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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ALAMEDA**

DEVONE M. BARNES, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

BAY AREA COMMUNITY RESOURCES, INC., a California Nonprofit corporation; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 24CV062496

[Assigned for all purposes to the Hon. Somnath Raj Chaterjee in Dept. 21]

**DECLARATION OF KEATON D. MENDOZA IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AND PROVISIONAL CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY**

## DECLARATION OF KEATON D. MENDOZA

1. I am an attorney at law, duly licensed to practice before all the Courts of the State of California. I am an Attorney at Bibiyan Law Group, P.C., co-counsel for plaintiffs Devone Marcell Barnes ("Plaintiff Barnes") and Jelisa Margaret Spraggins ("Plaintiff Spraggins") (collectively, "Plaintiffs"), and all others similarly situated. As such, I am familiar with the file in this matter and, if called as a witness, I could and would competently testify to the following facts of my own personal knowledge.

2. On or around February 2, 2024, Plaintiff Barnes commenced this Action by filing a complaint against Defendant Bay Area Community Resources, Inc. ("Defendant") for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) waiting time penalties; (6) wage statement violations; (7) failure to timely pay wages; (8) failure to indemnify; (9) violation of Labor Code section 227.3; (10) unfair competition; (11) sexual harassment; (12) retaliation; (13) negligent infliction of emotional distress; and (14) intentional infliction of emotional distress ("Barnes Class Action" or "Action").

3. Also, on or around February 2, 2024, Plaintiff Barnes filed with the Labor and Workforce Development Agency ("LWDA") and served on Defendant a notice under Labor Code section 2699.3, stating Plaintiff Barnes intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Private Attorneys General Act of 2004 ("PAGA") Members for alleged Labor Code violations ("Barnes PAGA Notice").

4. On or around April 8, 2024, Plaintiff Barnes filed a PAGA representative action, seeking PAGA civil penalties against Defendant for Labor Code violations alleged in the Barnes PAGA Notice.

5. On or around May 1, 2024, Plaintiff Barnes filed a First Amended Complaint under PAGA ("Barnes PAGA Action").

6. On or around November 12, 2024, Plaintiff Spraggins commenced a separate class action by filing a complaint against Defendant ("Spraggins Class Action").

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7. On or around November 12, 2024, Plaintiff Spraggins filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating Plaintiff Spraggins intended to serve as a proxy of the LWDA to recover civil penalties on behalf of PAGA Members for alleged Labor Code violations ("Spraggins PAGA Notice").

8. On January 21, 2025, Plaintiff Spraggins filed a PAGA representative action, seeking civil penalties against Defendant for Labor Code violations ("Spraggins PAGA Action"). The Barnes Class Action, Barnes PAGA Action, Spraggins Class Action, and Spraggins PAGA Action are referred to collectively as "Actions".

9. Thereafter, Plaintiffs and Defendant (collectively, the "Parties") agreed to exchange informal discovery and attend mediation.

10. Prior to mediation, Plaintiffs confidentially obtained, through informal discovery: (a) time and payroll records for twenty percent (20%) of putative Class Members through October 7, 2025; (b) exemplar wage statements and relevant policies; (c) personnel files of Plaintiffs; and (d) relevant standalone polices and excerpts from employee handbooks that were in effect from during the Class Period.

11. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 ("Dunk/Kullar*"*).

12. On or around October 7, 2025, the Parties participated in an all-day private mediation presided over by Monique Bonnici-Ngo. In preparation for the mediation, the Parties engaged in informal exchanges of information, documents, and data, which enabled a thorough evaluation of the claims, likely outcomes, risks, and expenses of pursuing litigation.

13. While the mediation was unsuccessful on the day of mediation, through continued negotiations and assistance from the mediator, the Parties reached a resolution and agreed to globally resolve all class and PAGA claims in the aforementioned Actions through continued negotiations.

14. For purposes of this Settlement, the Parties agreed to stipulate consolidating the Actions for purposes of Court approval of the Settlement. The Parties have since filed a stipulation to consolidate the Actions, which the Court granted on or around April 9, 2026.

