' strong defenses, including that Plaintiff's waiting time claims are almost entirely derivative of their other claims, that Defendants' policy is facially valid, and that Defendants' conduct was not knowing and willful.

f. Wage Statement Penalties: Plaintiff calculated Defendants' realistic, risk-adjusted exposure for wage statement penalties at $113,537.50, after taking a 75% discount for the likelihood that Plaintiff's claim could fail on the merits, difficulties and risks of attaining and maintaining class certification, difficulties in proving the full extent of Plaintiff's claims, and Defendants' strong defenses, including that Defendants' conduct was not knowing and willful, that Plaintiff's wage statement claims are entirely derivative, and that Class Members suffered no actual injury.

g. Sick Pay Penalties: Plaintiff calculated Defendants' realistic, risk-adjusted exposure for failure to provide and properly compensate sick leave at de minimis, after considering the risks associated with proving that sick leave was not properly accrued or paid at the correct rate, challenges in demonstrating willful or systematic violations across the class, the Defendants' strong defenses, including the potential argument that Defendants had a compliant written policy, and the likelihood that Defendants would argue any underpayments were inadvertent.

h. PAGA Penalties: Plaintiff calculated Defendants' realistic, risk adjusted for PAGA penalties at $1,178,093.40, and 7,490 PAGA pay periods, based on the Court's likely reduction of PAGA penalties due to Defendants' conduct not being knowing and willful, Defendants' arguments on the merits and issues of proof, and Defendants' arguments that Plaintiff's PAGA claim is unmanageable, which was a genuine issue at the time of mediation.

13. Under the terms of the Settlement, Defendants will not oppose Class Counsels' application for a reasonable award of attorney's fees not to exceed 35% of the Settlement Amount, totaling $306,250.00, Class Counsels' litigation costs not to exceed $15,000.00, Settlement Administration Costs not to exceed $9,000.00, PAGA penalties of $45,000.00 (of which $33,750.00 or 75% will be paid to the LWDA and the remaining $11,250.00 or 25% will be paid to the Settlement Class Members), and Service Award to Plaintiff not to exceed $10,000.

14. I fully support the Settlement on these terms, and respectfully submit that the Settlement is fair, reasonable, and adequate in light of all known facts.

15. Given the realistic value of Plaintiff's claims as set forth above, the $875,000.00 Settlement Amount amounts to approximately 30.5% of Defendants' realistic maximum liability, is an excellent result for the Settlement Class. Approximately 569 Class Members will be able to participate in the Settlement if they do not request exclusion.

16. Preliminary approval is appropriate since the Settlement will provide significant monetary relief to the Settlement Class.

17. The Settlement was the product of extensive arm's length negotiations between counsel and was facilitated by Jeffrey Fuchsman, an experienced wage-and-hour class action mediator, over the course of a full day mediation on November 4, 2024. The Parties agreed to mediation and informal discovery in order settle Plaintiff's claims and to avoid the uncertainty and expense of litigation. In connection with the anticipated mediation, the Parties exchanged extensive informal discovery, including production of time and pay records for a sizable sample of the Putative Class. In advance of mediation, Defendants provided a sampling of class-wide redacted payroll and time data and relevant policy documents. Though cordial and professional, the Settlement negotiations were adversarial and non-collusive in nature. Though the Parties did not reach an agreement at mediation, a Mediator's Proposal was issued that same day, which was accepted by the parties and memorialized in a Memorandum of Understanding ("MOU"), executed shortly thereafter on January 4, 2025, and later incorporated into a long-form Class Action and PAGA Settlement Agreement. The Settlement reached is the product of substantial effort by the Parties and their

counsel. Although Plaintiff and Class Counsel believed that there was a possibility of certifying the claims, they recognized the potential risk, expense, and complexity posed by litigation, such as unfavorable decisions on class certification, summary judgment, at trial and/or on the damages awarded, and/or on an appeal that can take several more years to litigate. In addition, if Defendants prevailed on any of its defenses, the Settlement Class Members may not have received any substantial monetary recovery.

18. The Settlement will result in a fair payment to each Settlement Class Member based on the number of Weeks Worked during the Class Period. Plaintiff and his counsel have diligently investigated the claims and defenses on behalf of the Settlement Class Members and worked to achieve a resolution of the claims to maximize the recovery by avoiding further expenditure of attorneys' fees and costs. After evaluating the significant risks attendant with further litigation described above and weighing them against the benefits of a known compromise and settlement as set forth in the Settlement Agreement, settlement on the terms agreed to is believed to be in the best interest of Plaintiff and the Settlement Class, and is a fair and reasonable resolution of the claims alleged.

19. Plaintiff's counsel brought to bear a great deal of collective experience in negotiating the settlement of this case and investigating the claims and defenses. Plaintiff's counsel engaged in necessary informal discovery, investigation, sampling and expert evaluation, disclosures, significant document review (e.g., documents pertaining to Defendants' policies and procedures, personnel documents, wage statements, time records, among others) and conducted an extensive analysis and extrapolation of the sampling of class-wide data provided by Defendants. Plaintiff's counsel also conducted extensive investigation and research into the elements of each of the claims asserted and the defenses submitted by Defendants. This extensive preparation made it possible to exercise informed judgment throughout the litigation and settlement process.

20. Based on our experience in other wage and hour cases, I believe we are qualified to evaluate the class claims and viability of defenses in this class action. In this case, the recovery for each Settlement Class Member is reasonable, fair and adequate, and a settlement at this time on the terms in the Agreement is in the best interest of the Settlement Class. The Settlement provides each

Settlement Class Member with compensation for the alleged violations when viewed in relation to the costs and risks inherent in obtaining class certification and proceeding to trial.

21. Plaintiff's counsel fully endorses the terms and conditions of the Settlement as set forth in the abovementioned Settlement Agreement.

22. Of course, the Settlement Amount represents a compromise figure, taking into account the various risks surrounding class certification and the merits of Defendants' asserted defenses. Nevertheless, the Settlement provides for fair and adequate payments to the Settlement Class Members, with no reversion to Defendants.

