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ADOLFO LOZOYA RAMIREZ, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT

(UNLIMITED JURISDICTION)

ADOLFO LOZOYA RAMIREZ, as an
“aggrieved employee” on behalf of himself
and other similarly situated “aggrieved
employees” under the Labor Code Private
Attorneys General Act of 2004,

Plaintiff,

vs.

BEMUS LANDSCAPE, INC., a California
corporation; and DOES 1 to 25, inclusive,

Defendants.

Case No.: 24STCV08944

**DECLARATION OF MARALLE
MESSRELIAN IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

Action filed: April 9, 2024

Hearing Date: December 10, 2025

Hearing Time: 8:30 a.m.

Hearing Dept: 19, Hon. Doreen B. Boxer

Reservation Number: 485399138207

**DECLARATION OF MARALLE MESSRELIAN IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION FOR APPROVAL OF PAGA SETTLEMENT**

I, MARALLE MESSRELIAN, declare and state as follows:

1. I am an attorney duly licensed to practice before all the Courts of the State of California. I am the managing attorney of MM Law, APC and the attorney of record for Adolfo Lozoya Ramirez (individually, “Ramirez” or “Plaintiff”) in his lawsuit against Defendant Bemus Landscape, Inc. (“BEMUS” or “Defendant”).

2. Except as otherwise indicated, I have personal knowledge of all matters set forth herein and, if called as a witness, could and would competently testify thereto under oath.

3. A true and correct copy of the “Stipulation and Agreement For PAGA Representative Action Settlement” (the “Agreement”, “Settlement, or “Settlement Agreement”) is attached hereto as **Exhibit 1**.

4. A true and correct copy of the PAGA Settlement Notice to the below-defined Aggrieved Employees is attached hereto as **Exhibit 2**.

Factual and Procedural Background

5. BEMUS first began to employ Plaintiff as a driver and laborer in or around September 2023. Plaintiff’s employment ended on or around January 19, 2024.

6. Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, et seq. (“PAGA”). On February 1, 2024, Plaintiff, on behalf of himself and BEMUS’s other California non-exempt hourly employees (hereafter collectively the “Aggrieved Employees”) gave written notice by electronic service to the California Labor and Workforce Development Agency (“LWDA”) and via certified mail to Defendant of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. The specific provisions alleged to have been violated in the PAGA notice letter included Labor Code sections §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, 2350, 2802, and IWC Wage Order No. 5-2001. A true and correct copy of Plaintiff’s letter to the LWDA is attached hereto as **Exhibit 3**.

1 7. On April 9, 2024, Plaintiff filed a representative lawsuit with a single cause of
2 action for recovery of civil penalties against Defendant in the Los Angeles County Superior
3 Court (the “Lawsuit”) pursuant to PAGA based on the same allegations set forth in his LWDA
4 letter. Specifically, Plaintiff alleged that Defendant had 1) failed to pay him and the Aggrieved
5 Employees all wages earned for all hours worked at the correct rates of pay; 2) failed to provide
6 meal periods or pay correctly-calculated premium wages in lieu thereof; 3) failed to authorize
7 and permit rest periods or pay correctly-calculated premium wages in lieu thereof; 4) failed to
8 issue only accurate and complete itemized wage statements; 5) failed to timely pay wages during
9 and upon separation from employment; and 6) failed to maintain accurate employment records.
10 A true and correct copy of Plaintiff’s Lawsuit is attached hereto as **Exhibit 4**. In response to
11 Plaintiff’s assertions, Defendant filed its Answer on June 6, 2024. A true and correct copy of
12 Defendant’s Answer to Plaintiff’s Complaint filed on June 6, 2024 is attached as **Exhibit 5**.

13 8. The parties met and conferred and agreed that it may be in their mutual interests
14 to discuss Plaintiff’s allegations informally, rather than through litigation, and scheduled private
15 mediation to resolve the representative PAGA claim and Plaintiff’s individual claims. Upon
16 mutual agreement of the parties, on July 2, 2025, the parties participated in a full-day mediation
17 session with professional neutral Kevin Barnes.