15. Class Counsel has conducted significant investigation of the law and facts relating to the claims asserted in the Action, and have concluded that the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class, taking into account the sharply contested issues involved, the expense and time necessary to litigate the Actions through trial and any appeals, the risks and costs of further litigation of the Actions, the risk of an adverse outcome, the uncertainties of complex litigation, the information learned through informal discovery regarding Plaintiffs' allegations, and the substantial benefits to be received by Class Members.

**The Proposed Settlement**

16. Subject to Court approval pursuant to Code of Civil Procedure section 382 and California Rules of Court, rule 3.679, *et seq.*, the Parties have agreed to settle the Actions by agreement upon the terms and conditions, and for the consideration set forth in the Agreement, a copy of which is attached hereto as Exhibit "1." A summary of the terms of the settlement is as follows:

Defendant will stipulate, for purpose of this settlement only, as follows:

- Certification of a settlement class ("Class" or "Class Members") for the purpose of settlement only: all current and former non-exempt employees of Defendant Bay Area Community Resources, Inc. ("Defendant") within the State of California at any time during the period from February 2, 2020, through December 31, 2025 ("Class Period").
- Defendant will pay $1,990,000.00 ("Gross Settlement Amount") to resolve the matter.
- For Mediation and Settlement, Defendant represented that there were 247,385 Workweeks worked between February 2, 2020 through October 7, 2025. In the event the number of Workweeks worked increased by more than ten percent (10%) between February 2, 2020 through October 7, 2025, (i.e., by more than 24,739 Workweeks worked for a total of 272,124 Workweeks), Defendant had the option to elect that one of the following occur: (1) either the Gross Settlement Amount shall be increased by the percentage increase above ten percent (10%) (e.g., by 2% if the percentage increase is 12%); or (2) the Class Period and PAGA Period (as well as the end date for the release period) will end on the date that the number of Workweeks worked by Class Members,

when starting from the first day of the Class Period, reaches 272,124 Workweeks worked by Class Members. The Workweek Value for this provision shall be calculated by dividing the Gross Settlement Amount by 247,385 and, thus, the Parties agreed that the Workweek Value amounts to $8.04 per Workweek ($1,990,000 / 247,385 Workweeks). Thus, for example, should Defendant elect the former of the two options, and there are 296,862 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by $198,893.52 ((296,862 Workweeks – 272,124 Workweeks) x $8.04 Workweek).

- In response to Plaintiffs' Motion for the Preliminary Approval Order, Defendant agrees to file a declaration estimating Workweeks by Class Members during the Class Period. Defendant represents that there are 260,703 total Workweeks through the end of the Class Period, and, thus, the Escalator Clause was not triggered.
- Defendant will pay the employer's share of taxes separate and apart from the Gross Settlement Amount.
- This is a non-reversionary settlement.
- Class Members will be paid their *pro rata* share of the class action settlement based on the total number of Workweeks worked during the Class Period.
- "Workweek" means any week during which a Class Member worked for Defendant, for at least one day during the Class Period and has recorded work time in Defendant's timekeeping system. The number of Workweeks for each Class Member will be calculated by determining the total number of hours that the Class Member worked during the Class Period and dividing by 40.
- The settlement administration costs, or Administration Expenses Payment, estimated not to exceed $51,500.00, will be paid out of the Gross Settlement Amount.
- Class Counsel, comprised of David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C. and James Hawkins of James Hawkins, APLC, may apply for, and Defendant will not oppose, attorneys' fees of not more than thirty-five percent (35%) of the Gross Settlement Amount, which, unless escalated pursuant to the Settlement

Agreement, amounts to $696,500.00, and actual costs, not to exceed $45,000.00, all of which will be paid out of the Gross Settlement Amount.