23. Plaintiff Philip Jr Plasencia seeks a Service Award in an amount of $10,000.00, which we believe is fair and warranted. Plaintiff agreed to come forward in an effort to effectuate a policy and practice change that benefitted all other Settlement Class Members, and to recover unpaid wages and penalties. He assumed significant risk in bringing this litigation, namely, had he lost, he could be ordered to pay Defendants' costs.

24. Plaintiff provided invaluable assistance to the investigation and prosecution of this case, including: providing factual background for the Complaints which were consolidated and gave rise to this action; reviewing the litigation documents; providing information and documentation about Defendants' policies and practices; participating in phone calls to discuss litigation and settlement strategy; assisting with the litigation of this matter; locating witnesses and documents; assisting attorneys in mediation and preparation for mediation; and reviewing the settlement documents. Plaintiff agreed to participate in this case with no guarantee of personal benefit. Plaintiff's comprehensive declaration setting forth all of the reasons why he believes that the Service Award should be approved has been filed herewith.

25. When this case was taken on a contingency fee basis, with our firm agreeing to assume responsibility for all litigation costs, the ultimate result was far from certain. In the course of this litigation, we paid all costs including the filing fees, court costs, research/database fees, mediation costs, and expert costs. There was never a guarantee that our firms would recoup these expenditures.

26. It is our experience that attorneys' fee awards of thirty-five percent of a common fund settlement are the standard in California. Defendants do not oppose this fee request. The fee is further warranted because it is within the range of reasonableness typically awarded in class actions. Our collective costs as Class Counsel will not exceed $15,000 and will be based on the actual amount incurred at the time of final approval.

27. For the foregoing reasons, it is respectfully requested that the Court grant preliminary approval of the Settlement as being fair, reasonable, and in the best interests of the Settlement Class, as well as preliminarily approve the requested attorneys' fees and costs, and service awards to the Class Representative.

Plaintiff's Counsel Is Experienced in Wage and Hour Litigation

28. I am an attorney at law licensed to practice before the Courts of the State of California and before this Court.

29. In 1993, I graduated from the University of California, Los Angeles with a Bachelor of Arts Degree. Following graduation, I attended Whittier Law School. In 1996, while a full-time law student, I was also a full-time Judicial Extern for the Honorable Consuelo B. Marshall, United States District Court, Central District. After approximately five months of service for Judge Marshall, I became a full-time extern for the United States Attorney's Office, Central District of California. My externship lasted for approximately five months. Thereafter, in 1997, I graduated from Whittier Law School. The same year, I was admitted to practice law in the State of California.

30. From 1997-2007, I was a named partner at Hawkins & Sofonio, a law firm based out of Irvine, California. At Hawkins & Sofonio, I pioneered the employment department litigating Plaintiffs related employment issues such as: Wrongful Termination, Age Discrimination, Disability, Wage and Hour and Sexual Harassment claims. Through the success and experience I obtained litigating employment related matters, I commenced the Wage and Hour division of our employment department in 2002. Since then, I have spent the vast majority of my practice litigating wage and hour class actions.

31. In 2007, I incorporated my wage and hour class action practice as James Hawkins APLC. Since its inception, this law firm has been exclusively involved in class action and complex

litigation. In 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class actions. I have been lead or co-lead counsel in all of the cases listed below.

32. I have a great deal of experience in wage and hour class action litigation. I have been certified and approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others before this Court and others. Although not an all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this Action:

a. *Mojica v. Compass Group, Inc., et. al.* USDC Central District, Case No. 8:13-cv-01754. Wage and Hour Class Action case seeking past wages for meal and rest break violations for production workers in the State of California. Plaintiffs' Counsel preliminarily appointed as Class Counsel. Case settled. Final approval granted, and funds fully disbursed.

b. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. *Ortiz v. Kmart,* USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Morgan v. Aramark Campus, LLC,* USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *West v Iron Mountain Information Management, Inc, et. al.;* Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Stipulation for "binding arbitration." Arbitration Award for Plaintiffs Class. Arbitration Award confirmed. Plaintiffs' counsel lead trial counsel and class counsel.

f. *Gonzalez v. Superior Industries International, Inc.*, et al., Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

g. *Acosta v. Fleetwood Travel Trailers of California, Inc.*, et al., Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Walker v. Sharkeez*, et al., Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted and funds fully distributed.

i. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

j. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by defendant in the State of California. Plaintiffs' counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

k. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

l. *Ruiz, et al. v. Unisourse Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by defendant in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiffs has petitioned the Court for Lead Counsel.

m. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled and awaiting Final Approval.

n. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

o. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *McMurray v. Dave and Busters, Inc., et al.*, Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by defendant in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *Osuna v. DFG Restaurants, Inc., et al.*, Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. *Willems v. Diedrich Coffee, Inc., et al.*, Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Davila, et al. v. Beckman Coulter, Inc., et al.*, Orange County Superior Court, Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by defendant in the

State of California. Plaintiffs' counsel appointed lead counsel. Cased settled, Final Approval granted, no objections and funds fully distributed.

v. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

w. *Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP 4545. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for security guards employed by defendant in the State of California. Certification granted. Plaintiffs' counsel appointed as co-lead counsel. Writ taken. Court stays action pending Appellate Court ruling. Court lifts stay.