18 9. A settlement was not reached at the initial mediation session on July 2nd.
19 However, settlement discussions continued through the mediator in the following weeks, and
20 on July 21, 2025, the parties reached a settlement in principle by mutually agreeing to a
21 mediator’s proposal. At all times, the negotiations were adversarial and contentious, although
22 still professional in nature. Before reaching a settlement, the Parties engaged in substantial
23 informal discovery regarding BEMUS’s policies, practices, operations, time and payroll
24 information and other topics. In advance of mediation, Defendant provided Plaintiff’s counsel
25 with information and documents relating to other Aggrieved Employees, including timekeeping
26 and payroll data. Through extensive, arm’s length negotiations at the mediation and continuing
27 settlement discussions thereafter, and only after discovery and investigation were performed,
28 the parties agreed to settlement terms. Now that the parties have finalized the PAGA Settlement,

1 Plaintiff submits the Settlement to this Court for review and approval.

2 10. Throughout the Lawsuit and as reflected in the Settlement Agreement, Defendant
3 has vigorously disputed and denied any liability or wrongdoing of any kind whatsoever
4 associated with the lawsuit and maintained that Defendant elected to enter to the Settlement to
5 avoid the burden and expense of continued litigation in connection with the Action. As provided
6 in the Settlement, the parties wish to fully, finally, and forever compromise, and discharge all
7 claims known or unknown related to those alleged in Plaintiff's lawsuit.

8 11. Counsel for the parties further investigated the applicable law as applied to the
9 facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code violations
10 claimed by Plaintiff. I am experienced in prosecuting PAGA lawsuits. Counsel for the Defendant
11 are experienced in defending PAGA cases. Based on the parties' own independent investigations
12 and evaluations, the parties and their respective counsel are of the opinion that the Settlement for
13 the consideration and on the terms set forth in the Agreement are fair, reasonable and adequate
14 and are in the best interests of Plaintiff, the Aggrieved Employees, the State, and Defendant in
15 light of all known facts and circumstances and the risks inherent in litigation.

16 12. The Settlement of a PAGA claim requires court approval. Lab. Code §2699(s)(2).
17 The Court necessarily has broad discretion in making the decision to approve or reject a
18 settlement for civil penalties as the statutory scheme authorizes the Court to determine whether,
19 in certain circumstances, penalties should be assessed and, if so assessed, the appropriate amount
20 of penalties based on the facts and circumstances of the particular case. Although the PAGA
21 does not set forth the particular standards against which a PAGA settlement should be evaluated,
22 the LWDA has provided guidance for approval that mirrors the standards for evaluating class
23 action settlements.

24 13. PAGA imposes two requirements for the settlement of a PAGA claim. Both are
25 met here. First, any civil penalties recovered, whether by judgment or settlement, must be
26 distributed as follows: for PAGA notices filed on or before June 19, 2024 (as applies here), 75
27 percent to the LWDA, and the remaining 25 percent to the aggrieved employees. *See Moorer v.*
28 *Noble L.A. Events, Inc.* (2019) 32 Cal.App.5th 736, 742; Cal. Lab. Code, § 2699(i). The parties'

1 Settlement so provides (*See Exhibit 1*). Second, the LWDA must be given notice of the
2 settlement so that it may be heard before the Court decides whether to grant approval. Cal. Lab.
3 Code § 2699(s)(2). Here, notice is being given to the LWDA concurrently with the filing of this
4 motion. A true and correct copy of Plaintiff's submission with the LWDA and a confirmation
5 email is attached as **Exhibit 8**. As a result, Plaintiff has met all procedural statutory requirements
6 for settling a PAGA action.

7 *Background of Counsel*

8 14. In 2003, I earned a Bachelor of Science degree with a major in Accounting
9 from Cal State University, Northridge. In 2017, I earned a Juris Doctor degree from
10 Southwestern University School of Law.

11 15. In December of 2017, the Supreme Court for the State of California admitted me
12 as an Attorney and Counselor at Law and licensed me to practice law in all the Courts of this
13 State.

14 16. I am experienced in handling employment law matters and specifically wage and
15 hour cases. I have been practicing law since 2017. My experience has been almost exclusively
16 in the area of employment law representing employees with claims of wrongful termination,
17 harassment, whistleblower retaliation, discrimination, wage and hour, and family and medical
18 leave violations. I am a member of the California Employment Lawyers Association (CELA).

19 17. In my representation of employees, I have prosecuted several lawsuits on behalf
20 of employees with claims of rest and meal period and overtime violations or other wage claims.

21 18. I have been involved in the prosecution of numerous wage and hour class and
22 representative actions at various stages of litigation. A small sampling of the wage and hour
23 class and representative action cases in which I have been counsel of record is as follows:

24 a) *Joshua Silva v. Payo Laboratories, Inc., et al.*, San Luis Obispo County
25 Superior Court, Case No. 19CV-0689 (appointed Class Counsel and granted final approval of
26 class action settlement by the court).