- Class Counsel will apply for, and Defendant will not oppose, a service award of not more than $10,000.00 to each Plaintiff, for an aggregate amount of $20,000 to Plaintiffs, which will be paid out of the Gross Settlement Amount.
- "PAGA Members" or "Aggrieved Employees" means all current and former non-exempt employees of Defendant Bay Area Community Resources, Inc. ("Defendant") within the State of California at any time during the period from February 2, 2023 through the end of the Class Period ("PAGA Period").
- Defendant has agreed to pay $200,000.00 as PAGA penalties, seventy-five percent (75%), or $150,000.00, of which will be paid to the LWDA out of the Gross Settlement Amount, and twenty-five percent (25%), or $50,000.00, of which will be distributed to the PAGA Members.
- 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 uncashed checks 50/50 to the following *cy pres* recipients and subject to Court approval as follows: fifty percent (50%) to Legal Aid at Work; and fifty percent (50%) to Koinonia Family Services for child advocacy programs in the State of California as permitted by Code of Civil Procedure section 384(b).

**Settlement Agreement and Accompanying Documents**

17. Attached hereto as Exhibit "1" is a true and correct copy of the Agreement fully executed by the Parties. Attached to the Agreement as Exhibit "A" thereto is the proposed Notice of Proposed Settlement ("Class Notice") to be distributed to Class Members in English and Spanish.

18. Class Counsel respectfully request that this Court approve the above-referenced Class Notice and dissemination of the Class Notice to the Class Members, consistent with the manner and timing as set forth in the Settlement Agreement. The Parties have agreed to use

Phoenix Settlement Administrators ("Phoenix" or "Administrator"), an experienced settlement administrator, to administer the settlement.

19. On or about November 13, 2026, my office submitted a copy of the Settlement Agreement to the LWDA in compliance with Labor Code section 2699 subdivision (l)(2). A true and correct copy of confirmation from the LWDA is attached hereto as Exhibit "3".

**The Settlement was Negotiated at Arms-Length and not Collusive**

20. The Settlement that has been reached, subject to this Court's approval, is a product of substantial efforts by the Parties and their counsel. The Settlement was reached after extensive factual and legal investigation and research; the exchange of informal discovery; substantial negotiation regarding the scope of informal discovery; exchange of documents and information that included review of time and pay records and analysis thereof with the aid of Plaintiffs and expert consultant; analysis of shifts and Workweeks worked by Class Members in the Class Period, analysis of the number of pay periods and number of Aggrieved Employees in the PAGA Period for calculating PAGA penalties, and analysis of the number of Class Members eligible for wage statement penalties and waiting time penalties; analysis of Defendant's financial ability to fund the settlement; an analysis of Plaintiffs' employment records; extensive correspondence and communication between counsel; a review of pleadings, evidence and rulings in similar actions litigated elsewhere in the state; a review of similar cases in the same industry elsewhere in the country; and preparation for and attendance at a full-day mediation, followed by further discussions and coordination to finalize the terms and conditions of the general settlement parameters agreed to by the Parties.

21. While Class Counsel believes in the chance of success of certifying the claims, Class Counsel recognized the potential risk, expense and complexity posed by further litigation. Moreover, litigating Plaintiffs' claims in this litigation—claims that involve approximately 4,719 Class Members during the Class Period—would require substantial preparation and discovery and ultimately would involve the deposition and presentation of numerous more witnesses (including Class Members and expert witnesses), as well as the consideration, preparation and analysis of expert reports. Therefore, should litigation have progressed any further, there would have been

significant expense incurred by each side (above and beyond the expense already incurred).

**The Settlement Amount is Well Within the Range of Reasonableness**

22. The settlement amount reached in this case provides significant recovery to Class Members and PAGA Members and easily falls within the range of reasonableness. Based on documents and information provided by Defendant, Class Counsel understand there are approximately 4,719 Class Members who worked 260,703 Workweeks during the Class Period.