x. *Placencia v. Amcor Packaging Distribution, Inc.*, Orange County Superior Court, Case No. 30-2013-00694012-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt production, maintenance, shipping, and receiving employees employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

y. *Trani v. Lisi Aerospace, et al.*, Los Angeles Superior Court, Case No. BC495527. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt manufacturing employees employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

z. *Galvan v. Goodwin Co.*, Orange County Superior Court, Case No. 30-2013-00637062-CU-OE-CXC, Wage and Hour Class Action seeking past wages for meal period violations, and non-compliant wage statements on behalf of non-exempt production employees employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

aa. *Reyes v. Bristol Fiberlite,* Orange County Superior Court, Case No. 30-2013-00653425-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, inaccurate wage statements, and penalties on behalf of non-exempt employees employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

bb. *Gutierrez v. HMT Tank,* USDC Central Dist., Case No. CV14-1967-CAS(MANx). Wage and Hour Class Action seeking past wages for meal and rest period violations, failure to indemnify necessary expenses, inaccurate wage statements, and penalties on behalf of non-exempt employees working in positions related to servicing, refabricating and repairing storage tanks employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

cc. Williams v. Il Fornaio America Corp., Sacramento County, Case No. 34-2011-0009616. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt restaurant employees employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, and funds fully distributed.

dd. Aguilar v. 7-Eleven, Inc., Orange County, Case No. 30-2009-002687141-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt retail clerks employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

ee. Madrigal v. Huntington Beach Market Broiler, Inc., Orange County, Case No. 30-2012-00611260. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt employees employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

ff. *Vang v. Jazz Semiconductor, Inc.*, Orange County, Case no. 30-2011-00460278. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt production workers employed by Defendant in California. Plaintiffs' counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

gg. *Cano v. Financial Statement Services, Inc.*, Orange County, Case No. 30-2013-00653349-CU-OE-CXC.

hh. *Gonzalez v. Quality Aluminum Force, LLC*, Orange County, Case No. 30-2015-00817941-CU-OE-CXC.

ii. *Smith v. Space Exploration Technologies Corp.*, Los Angeles County Case No. BC554258.

jj. *Madrigal v. Balda C Brewer, Inc.*, Orange County Case No. 30-2015-00820218-CU-OE-CXC.

kk. *Mendez v. Liberty Glass Fabricators, Inc.*, Riverside County Case No. RIC 1800119.

ll. *Attia v. Neiman Marcus Group, Inc.*, United States District Court for the Central District of California Case No. 8:16-cv-001504-DOC-FFM

mm. *Vigueras v. Red Robin*, United States District Court for the Central District of California Case No. 8:17-cv-1422-JVS-DFM.

nn. *Payne v. Marriott Ownership Resorts, Inc.*, San Diego County Case No. 37-2018-00015175-CU-OE-CTL.

33. In sum, my firm has been lead or co-lead counsel in hundreds of cases since its inception. We have recovered hundreds of millions of dollars for employees in the State of California and millions for the State as well through PAGA.

34. Our firm has served as class counsel in a number of significant wage and hour settlements. Of particular note, in 2019, our firm was co-lead counsel in securing the largest wage and hour class action settlement in California history at $130,000,000.00. During this case, plaintiffs appealed a decertification order. This case involved several appeals. The appellate record amassed an extensive appellate record comprising a 23-volume joint appendix, a three-volume reporters' transcript, five briefs, four letter briefs, two motions for judicial notice, a motion to augment the record, and several additional letters informing the appellate court of new legal authority issued after *Dukes*. The matter was argued to and submitted by the Court of Appeal on September 15, 2016, and on November 21, 2016, the decertification order was reversed and the case was remanded for further proceedings. (*Lubin v. The Wackenhut Corporation* ("*Lubin*"), 5 Cal. App. 5th 960 (2016)). Wackenhut filed a petition for review of the Court of Appeal decision to the California Supreme Court. The Supreme Court denied Wackenhut's petition for review of *Lubin*. The Court of Appeal issued remittitur on April 10, 2017. Eventually through additional litigation, the parties were able to secure the $130 million settlement that was approved on October 21, 2019 by Judge Highberger in the Los Angeles Superior Court.

35. Additionally, in early 2020, our firm served as lead counsel in a class action jury trial in the Central District of California involving the class and PAGA representative claims of over 23,000 employees which successfully resolved in the midst of trial for $8,500,000.00.

36. Our firm has settled many high-stakes class and representative actions. Hawkins' settlements have directly compensated hundreds of thousands of California workers and consumers. Hawkins' actions have also forced employers to modify their policies for the benefit of employees including changing the compensation structure for certain employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting class and PAGA enforcement actions, Hawkins has secured millions of dollars for workers and in civil penalties for the State of California.

37. Based on our experience, demonstrated competence, resources to prosecute the claims at issue and reputation among our colleagues in the both the defense and plaintiffs' bar, I respectfully submit our firm's experience in the field of wage and hour cases provides us the ability

to prosecute claims swiftly and often times without the need for protracted litigation. Although, as demonstrated in the *Wackenhut* cases, we do not give up fighting for class members when challenged and necessary.

38. As is the case with many wage and hour cases, conditional class certification is vastly superior to the litigation of numerous individual claims because most of the claims are too small to litigate outside of the class context. As such, the superiority requirement is met for purposes of conditional certification.

39. Further, based on our experience, we consider ourselves experienced and qualified to evaluate the claims and viability of the defenses. Based on the history of this case and given our firm's extensive experience as class and representative action employment and wage and hour litigators, it is our view that the Settlement is fair, reasonable, and adequate, and in the best interest of the Class.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 3, 2025 in Irvine, California.

James R. Hawkins, Esq.

EXHIBIT 1

STIPULATION OF SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff **Phillip Jr. Plasencia** ("Plaintiff") and Defendants **Onni Properties LLC**, an Arizona limited liability company (formerly known as Capilano Properties LLC),**Onni Management California, Inc**., a Delaware corporation, **Onni Level Properties (California) LLC**, a Delaware limited liability company, **Capilano Properties, LLC**, a Nevada limited liability company, **Onni 888 Olive Street Limited Partnership**, a Nevada limited partnership, and **Onni Contracting (California), Inc.**, a California corporation (collectively "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or individually as "Party."

1. **<u>DEFINITIONS</u>**

1.1. "Action" means the Plaintiff's lawsuit alleging wage and hour violations against Defendants captioned *Phillip Jr. Plasencia v. Onni Properties LLC, et al.* (Case No. 24STCV04598), initiated on February 23, 2024 in the Superior Court of the State of California, County of Los Angeles.