27 b) *Mervin Perkins v. CC Venice, LLC, et al.*, Los Angeles Superior Court, Case
28 No. BC703660 (appointed Class Counsel and granted final approval of class action settlement

1 by the court).

2 c) *Jashar Bryant v. Pinnacle Cabling & Construction, Inc., et al.*, Orange
3 County Superior Court, Case No. 30-2020-01123094-CU-OE-CXC (appointed Class Counsel
4 and granted final approval of class action settlement by the court).

5 d) *Collins v. Spa Products Import & Distribution Co., LLC*, et al., Los Angeles
6 County Superior Court, Case No. 19STCV10586 (granted final approval of class action
7 settlement by the court)

8 e) *Sabrina Slater v. Avalon Care Center – Sonora, L.L.C., et al.*, Tuolumne
9 County Superior Court, Case No. CV62006 (granted final approval of class action settlement by
10 the court)

11 f) *Violet Avalos v. Smithcare Incorporated, et al.*, Tulare County Superior
12 Court, Case No. VCU272975 (granted final approval of class action settlement by the court)

13 g) *David Contreras v. HTX Services LLC, et al.*, Los Angeles County Superior
14 Court, Case No. 19STCV43405 (granted final approval of class action settlement by the court)

15 h) *Devin Cherry v. LA Corral Three, Inc., et al.*, Kern County Superior Court,
16 Case No., BCV-18-101817-DRL (granted final approval of class action settlement by the court)

17 i) *Vikki Curl and Anthony J. Gratton v. Reel Security Corp., et al.*, Los Angeles
18 County Superior Court, Case No. 18STCV09302 (granted final approval of class action
19 settlement by the court)

20 j) *Corrine Lashbrook and Joshua Sweat v. Andy's BP, Inc., et al.*, San Mateo
21 County Superior Court, Case No. 19CIV02344 (granted final approval of class action settlement
22 by the court)

23 k) *Stephen Aguirre and Christopher Walls v. Anlin Industries*, Fresno County
24 Superior Court, Case No. 17CECG04326 (order and judgment approving PAGA settlement by
25 the court)

26 l) *Rebecca Mallory v. Odyssey Healthcare Operating A, L.P.*, Kern County
27 Superior Court, Case No. BCV-19-102735 (order and judgment approving PAGA settlement by
28 the court)

1 m) *Wendy Chavez v. Texas De Brazil (Fresno) Corporation, et al.*, Fresno
2 County Superior Court, Case No. 19CECG04249 (order and judgment approving PAGA
3 settlement by the court)

4 n) *Kevin Littleton v. Lincoln Military Property Management LP.*, San Diego
5 County Superior Court, Case No. 37-2018-00061799-CU-OE-NC (order and judgment
6 approving PAGA settlement by the court)

7 o) *Krystal Thomas v. Choice Physicians Network, Inc., et al.*, San Bernardino
8 County Superior Court, Case No. CIVDS2013964 (order and judgment approving PAGA
9 settlement by the court)

10 p) *Otina Sengvong v. Probuild Company, LLC, et al.*, United States District
11 Court, Southern District of California, Case No. 3:19-cv-02231-MMA (JLB) (granted final
12 approval of class action settlement by the court)

13 q) *Orland Perez Avalos v. Milagros Restaurant LLC, et al.*, San Mateo County
14 Superior Court, Case No. 22-CIV-01222 (order and judgment approving PAGA settlement by
15 the court)

16 r) *David Xiqui Vasquez v. The Province LLC, et al.*, Santa Clara County
17 Superior Court, Case No. 22CV397541 (order and judgment approving PAGA settlement by
18 the court)

19 s) *Manuel Melendrez v. Clean Auto Inc., et al.*, San Mateo County Superior
20 Court, Case No. 22CIV01967 (order and judgment approving PAGA settlement by the court)

21 t) *Arturo Vera Lopez v. Green Valley Landscape, et al.*, Monterey County
22 Superior Court, Case No. 22CV003751 (order and judgment approving PAGA settlement by
23 the court)

24 u) *Erasmus Gomez v. A-I Jay's Machining, Inc., et al.*, Santa Clara County
25 Superior Court, Case No. 22CV394795 (order and judgment approving PAGA settlement by
26 the court)

27 v) *Iris Rodriguez v. Facility Masters, Inc.*, Santa Clara County Superior Court,
28 Case No. 23CV423999 (order and judgment approving PAGA settlement by the court)

1 w) *Mariana Ruelas v. Vista La Mesa Senior Living, Inc., et al.*, San Diego
2 Superior Court, Case No. 37-2023-00050755-CU-OE-CTL (order and judgment approving
3 PAGA settlement by the court).