**Unpaid Wages for Failure to Pay Wages for All Time Worked**

23. Class Counsel theorized, based on Plaintiffs' narrative evidence and documents produced by Defendant, that Defendant failed to pay all wages due to Class Members because Defendant required Class Members to work off-the-clock. Defendant maintained an impermissible rounding practice of rounding Class Members' time entries to the nearest quarter hour, ultimately resulting in unrecorded and unpaid time worked by Class Members. Class Counsel also theorized, based on Plaintiffs' narrative evidence and Defendant's records, that Defendant's time records were synthetic, or false, and did not accurately track Class Members' time worked based on the above practices. Additionally, Class Counsel further theorized and alleged based on Plaintiffs' narrative evidence and documents produced by Defendant, that Class Members were not paid all reporting time pay owed, nor were Plaintiffs and the Class Members paid sick pay at the proper regular rate of pay.

24. One theory advanced by Class Counsel alleged, based on Plaintiffs' narrative evidence, that Class Members worked off-the-clock for approximately three (3) minutes each shift throughout the Class Period, without pay. Class Counsel understand, based on time and payroll records produced by Defendant and analysis thereof by expert data consultants retained by Class Counsel, that there were approximately 1,049,866 shifts during the Class Period, 2.8% of which were over eight (8) hours in length, and Class Members had an average hourly rate of pay of $23.18. Thus, one calculation performed by Class Counsel at mediation resulted in Defendant's exposure for unpaid off-the-clock work in an approximate amount of **$2,416,554.26** ([1,049,866 shifts x 0.028 shifts over eight hours x 0.05 hours x $23.18 x 1.5 overtime rate] + [1,049,866 shifts x 0.972 shifts under eight hours x 0.05 hours x $23.18 x 2 in liquidated damages]).

25. Class Counsel understand that Defendant denies these contentions and makes the following defenses in connection with this claim: Defendant contends that their policies specifically prohibit off-the-clock work. Defendant contends that they did not require Class Members to work off-the-clock, they were paid for all time suffered or permitted to work. Defendant asserts that it has not rounded time entries in a manner detrimental to the Class Members' interest. Defendant further contends that any allegations that Class Members were required to be under Defendant's control off-the-clock would necessitate an individualized inquiry into when and why, making this claim not subject to class treatment and any trial in this litigation unmanageable. Additionally, Defendant contends that no damages can be recovered here, and, even if, *arguendo*, they could, an estimate of three (3) minutes of unpaid work off-the-clock of Class Members for *every single shift* during the Class Period is an exaggeration of time spent working off-the-clock if *any* such time was spent. Thus, Defendant contends that no monies are owed under this theory.

**Recovery of Damages for Non-Compliant Meal Periods**

26. Class Counsel theorized and alleged that Defendant's meal period policies and practices were non-compliant based on Plaintiffs' narrative evidence and documents produced by Defendant's. Class Counsel theorized that the Class Members reported that meal periods were regularly taken *after* the end of the *fifth* hour of work and are, thus, facially violative of California law. Class Counsel further theorized and alleged that during shifts where meal periods were recorded, Class Members did not receive full thirty (30) minute meal periods. Class Counsel also theorized that many meal periods were synthetic, or fictional because they rounded to exactly thirty (30) minutes. Based on Defendant's records, there were approximately 11,511 meal period premiums paid.

27. Class Counsel theorized that there are approximately 126,223 unique meal period violations (*i.e.* meal periods that were missed, short, or were exactly 30 minutes in length). Thus, one calculation performed by Class Counsel at mediation resulted in **Defendant's exposure for failure to provide compliant meal periods in a conservative amount of $2,659,024** [(126,223 shifts – 11,511 meal period premiums) x 23.01/hour].

28. Class Counsel understands that Defendant makes the following defenses in

connection with this claim: Defendant argued that they had compliant meal period policies and practices. Defendant argued that Class Members took timely and full meal periods, as they were required to do. Defendant further contends that any instance of a Class Member failing to take a compliant meal period was voluntary, in violation of their meal period policy, would necessitate an individualized inquiry and would not lend itself to a manageable trial. Further, Defendant argued that Class Members signed meal break waivers. Thus, Defendant contends that *no* monies are owed for this account but, even if any amounts were due, the amount calculated by Class Counsel is excessive.