1.2. "Administrator" means Apex Class Action, LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. "Aggrieved Employee" means all persons who are or were employed by Defendants as hourly paid, non-exempt employees who worked in the State of California at any time during the PAGA Period.

1.5. "Class" means all persons who are or were employed by Defendants as hourly paid, non-exempt employees who worked in the State of California at any time during the Class Period.

1.6. "Class Counsel" means James Hawkins and Christina M. Lucio of James Hawkins APLC.

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

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

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

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

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

1.12. "Class Period" means the period from December 2, 2019 through February 2, 2025.

1.13. "Class Representative" means the named Plaintiff in the Action seeking Court approval to serve as Class Representative.

1.14. "Class Representative Service Payment" means 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 Los Angeles.

1.16. "Defendants" means named Onni Properties LLC, an Arizona limited liability company (formerly known as Capilano Properties LLC, an Arizona limited liability company), Onni Management California, Inc., a Delaware corporation, Onni Level Properties (California) LLC, a Delaware limited liability company, Capilano Properties, LLC, a Nevada limited liability company, Onni 888 Olive Street Limited Partnership, a Nevada limited partnership, and Onni Contracting (California), Inc., a California corporation.

1.17. "Defense Counsel" means Monte K. Grix and Jacqulin L. Givelber of Hirschfeld Kraemer LLP.

1.18. "Effective Date" means the date when all of the following events have occurred: (1) the Stipulation of Settlement has been executed by all Parties, Class Counsel and Defendants' Counsel; (2) the Court has given preliminary approval to the Stipulation of Settlement; (3) the Notice of Class Action Settlement has been given to the putative members of the Settlement Class, providing them with an opportunity to object to the terms of this Stipulation of Settlement or opt out of the settlement; (4) the Court has held a formal fairness hearing and entered a final Order and Judgment certifying the Settlement Class, dismissing the Actions with prejudice, and approving the Stipulation of Settlement; (5) 65 calendar days have passed since the Court has entered a final Order and Judgment certifying the

Settlement Class, dismissing the Action with prejudice, and approving the Stipulation of Settlement; and (6) five business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court's Entry of Judgment has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing or seeking to vacate the Court's Judgment or final Order approving the Stipulation of Settlement has been filed, five business days after any appeal, writ or other appellate proceedings opposing the Stipulation of Settlement or seeking to vacate the Judgment has been finally and conclusively dismissed with no right to pursue further remedies or relief.

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

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

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

1.22. "Gross Settlement Amount" means Eight Hundred and Seventy-Five Thousand Dollars And Zero Cents ($875,000.00) which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administrator's Expenses.

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

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

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

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

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

1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration

Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.

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

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.

1.31. "PAGA Period" means the period from March 8, 2022 to February 2, 2025 or through the date of preliminary approval, whichever comes first ("PAGA Period").

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

1.33. "PAGA Notices" means Plaintiff's February 23, 2024 and December 4, 2024 letters to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees ($11,250.00) and the 75% to the LWDA ($33,750.00) in settlement of the PAGA claims.

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

1.36. "Plaintiff" means Phillip Jr. Plasencia, the named Plaintiff in the Action.

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

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

1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.

1.41. "Released Parties" means: Defendants and all of their present and former parent companies, direct and indirect subsidiaries, members, joint ventures, owners, principals, subsidiaries, predecessors (including but not limited to Capilano Properties, LLC, an Arizona limited liability company), successors, and affiliated corporations, shareholders, officers, directors, employees, agents, and attorneys.

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

1.43. "Response Deadline" means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class

Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail their Objection to the Settlement. Class Members to whom Notice Packets are re-sent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline expiration date.

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

1.45. "Workweek" means the 7-day workweek used by Defendants for payroll purposes in which a Class Member worked for Defendants any amount of time during the Class Period.

2. <u>RECITALS</u>

2.1. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff submits that hegave timely written notice to Defendants and the LWDA by sending the PAGA Notices.

2.2. On February 23, 2024, Plaintiff commenced this putative class action by filing a complaint against Defendants in the Superior Court of California, County of Los Angeles, asserting causes of action against Defendants for: (1) failure to pay minimum wages; (2) failure to pay overtime owed; (3) failure to provide lawful meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay wages during employment; (6) failure to timely pay wages owed upon separation from employment; (7) failure to reimburse necessary expenses; (8) knowing and intentional failure to comply with itemized wage statement provisions; (9) failure to produce personnel files upon request; and (10) unfair competition (hereinafter, "Class Action Complaint"). Defendants deny all allegations and claims in the Class Action Complaint.

2.3. On April 30, 2024, Plaintiff filed a separate, parallel action for civil penalties under PAGA in the Superior Court of California, County of Los Angeles (Case No. 24STCV10862) (hereinafter, "PAGA Action Complaint"). Defendants deny all allegations and claims in the PAGA Action Complaint.

2.4. On November 4, 2024, Plaintiff and Defendants, by and through the Class Counsel and Defense Counsel respectively, participated in an all-day mediation presided over by Jeffrey Fuchsman, which led to this Agreement to settle the Action.

2.5. Prior to mediation, Plaintiff obtained, through informal discovery, policy and procedure documents, personnel records, time records, pay records, and other information relating to the size and scope of the Class, as well as data permitting Plaintiff to fully understand the nature and scope of the allegations. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.6. On March 10, 2025, Plaintiff filed his First Amended Complaint ("FAC") in the Superior Court of California, County of Los Angeles, Case No. 24STCV04598, which added claims for (1) civil penalties pursuant to PAGA and (2) failure to pay sick pay wages. Plaintiff's FAC also added the following parties as defendants: ONNI LEVEL Properties (CALIFORNIA), LLC, a Delaware limited liability company; CAPILANO PROPERTIES, LLC, a Nevada limited liability company; ONNI 888 OLIVE STREET LIMITED PARTNERSHIP, a Nevada limited partnership; and ONNI CONTRACTING (CALIFORNIA), INC., a California corporation.