4 x) *Jose Angel Lopez v. Moreno & Associates, Inc., et al.*, Santa Clara Superior
5 Court, Case No. 23CV422622 (order and judgment approving PAGA settlement by the court).

6 y) *Irma Tapia v. Posada Associates, et al.*, Santa Cruz Superior Court, Case No.
7 23CV00355 (order and judgment approving PAGA settlement by the court).

8 z) *Andres Ibarra v. Stadco, et al.* Los Angeles Superior Court, Case No.
9 23STCV26591 (order and judgment approving PAGA settlement by the court).

10 aa) *Alfredo Betancourt v. L3 Technologies, Inc.*, San Mateo County Superior
11 Court, Case no. 23-CIV-05704 (appointed Class Counsel and granted final approval of class
12 action settlement by the court).

13 bb) *Eduardo Martinez Guizar v. Air Culinaire Worldwide, LLC*, Santa Clara
14 County Superior Court, Case No. 23CV415879 (order and judgment approving PAGA
15 settlement by the court).

16 cc) *Jesse Altamirano v. Weber Metals, Inc.*, Los Angeles Superior Court, Case
17 No. 24STCV05326 (order and judgment approving PAGA settlement by the court).

18 dd) *Noriell Hoff v. Anthem Mechanical, et al.*, Riverside County
19 Superior Court, Case No. CVRI2401199 (order and judgment approving PAGA settlement by
20 the court).

21 ee) *Lukas Javier v. Hyatt Corporation dba The Seabird*, San Diego County
22 Superior Court, Case No. 37-2024-00018273-CU-OE-NC (order and judgment approving
23 PAGA settlement by the court).

24 ff) *Nathalie Barcenas v. El Toro Meat Shop*, Orange County Superior Court,
25 Case No. 30-2023-01351414-CU-OE-CXC (order and judgment approving PAGA settlement
26 by the court).

27 gg) *Ruben Ortiz Salgado v. Bob Baffert Racing, Inc.*, Los Angeles County
28 Superior Court, Case No. 24STCV00686 (appointed Class Counsel and granted final approval
of class action settlement by the court).

hh) *Edgar Herrera v. Environmental Remedies, Inc., et al.*, Alameda County

1 Superior Court, Case No. 24CV092901 (order and judgment approving PAGA settlement by
2 the court).

3 ii) *Sahid Irad Magana Segura v. DWH Restaurants, Inc., et al.*, Santa Clara
4 County Superior Court, Case No. 24CV428664 (order and judgment approving PAGA
5 settlement by the court).

6 *Exposure and Risk Analysis*

7 19. Here, the PAGA Settlement warrants a presumption of fairness for several
8 reasons: (1) The parties reached the Settlement through arm's-length bargaining with the aid of
9 a respected mediator; (2) The parties conducted sufficient investigation and discovery to allow
10 Counsel and the Court to act intelligently. Plaintiff requested and Defendant provided the number
11 Aggrieved Employees, the number of total pay periods during the PAGA Period, all policies in
12 effect during the PAGA Period, and anonymized payroll and time punch data for all of its
13 California non-exempt employees for the relevant period; and (3) Counsel for the parties are
14 experienced with PAGA cases. Moreover, neither Plaintiff nor Plaintiff's Counsel have any
15 conflicts of interest with the absent allegedly Aggrieved Employees and there are no issues of
16 ascertainability.

17 20. Plaintiff's counsel considered various sources of information in the lead-up to
18 the mediation of July 2, 2025 that enabled Plaintiff to achieve the Settlement at issue. Among
19 other things, Plaintiff considered the following:

- 20 • Defendant produced and Plaintiff's counsel reviewed Plaintiff's personnel file.
- 21 • Plaintiff requested that Defendant provide any and all policies regarding overtime and
22 double-time wages, off the clock work, expense reimbursement, meal periods, rest
23 breaks, meal period waivers and agreements, compensation plans, and complaints about
24 working conditions in effect during the relevant time period beginning in February of
25 2023. Defendant produced those policies as part of their employee handbook.
- 26 • Plaintiff requested that Defendant provide the total number of employees, paychecks,
27 and the pay cycles during the relevant period. Defendant provided the answers to each
28 of these questions.
- The parties agreed to a 10% sampling of time and payroll records. Defendant provided
anonymized payroll and time punch data for approximately 80 of its non-exempt
employees during the relevant time period.