**Recovery of Damages for Non-Compliant Rest Periods**

29. Class Counsel theorized, based on Plaintiff's narrative evidence and documents produced by Defendant, that Defendant's meal period policies and practices throughout the Class Period were non-compliant, as they were either late, short, or missed entirely, due to Defendant's policies and practices that prevented employees from being able to take compliant rest breaks during shifts. Class Counsel theorized that Defendant's policies were non-compliant because they did not relinquish control over Class Members or allow employees to leave the premises during rest breaks. Moreover, Class Counsel also theorized, based on Plaintiff's narrative evidence, the Class Members seldom received duty-free rest breaks.

30. Class Counsel understand from the documents provided by Defendant that there were 916,113 rest-eligible shifts. Thus, one calculation performed by Class Counsel at mediation resulted in, assuming a twenty percent (20%) violation rate, **Defendant's exposure for failure to provide compliant rest periods in a conservative amount of $4,247,100** (916,113 shifts x 0.2 violation rate x $23.18/hour).

31. Class Counsel understand that Defendant denies all such allegations and makes the following defenses in connection with this claim: Defendant argues that it had compliant rest period policies and practices and its policy requires employees to take timely and full duty-free rest periods, or received the required rest period premium for each instance of rest period violations, if any. Defendant further contends that any instance of a Class Member failing to take a compliant rest period was voluntary, in violation of their rest period policy, would necessitate

an individualized inquiry and would not lend itself to a manageable trial. Finally, Defendant contends that a twenty percent (20%) violation rate is a wild exaggeration of non-compliant rest periods, if there were any. Thus, Defendant contends that no monies are owed for this account but, even if any amounts were due, the amount calculated by Class Counsel is excessive.

**Wage Statement Violations**

32. Class Counsel theorized and alleged that Class Members are entitled to recover penalties for Defendant's alleged failure to issue compliant wage statements under Labor Code section 226, subdivision (e), for the derivative impact of the failure to pay all wages owed on providing accurate information on wage statements. Specifically, Class Counsel theorized that penalties are owed under Labor Code section 226 due to, at minimum, Defendant's failure to pay premium wages. A non-exempt employee suffering injury as a result of a knowing and intentional failure by an employer to comply with Labor Code section 226, subdivision (a), is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period. Class Counsel understand from the data provided by Defendant that there were 66,647 pay periods during the relevant statutory time period for Class Members. If, in fact, Class Members worked off-the-clock every shift as set forth above, and no rest premiums were paid, every wage statement would thus, Class Counsel theorized, violate Labor Code section 226. However, due to the derivative nature of wage statement penalties, as well as the requirement that Defendant's failure to comply with Labor Code section 226 be knowing and intentional, one calculation performed by Class Counsel at mediation, based on the initial penalty of fifty dollars ($50) in light of Defendant's defenses, with a twenty percent (20%) violation rate, resulted in **Defendant's maximum exposure for wage statement violations in the amount of $666,470** (66,647 pay periods x $50/pay period x 0.20 violation rate).

33. Class Counsel understand that Defendant makes the following defenses in connection with this claim: Defendant contends that the wage statements issued to the employees fully complied with Labor Code section 226. Defendant contends that because it believes no wages are unpaid that, thus, there can be no derivative penalties. However, Class Counsel also

understand the risks inherent in this claim if the above claims were not certified. Class Counsel also had to factor in, and did factor in, the risk that the Court would find there was no injury to Class Members even if the wage statements were inaccurate or that Defendant's conduct was not intentional, both of which are requirements of Labor Code section 226 before penalties can issue. Class Counsel also note that the calculation used does not take into account the fact that all Class Members did not work all pay periods and, therefore, Class Counsels' calculation does not take into account the maximum penalty of $4,000 in Plaintiffs' exposure model used at mediation.

**Waiting Time Penalties**

34. Pursuant to Labor Code sections 201, 202 and 203, each employee in the relevant statutory period (*i.e.*, three years before the filing of the initial Complaint) is entitled to thirty (30) days' worth of wages as waiting time penalty for not being paid all wages due upon separation from employment. Class Counsel theorized at mediation, based on relevant documents provided by Defendant, that, under Labor Code section 203, Defendant is liable to pay each Class Member, who was terminated during the relevant statutory period, a full 30-day worth of wages as waiting time penalty for failure to pay compensation in lieu of compliant meal and rest periods, and failure to timely pay all wages due at the time of termination or resignation.