2.7. The Court has not granted class certification.

2.8. The Parties, Class Counsel, and Defense Counsel represent that, other than the Action, they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement, except for *Rosa Del Carmen Claudio De Rivas v. Onni Properties LLC, et al.*, Superior Court of California, County of Los Angeles, Case No. 23STCV30329, filed on December 12, 2023 and *Deric Martin v. Onni Properties LLC*, Superior Court of California, County of Los Angeles, Case No. 24STCV13307, filed on June 6, 2024**,** which may be impacted by the terms of this Settlement.

3. MONETARY TERMS

3.1. PAGA Action. The Parties agree to stipulate to dismiss the PAGA Action pending in the Superior Court of California, County of Los Angeles (Case No. 24STCV10862). The Parties agree to work cooperatively to achieve these purposes.

3.2. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay Eight Hundred and Seventy Five Thousand Dollars And Zero Cents ($875,000.00) and no more as the Gross Settlement Amount, except that Defendants will make additional payments to the Class Administrator representing their share of any employer payroll taxes to be paid in connection with the Settlement (*e.g.*, FICA, FUTA, payroll taxes, or any similar tax or charge). Defendants have no obligation to pay the Gross Settlement Amount (or any employer 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 Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than Ten Thousand Dollars and Zero Cents ($10,000.00), in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as Participating Class Member. Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payment for 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 individual Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than thirty-five percent (35%), which is currently estimated to be Three Hundred Six Thousand Two Hundred and Fifty Dollars and Zero Cents ($306,250.00) and a Class Counsel Litigation Expenses Payment of not more than Fifteen Thousand Dollars and Zero Cents ($15,000.00). Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed $9,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $9,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. <u>Tax Allocation of Individual Class Payments</u>: 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The other 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. <u>Effect of Non-Participating Class Members on Calculation of Individual Class Payments</u>: 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. <u>To the LWDA and Aggrieved Employees</u>: PAGA Penalties in the amount of Forty-Five Thousand Dollars And Zero Cents ($45,000.00) to be paid from the Gross Settlement Amount, with 75% ($33,750.00) allocated to the LWDA PAGA Payment and 25% (11,250.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($11,250.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. Class Workweeks: Based on a review of its records to date, Defendants estimate Class Members collectively worked a total of 31,400 Workweeks during the Class Period.

4.2. Class Data: Not later than 21 calendar days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they discover that the Class Data omitted class member identifying information and to provide corrected or updated Class Data to the Administrator as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount: Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 21 calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount: Within 7 calendar days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

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

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

4.4.4. All Individual Class Payments to Class Members and all Individual PAGA Payments to Aggrieved Employees shall be deemed to be paid to such Class Members and Aggrieved Employees solely in the year in which such payments actually are received by the Class Members and Aggrieved Employees. It is expressly understood and agreed that the receipt of such Individual Class Payments and Individual PAGA Payments will not entitle any Class Member or Aggrieved Employee to additional compensation or additional benefits under any compensation or benefit plans to which any Class Member or Aggrieved Employee may be eligible, including, but not limited to: bonus, contest or commissions plans, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, deferred compensation plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the intent of this Settlement that the Individual Class Payments and the Individual PAGA Payments provided for in this Settlement are the sole payments to be made by Defendants to the Class Members and Aggrieved Employees, will not affect any rights, contributions, or amounts to which any Class Members or Aggrieved Employees may be entitled under any compensation or benefit plans, and that the Class Members and Aggrieved Employees are not entitled to any new or additional compensation or benefits as a result of having received the Individual Class Payments and the Individual PAGA Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

5. RELEASE OF CLAIMS. Effective on the date when Defendants fully fund the entire Gross Settlement Amount, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release: Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: any and all claims, known and unknown, asserted and not asserted, which the Plaintiff has or may have against the Released Parties as of the date of execution of this Agreement ("Plaintiff's Released Claims"). The Plaintiff's Released Claims include, but are not limited to, all of the Released Class Claims, the Released PAGA Claims and any other claims arising under the California Labor Code; any claim arising out of the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and federal common law; all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination, including but not limited to, 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract and tort. This release excludes the release of claims not permitted by law. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits (except as to claims under Labor Code §§ 132a and 4553) that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that he may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believe to be true but agree, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims alleged, or reasonably could be alleged, in the Actions and ascertained in the course of the Action, including without limitation, California Labor Code sections 98.6, 201, 202, 203, 204, 206.5, 210, 216, 218.5, 218.6, 221, 222, 223, 224, 226, 226.3, 226.7, 226.8, 227.3, 245, 246, 247, 248, 248.5, 249, 510, 512, 516, 558, 1102.5, 1174, 1182.12, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2802, California Industrial Commission Wage Orders, 8 Cal. Code Regs. Tit 8 § 11050, and Business and Professions Code sections 17200, et seq., and including all claims for or related to alleged failure to provide meal periods, failure to provide rest periods, failure to pay overtime wages, failure to pay minimum wage, failure to pay all wages due to discharged and quitting employees, failure to maintain required records, failure to furnish accurate itemized wage statements, failure to indemnify employees for necessary expenditures incurred in discharge of duties, failure to provide and/or pay for accrued sick leave time, failure to produce employee records, and unfair and unlawful business practices, including, but not limited to, claims for injunctive relief, liquidated damages, penalties, interest, fees, costs, and all other claims and allegations made or which could have been made in the Actions based on the facts and allegations pled in the Actions during the Class Period ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, to the fullest extent permitted by law, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims, individual and representative, for PAGA penalties alleged, or reasonably could be alleged, in the Actions and the PAGA Notices and ascertained in the course of the Actions, including civil penalties pursuant to PAGA for or related to claims for failure to provide meal periods, failure to provide rest periods, failure to pay overtime wages, failure to pay minimum wage, failure to pay all wages due to discharged and quitting employees, failure to maintain required records, failure to furnish accurate itemized wage statements, failure to indemnify employees for necessary expenditures incurred in discharge of duties, failure to provide and/or pay for accrued sick leave time, and failure to produce employee records, as well as all other claims and allegations alleged in the Action, throughout the PAGA Period ("Released PAGA Claims").