35. Based on relevant documents provided by Defendant, there were approximately 2,971 Class Members who were terminated or resigned during the relevant statutory period. Thus, one calculation performed by Class Counsel, assuming a twenty percent (20%) violation rate, resulted in **Defendant's exposure for waiting time penalties to be approximately $3,305,653.44** (2,971 separated Class Members x $23.18/hour x 8 hours x 30 days x 0.2 violation rate).

36. Class Counsel understand that Defendant contends there is no credence to Plaintiffs' off-the-clock theory and that, thus, no waiting time penalties are owed based on that theory. Finally, Defendant contends that its actions were not "willful" and that, thus, waiting time penalties cannot be awarded. Thus, Defendant argued that *no* waiting time penalties are owed.

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**Failure to Reimburse Work Expenses**

37. Class Counsel theorized and alleged, based on Plaintiffs' narrative evidence, that Defendant failed to indemnify Class Members for necessary business expenses because Defendant required Class Members to use their personal cellphones for work-related purposes, such as for calling vendors; to notify parents of children of illness, absence, injuries, or closures of the program; and using applications for classroom instruction. Thus, Class Counsel theorized that employees were entitled to an estimated $25.00 reimbursement for cellphone costs per month ($12.50 per biweekly Pay Period).

38. Class Counsel theorized, based on documents produced by Defendant and analysis thereof by expert data consultants retained by Class Counsel, that there were approximately 66,647 Pay Periods throughout the Class Period. Thus, one calculation performed by Class Counsel resulted in **Defendant's exposure for failure to indemnify for business expenses of $833,088** (66,647 pay periods x $12.50).

39. Class Counsel understand that Defendant argued the following: Defendant argued that it reimbursed employees for all expenses incurred in furtherance of work. Defendant also argued that Class Members were using their cellphones, for personal use and Defendant has no obligation to reimburse Class Members for such use. Thus, Defendant contends that it owes *no* monies to Class Members under this theory, either.

**PAGA Penalties**

40. Class Counsel understand from the time and payroll data provided by Defendant that there are approximately 2,824 Aggrieved Employees who collectively worked 66,647 pay periods in the PAGA Period. Plaintiffs' claims in the Action under PAGA are substantially similar to those described herein. PAGA penalties include penalties for initial violations and subsequent violations. Defendant contends that only initial violation rates may be used instead of the subsequent violation rates initially used by Class Counsel. With this in mind and because Class Counsel through investigation and discovery did not come to the conclusion that Defendant at any time was notified by any governmental entity that they violated any Labor Code sections presented in the PAGA Notice and PAGA claims, Class Counsel adjusted the exposure model for Defendant

to include only initial violation rates.

41. While Class Counsel are informed and believe that reasonable minds differ with regard to calculation of PAGA penalties, Class Counsel believe it is reasonable to calculate Defendant's alleged maximum exposure in PAGA penalties as follows:

42. Overtime Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations, and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $3,332,350 (66,647 pay periods x $50).

43. Minimum Wage Violations: Labor Code section 1197.1 prescribes penalties of $100 for an initial violation and $250 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single Aggrieved Employee in the PAGA Period, this amounts to a maximum exposure of $6,664,700 (66,647 pay periods x $100).

44. Meal Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $3,332,350 (66,647 pay periods x $50).

45. Rest Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations and a violation every single pay period for every single non-exempt employee in the PAGA Period, this amounts to a maximum exposure of $3,332,350 (66,647 pay periods x $50).

46. Wage Statement Violations: According to *Gunther v. Alaska Airlines, Inc.* (2021) 287 Cal.Rptr.3d 229, in this instance, Labor Code section 2699 would be the appropriate penalty for wage statement violations that are inaccurate, which prescribes penalties of $100 for an initial violation and $200 for each subsequent violation (*Id.* at 247-248). Using the initial pay period rate for all violations and a violation every single pay period for every single Aggrieved Employee in the PAGA Period, this amounts to a maximum exposure of $6,664,700 (66,647 pay periods x $100).

47. Waiting Time Penalties: Labor Code section 2699 prescribes penalties of $100 for an initial violation and $200 for each subsequent violation. Because this violation is merited only at separation of employment, a one hundred percent (100%) violation rate would likely include just one violation per employee. The data produced by Defendant indicate that there were 1,713 Aggrieved Employees whose employment was separated during the PAGA Period. This amounts to a maximum exposure of $171,300 (1,713 Separated Aggrieved Employees x $100).

48. Failure to Reimburse Work Expenses: Labor Code section 2699 would be the appropriate penalty for failure to reimburse work expenses, which prescribes penalties of $100 for an initial violation and $200 for each subsequent violation. Using *only* the initial pay penalty of $100 for all violations, and a violation every pay period for each Aggrieved Employee in the PAGA Period, this amounts to exposure of $6,664,700 (66,647 pay periods x $100).

49. Conclusion: In sum, Class Counsel calculated Defendant's total maximum exposure for PAGA violations if the Court were to find a one hundred percent (100%) violation rate for every Aggrieved Employee every pay period and not exercise its discretion to reduce any of those penalties to be **$30,162,450**. Class Counsel understand from the mediator and the mediation process that Defendant argued the following in connection with this claim: Defendant contends that no PAGA penalties are likely to be awarded and, even if they were, the maximum exposure calculated by Class Counsel is vastly overstated. First, Defendant defends that PAGA penalties cannot and should not be stacked. Second, Defendant asserts that individualized issues predominate the PAGA claims, making the claims unmanageable for trial. Third, Defendant denies that a violation for each pay period can be established. Fourth, Defendant contends that a Court is unlikely to exercise its discretion to award civil penalties under PAGA where, as here, there is no conduct shown by Plaintiffs that would show any Labor Code violation by Defendant is knowing and intentional. Defendant insists that this is especially true in this Action where class action damages are available to Class Members, rendering an award of PAGA penalties in addition to class action damages to be double recovery.

50. Class Counsel maintain that it is possible to recover the subsequent violation rate for penalties, that stacking is permissible, and that there is no manageability requirement under

PAGA (citing *Estrada v. Royalty Carpet Mills, Inc.*). As such, Class Counsel believes a ninety-five percent (95%) discount of this claim to be reasonable, resulting in a valuation of **$1,508,123** as a reasonable estimate of the likelihood of what Plaintiffs may recover at trial for PAGA penalties ($30,162,450 x 0.05). See *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (upholding trial court 90% reduction of maximum penalties, from $50 to $5 per initial violation).

**Conclusion**

51. When including derivative penalties, such as waiting time penalties, wage statement violations, and discretionary PAGA penalties, Class Counsel theorized Defendant's maximum exposure to be approximately **$15,636,012**. In all, Class Counsel obtained a Gross Settlement Amount of **$1,990,000.00**. Particularly in light of the risks involving obstacles to class certification, all issues and risks related to liability, the issues with manageability at trial, the discretionary nature of PAGA penalties, and considering the case law regarding fair, reasonable and adequate settlements, Class Counsel strongly believe that the settlement reached is fair, reasonable and adequate, and in the best interest of Class Members.

52. Moreover, $200,000.00 of the Gross Settlement Amount was attributed to PAGA penalties. This allocation was decided mutually by the Parties and the mutual decision was based on: (1) the fact that damages are available for the failure to pay wage claims while only penalties are available for the PAGA claims; (2) the risk that the Court may exercise its discretion to decline to stack PAGA penalties; (3) the risk that the Court may exercise its discretion to not award the full amount of PAGA penalties available; and (4) the risk that the Court may decline to award any PAGA penalties at all in light of the fact that damages are available for Class Members and it may find any further liability against Defendant unnecessarily punitive.