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

6.1. <u>Plaintiff's Responsibilities</u>: Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, giving Defendants at least five business days to review, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from Class Counsel's firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement, other than as set forth in .

6.2. <u>Responsibilities of Counsel</u>: Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; and obtaining a prompt hearing date for the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.3. <u>Duty to Cooperate</u>: If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions

Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

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

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

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

7.4. Notice to Class Members:

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

7.4.2. Using best efforts to perform as soon as possible, and in no event later than 35 days after the Court grants Preliminary Approval of the Settlement, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

7.4.4. The deadlines for Class Members' written objections, challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

7.5. Requests for Exclusion (Opt-Outs):

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or their representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. Aggrieved Employees are prohibited from requesting exclusion from the Released PAGA Claims.

7.5.2. Although the Administrator must reject a Request for Exclusion if it is untimely per Section 7.5.1 above, the Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the

Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

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

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

7.6. Challenges to Calculation of Workweeks: Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly inform Defense Counsel and Class Counsel of all challenges to calculation of Workweeks and/or Pay Periods to and the Administrator's determination the challenges, but shall not disclose the identity of such Class Members.

7.7. Objections to Settlement:

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

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

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

7.7.4. Aggrieved Employees are not permitted to object to any of the PAGA components of the Settlement.

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

7.8.1. Email Address and Toll-Free Number: The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List: The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the total number of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); and (b) the total number of Class Members who have submitted invalid Requests for Exclusion.

7.8.3. Weekly Reports: The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must provide the Administrator's assessment of the validity of Requests for Exclusion and identify the total number ofall Requests for Exclusion and objections received, both on a weekly and total basis.

7.8.4. Workweek and/or Pay Period Challenges: The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of

Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

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

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE. Based on its records, Defendants estimate that, as of the date of the mediation, Class Members collectively worked a total of 31,400 Workweeks during the Class Period. In the event that the actual number of workweeks worked by all Class Members in the Class Period increases by more than 10 percent (3,140), then, at Defendants' option, either (1) the Class Period and the PAGA Period shall end on the date that the total Class Workweeks equals 34,540, or (2) the Class Period and the PAGA Period shall remain unchanged, but Defendants shall pay a proportional increase above the Settlement Amount (e.g., Defendants would pay an additional one percent for additional workweeks that are one percent above 34,540 workweeks).

9. DEFENDANTS' RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members and/or if the combined workweeks worked by Class Members who timely exclude themselves amounts to more than 10% of the total workweeks worked by all Class Members, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than thirty (30) calendar days after receipt of the Exclusion List.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel no later than 5 business days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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

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

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

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

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes: This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Actions will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2. Confidentiality: The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communications with the press about the facts, amount, or terms of the Settlement.

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

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

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

12.6. Cooperation: The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement 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.

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

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

12.9. 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.

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

12.11. 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.

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

12.13. Confidentiality: To the extent permitted by law, all agreements made, and orders entered during Actions and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14. Use and Return of Class Data: Information provided to Class Counsel pursuant to Cal. Evid. Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

12.17. Notice: All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, to the other Party's respective counsel of record.

12.18. 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.

12.19. 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.

[*Signature Page Follows*]

Dated: 04/30/25 ________________

Phillip Plasencia (Apr 30, 2025 01:02 PDT)

Phillip Jr. Plasencia

Dated: _____________, 2025

Defendants Onni Properties LLC; Onni Management California Inc.; Onni Contracting (California) Inc.; Capilano Properties, LLC; Onni 888 Olive Street Limited Partnership; and Onni Level Properties (California) LLC

Approved as to form:

Dated: April 30, 2025

JAMES HAWKINS APLC

JAMES R. HAWKINS
CHRISTINA M. LUCIO
Attorneys for Plaintiff
Phillip Jr. Plasencia

Dated: ______________, 2025

HIRSCHFELD KRAEMER LLP

MONTE K. GRIX
JACQULIN L. GIVELBER
Attorneys for Defendants

Dated: ____________, 2025

____

Phillip Jr. Plasencia

Dated: April 23, 2025

____

Defendants Onni Properties LLC; Onni Management California Inc.; Onni Contracting (California) Inc.; Capilano Properties, LLC; Onni 888 Olive Street Limited Partnership; and Onni Level Properties (California) LLC

Approved as to form:

Dated: ____________, 2025

JAMES HAWKINS APLC

____

JAMES R. HAWKINS
CHRISTINA M. LUCIO
Attorneys for Plaintiff
Phillip Jr. Plasencia

Dated: May 1, 2025

HIRSCHFELD KRAEMER LLP

____

MONTE K. GRIX
JACQULIN L. GIVELBER
Attorneys for Defendants

EXHIBIT 2

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

<u>*Plasencia v. Onni Properties LLC, et al.*, Case No. 24STCV04598</u>

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

You may be eligible to receive money from an employee class and representative action lawsuit ("Action") against ONNI PROPERTIES LLC, ONNI MANAGEMENT CALIFORNIA, INC., ONNI LEVEL PROPERTIES (CALIFORNIA), LLC, CAPILANO PROPERTIES, LLC, ONNI 888 OLIVE STREET LIMITED PARTNERSHIP, and ONNI CONTRACTING (CALIFORNIA), INC. ("Defendants") for alleged violations of the California Labor Code. The Action was filed by a former employee of Defendants, Phillip Jr Plasencia ("Plaintiff"), and seeks payment of (1) alleged unpaid wages, penalties, liquidated damages, attorneys' fees and costs, and interest for a class of all persons who are or were employed by Defendants as hourly paid, non-exempt employees in the State of California during the Class Period (December 2, 2019 through February 2, 2025) ("Class Members") and (2) penalties under the California Private Attorneys General Act ("PAGA") for all persons who are or were employed by Defendant as hourly paid, non-exempt employees who worked in distribution centers in the State of California during the PAGA Period (March 8, 2022 through February 2, 2025) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Settlement Payments based on the number of Workweeks worked during the Class Period; and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments to PAGA Employees based on the number of Pay Periods worked during the PAGA Period.