**The Proposed Attorneys' Fees and Costs are Reasonable**

53. Class Counsel seeks an attorneys' fees award of not more than thirty-five percent (35%) of the Gross Settlement Amount, which, unless escalated pursuant to this Agreement, would amount to $696,500.00. Class Counsel also seek reimbursement of costs not to exceed $45,000.00.

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54. I believe the requested fees fall well within the historical range of attorneys' fees awards under the common fund theory, which is generally 25% to 50%. I believe the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a contingent fee basis. I am informed and believe that the attorneys' fees will not be opposed by Defendant.

**The Requested Enhancement Award to the Named Plaintiffs and Class Representatives are Reasonable**

55. I believe Plaintiffs are entitled to enhanced awards for their service as Class Representatives, including, but not limited to, answering extensive questions from Class Counsel, remaining available to answer questions during a full-day mediation, for assuming risks in serving as the named Plaintiffs and for providing Defendant with more expansive releases of claims, including a waiver based upon California Civil Code section 1542, in exchange for the requested enhancement awards. I am informed and believe that that Defendant does not oppose the requested enhancement awards to Plaintiffs.

**Conditional Certification for Settlement Purposes**

**Ascertainability**

56. The Class Members definition (*i.e.*, all current and former non-exempt employees of Defendant within the State of California at any time during the Class Period) is derived from the Operative Complaint. Based solely on Defendant's payroll records, which amount to approximately 4,719 persons.

**Numerosity**

57. Class Counsel understand from documents provided that Defendant identified at least 4,719 Class Members.

**Commonality**

58. Class Counsel believe this litigation is brought to resolve common issues that include whether Defendant failed to pay for all hours worked; whether Defendant provided full, timely and un-interrupted meal and rest periods; whether Class Members are entitled to premium pay for incomplete, untimely or interrupted meal or rest periods, among other claims as set forth above.

**Typicality**

59. Class Counsel believes Plaintiffs' claims are typical of those of other Class Members as Plaintiffs: (1) were non-exempt, hourly paid employees like other Class Members; (2) complain of not being paid for all time under Defendant's control or suffered and/or permitted to work for Defendant; (3) did not receive premium pay for meal periods that were not compliant with the Labor Code; and (4) did not receive premium pay for rest periods that were not provided, among others as set forth above.

**Adequacy of Keaton D. Mendoza**

60. I graduated with a Bachelor of Science degree in Business Administration from San Diego State University in 2011.

61. I received my Juris Doctorate from California Western School of Law in 2016.

62. From 2018 to 2022, I practiced law in the General Counsel's office for Adventist Health, handling labor and employment matters for the health system, specifically in harassment, discrimination, retaliation, and wage and hour matters.

63. From 2023 through 2026, I practiced law as an attorney for Lewis Brisbois Bisgaard & Smith handling general liability defendant-side litigation.

64. Thereafter, I joined Bibiyan Law Group, P.C., practicing law on behalf of plaintiffs in matters of employment law, and specifically on issues of unpaid wages and class action settlements. Among other tasks, I oversee and manage class action and PAGA action settlements at Bibiyan Law Group, P.C. I have led settlement negotiations and the approval process for class action and PAGA settlements, including some of those set forth in the declaration of David D. Bibiyan, filed concurrently with this declaration.

**Adequacy of Plaintiffs**

65. Class Counsel believe no conflicts, disabling or otherwise, exists between Plaintiffs and Class Members because Plaintiffs allege to have been damaged by the same alleged conduct of Defendant (*i.e.*, Plaintiffs are classified as non-exempt, hourly paid employees, not paid premium pay, etc.) and thus have the incentive to fairly represent all Class Members' claims to achieve the maximum possible recovery.

**Conclusion**

66. Class Counsel believe this wage and hour class action is a superior vehicle for resolution of the issues it seeks to resolve. It deals with common issues that are most efficiently adjudicated together, as indicated above. Moreover, with at least 4,719 Class Members, presentation of all of them before this Court may be problematic, impractical, and burdensome.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct this November 13, 2026, at Los Angeles, California.

*/s/ Keaton D. Mendoza*
Keaton D. Mendoza