Based on Defendants' records, and the Parties' current assumptions, **your estimated payment is $______.** The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimate is based on Defendants' records showing that **you worked ______ Workweeks during the Class Period and ______ Pay Periods during the PAGA Period.** If no amount is stated for your Pay Periods during the PAGA Period, then according to Defendants' records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work during the PAGA Period. If you believe that you worked more Workweeks and/or Pay Periods than indicated, you can submit a challenge to the administrator by the deadline date. See Section IV of this Notice.

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

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

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

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting a written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period claims against Defendants, and if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. Aggrieved Employees cannot opt-out of the PAGA portion of this Settlement and will receive Individual PAGA Payments based on the number of Pay Periods worked during the PAGA Period.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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 Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendants that are covered by this Settlement (Released 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 participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See **Section VI** of this Notice. If you are also an Aggrieved Employee, you cannot opt out of the PAGA portion of the Settlement. You will receive your Individual PAGA Payment and give up your right to assert any PAGA claims against Defendants that are covered by this Settlement.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. **Written Objections Must be Submitted by ______________**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement, including how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See **Section VII** of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods **Written Challenges Must be Submitted by ______________**	The amount of your Individual Class Payment and Individual PAGA Payment, if any, depends on how many Workweeks you worked at least one day during the Class Period and how many Pay Periods your worked at least one day during the PAGA Period. The number of Class Period Workweeks and PAGA Period Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by ______________. See **Section IV** of this Notice.

I. WHAT IS THE ACTION ABOUT?

Plaintiff is a former hourly paid, non-exempt employee who worked in apartment buildings for Defendants. He brought this action alleging that Defendant (1) failed to pay minimum wages; (2) failed to pay overtime owed; (3) failed to provide lawful meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay wages during employment; (6) failed to timely pay wages owed upon separation from employment; (7) failed to reimburse necessary expenses; (8) failed to comply with itemized wage statement provisions; (9) failed to keep accurate records; (10) failed to properly pay sick leave; and (11) failed to pay vested vacation / PTO wages upon termination. Plaintiff also seeks penalties for unfair competition and pursuant to the Private Attorneys General Act of 2004, Labor Code § 2698 *et seq* ("PAGA"). Plaintiff is represented by James Hawkins and Christina M. Lucio of James Hawkins APLC ("Class Counsel").

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

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

The Court has made no determination whether Defendants or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendants hired a mediator, Jeffrey P. Fuchsman, in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. On November 4, 2024, the parties participated in an all-day mediation with Mr. Fuchsman, which led to this Agreement to settle the Action. By signing a written settlement agreement ("Settlement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Settlement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

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

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

1. Defendants Will Pay $875,000.00 as the Gross Settlement Amount (GSA). Defendants have agreed to deposit the GSA into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the GSA not more than 21 days after the Judgment entered by the Court becomes final. The Judgment will be final 65 calendar days after the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

A. Up to $306,250.00 (35% of the Gross Settlement) to Class Counsel for attorneys' fees and up to $15,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to $10,000.00 to Plaintiff Phillip Jr Plasencia as Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class. The Class Representative Service Payment will be the only money Plaintiff will receive other than Plaintiff's Individual Class and/or PAGA Payments.

C. Up to $9,000.00 to the Administrator for services administering the Settlement.

D. $45,000.00 for settlement of claims for civil penalties under PAGA ("PAGA Fund"), 75% of which shall be paid to the LWDA, and 25% paid to the Aggrieved Employees.

3. Net Settlement Amount and PAGA Fund Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the GSA (the "Net Settlement Amount" or "NSA") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks. The portion of the PAGA Fund allocated to the Aggrieved Employees shall be paid based on their PAGA Period Pay Periods.

4. Taxes Owed on Payments to Class Members. For the Individual Class Payments, Plaintiff and Defendants are asking the Court to approve an allocation of 90% statutory penalties and interest, and 10% as wages for tax purposes. The Individual PAGA Payments shall be considered 100% statutory penalties for tax purposes. The Administrator will report Individual Class Payments on IRS 1099 and W-2 Forms, and the Individual PAGA Payments on IRS 1099 Forms.

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

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

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

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

If you are an Aggrieved Employee, you cannot opt-out of the PAGA portion of this Settlement. All Aggrieved Employees will receive a portion of the PAGA Fund based on their PAGA Period Pay Periods even if they opt out of the Class Settlement.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on

appeal. Plaintiff and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendants.

8. Administrator. The Court has appointed a neutral company, Apex Class Action, LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges regarding Workweeks and/or Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section IX of this Notice.

9. Participating Class Members' Release and Aggrieved Employees' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts, as alleged in the Action and resolved by this Settlement.

Upon Final Approval, the Participating Class Members will be bound by the following release:

> All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims alleged, or reasonably could be alleged, in the Actions and ascertained in the course of the Action, including without limitation, California Labor Code sections 98.6, 201, 202, 203, 204, 206.5, 210, 216, 218.5, 218.6, 221, 222, 223, 224, 226, 226.3, 226.7, 226.8, 227.3, 245, 246, 247, 248, 248.5, 249, 510, 512, 516, 558, 1102.5, 1174, 1182.12, 1194, 1194.2, 1195, 1197, 1197.1, 1198, 2802, California Industrial Commission Wage Orders, 8 Cal. Code Regs. Tit 8 § 11050, and Business and Professions Code sections 17200, et seq., and including all claims for or related to alleged failure to provide meal periods, failure to provide rest periods, failure to pay overtime wages, failure to pay minimum wage, failure to pay all wages due to discharged and quitting employees, failure to maintain required records, failure to furnish accurate itemized wage statements, failure to indemnify employees for necessary expenditures incurred in discharge of duties, failure to provide and/or pay for accrued sick leave time, failure to produce employee records, and unfair and unlawful business practices, including, but not limited to, claims for injunctive relief, liquidated damages, penalties, interest, fees, costs, and all other claims and allegations made or which could have been made in the Actions based on the facts and allegations pled in the Actions during the Class Period ("Released Class Claims").
>
> Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

Upon Final Approval, all Aggrieved Employees will be bound by the following release:

> All Aggrieved Employees are deemed to release, to the fullest extent permitted by law, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims, individual and representative, for PAGA penalties alleged, or reasonably could be alleged, in the Actions and the PAGA Notices and ascertained in the course of the Actions, including civil penalties pursuant to PAGA for or related to claims for failure to provide meal periods, failure to provide rest periods, failure to pay overtime wages, failure to pay minimum wage, failure to pay all wages due to discharged and quitting employees, failure to maintain required records, failure to furnish accurate itemized wage statements, failure to indemnify employees for necessary expenditures incurred in discharge of duties, failure to provide and/or pay for accrued sick leave time, and failure to produce employee records, as well as all other claims and allegations alleged in the Action, throughout the PAGA Period ("Released PAGA Claims").
>
> Aggrieved Employees cannot opt-out of the PAGA portion of this Settlement. An opt-out does not affect the release of PAGA Claims under this Settlement.

IV. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount (the remaining Amount after deducting from the GSA the PAGA Fund, Attorneys' Fees and Costs, the Class Representative Service Award, and the Administrator's Fees) by the total number of Class Period Workweeks worked by all Class Members and (b) multiplying the result by the number of Class Period Workweeks worked by each individual Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing the 25% portion of the PAGA Fund to be paid to Aggrieved Employees by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweeks/Pay Period Challenges. The number of Workweeks you worked during the Class Period and Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until ______________ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section IX of this Notice has the Administrator's contact information.

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

V. HOW WILL I GET PAID?

1. Participating Class Members and All Aggrieved Employees. The Administrator will send, by U.S. mail, a single check to every Participating Class Member and Aggrieved Employee (i.e., every Class Member who doesn't opt-out and all Aggrieved Employees). The single check will combine the Individual Class Payment and/or the Individual PAGA Payment.

2. Non-Participating Class Members. Non-participating Class Members (i.e. Class Members who opt out of the settlement) will not be eligible for any payment under the Class Settlement. If a Non-Participating Class Member is also an Aggrieved Employee, the Administrator will send, by U.S. mail, a single Individual PAGA Payment check.

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

VI. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than ______________, that you wish to opt-out. The easiest way to notify the Administrator is to send the Administrator, by fax, email, or mail, a signed written Request for Exclusion by the ______________ Response Deadline. The Request for Exclusion must be a letter from a Class Member or their representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number, and a simple statement that you do not want to participate in the Settlement. The Request for Exclusion must be signed by the Class Member.

The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as ***Plasencia v. Onni Properties, LLC,*** **Case No. 24STCV04598,** and include your identifying information (full name, address, email address or telephone number) for verification purposes.

You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by ______________, or it will be invalid.** Section IX of the Notice has the Administrator's contact information. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

VII. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Class Settlement. A Participating Class Member who disagrees with any aspect of the Settlement Agreement, or feels that the proposed Class Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low may choose to submit a written objection to the Administrator. **The deadline for sending written objections to the Administrator is ______________**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Include any documents which you believe support your position. Make sure you identify the Action as ***Plasencia v. Onni Properties, LLC,*** **Case No. 24STCV04598,** and include your full name, current address, email address or telephone number, and sign the objection. Section IX of this Notice has the Administrator's contact information.

Participating Class Members cannot object to the PAGA portion of the Settlement.

If you submit a written objection, you may also choose to attend (or personally retain a lawyer to object at your own cost) the Final Approval Hearing. You are not required to attend the hearing, however, to have the Court consider your written objection. 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 VIII of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

VIII. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _______________, at __________ in Department 14 of the Los Angeles Superior Court, located at the Spring Street Courthouse, 312 N Spring St, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website for the most current information.

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

IX. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Apex Class Action, LLC's website at _______________. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil and entering the Case Number for the Action, Case No. 24STCV04598. You can also make an appointment to personally review court documents in the Clerk's Office at the Spring Street Courthouse by calling _________________.

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

Class Counsel:

James R. Hawkins
Christina M. Lucio
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
james@jameshawkinsaplc.com
christina@jameshawkinsaplc.com

Settlement Administrator:

APEX CLASS ACTION, LLC
Email Address: claims@apexclassaction.com
Mailing Address: 18 Technology Drive, Suite 164, Irvine, CA 92618
Telephone: 800-355-0700
Fax Number: 949-878-3536

X. 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 California Controller's Office Unclaimed Property Fund for instructions on how to retrieve the funds.

XI. 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.

<u>REQUEST FOR EXCLUSION FROM SETTLEMENT (OPT-OUT)</u>

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

Plasencia v. Onni Properties LLC, et al., Case No. 24STCV04598

<u>I am requesting to OPT OUT OF THE SETTLEMENT</u> of the action known as *Plasencia v. Onni Properties LLC, et al.*, pending in the Superior Court of the State of California, County of Los Angeles, Case No. 24STCV04598. I want to be excluded from the Class and the Settlement.

I do not wish to receive compensation under the terms of the proposed settlement of the *Plasencia* action or to otherwise participate in the proposed settlement.

Date: ______________________, __________ ________________________________

Signature

PLEASE PRINT OR TYPE THE FOLLOWING IDENTIFYING INFORMATION:

Full Name: ____

Mailing Address: ____

Approximate Dates of Employment: ____

Last four digits of your Social Security Number: _______________________________

Daytime telephone number: ____