- Plaintiff retained a professional data analyst, James Toney, to examine the records and determine the meal and rest period violation rates, if there was any pay discrepancy in timesheet hours versus paid hours, and if there was any rounding/time shaving issues. If necessary, Plaintiff is prepared to provide the Court with the data analysis for *in camera* inspection upon its request.
- Plaintiff analyzed the state of caselaw on PAGA claims, meal and rest break violations, claims for “off the clock” work and business expense reimbursement, including as these issues related to arguments asserted by the defense.

21. Defendant estimated for purposes of mediation that there were approximately 797 Aggrieved Employees who worked approximately 53,826 pay periods from February 1, 2023 through the July 2, 2025 mediation date. Based on this information, Plaintiff’s counsel prepared an estimate of the maximum possible civil penalties under the PAGA. The maximum possible civil penalties under the PAGA is the total number of pay periods with one or more violations multiplied by the maximum possible civil penalty amount per pay period.

22. Plaintiff’s analysis revealed that only 1.7% of pay periods with shifts greater than 6 hours had at least one meal violation (late, short, or no meal – net of meal period premiums paid). Under the civil penalty formulas applicable under PAGA, Plaintiff calculated BEMUS’s potential exposure as follows: \$50 penalty per pay period, assuming a 1.7% violation, based on Labor Code § 558 for violation of Labor Code § 512 (failure to provide meal periods)(53,826 x 1.7% x \$50 = \$45,752.10); \$100 penalty per pay period under Labor Code sec. 2699(f)(2), assuming the same 1.7% violation rate for rest break violations (53,826 x \$100 x 1.7% = \$91,504.2); \$250 penalty per pay period, assuming 1.7% violation rate, based on Labor Code § 226.3 for violation of Labor Code § 226 (failure to provide compliant wage statements) (53,826 x \$250 x 1.7% = \$228,760.50); \$100 penalty per pay period, assuming 1.7% violation rate, based on Labor Code § 210 for violation of Labor Code §§ 201-204 (untimely wages) (53,826 x \$100 x 1.7% = \$91,504.20). Stacking each of these maximum recoverable civil penalty estimates yields a total amount of \$457,521.00. In addition to stacking potential penalties, this calculated maximum exposure also presumed that the Court will not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. For the rest period violations, it also presumed that the meal and rest period violation rates were identical. Such presumptions and assumptions posed

1 various risk factors and bases for reduction of awarded penalties, even if Plaintiff's claims could
2 be successfully proven.

3 23. In connection with the litigation, Plaintiff identified numerous risks attending
4 Plaintiff's meal and rest period claims. For example, in addition to the quite low 1.7% meal
5 period facial noncompliance rate, Defendant contended that, to establish a violation for missed
6 meal periods, a plaintiff must do more than show that a meal break was not taken. *Brinker*
7 *Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. So long as an employer provides
8 employees with a "reasonable opportunity" to take a duty-free meal period, it has no further duty
9 to "police meal breaks and ensure no work thereafter is performed." *Id.* at 1040-41. Instead, a
10 plaintiff must show the employer impeded, discouraged, or prohibited the employee from taking
11 a proper break, or otherwise failed to release the employee of all control. *Id.* "Thus, the crucial
12 issue with regard to the meal break claim is the reason that a particular employee may have failed
13 to take a meal break." *Washington v. Joe's Crab Shack* (N.D. Cal. 2010) 271 F.R.D. 629, 641.
14 Determining by a review of BEMUS's time records the exact reasons why a meal period appeared
15 to be short or late would be difficult and pinpointing those days in which Plaintiff and the
16 Aggrieved Employees worked during their meal periods would be a challenge. Additionally,
17 Defendant provided evidence that it provides employees with the opportunity to take meal and
18 rest breaks, and also regularly paid meal premium payments throughout the PAGA Period.
19 Supporting this, meal period premium payments were observed in the sample records. In
20 addition, Bemus's Handbook contains legally compliant meal period and rest break policies. It
21 is also important to note that Defendant was previously involved in a class action lawsuit, and
22 had made substantial and extensive compliance efforts following this, as evidenced by the low
23 facial violation rates.

24 24. Defendant also contended that it provided non-exempt employees with the
25 opportunity to take rest breaks in accordance with California law, and, accordingly, that
26 Plaintiff's rest break claim has no support. Additionally, there are other risks to Plaintiff's rest
27 period claim. Employers are not required to record rest periods and such periods are paid time.
28 Furthermore, there was no evidence to prove that the employer refused to authorize and permit a

1 rest break.

2 25. As it relates to Plaintiff's other claims, and unlike the arguments for meal/rest
3 period violations, there would be issues with proof. The sampling did not reveal any rounding as
4 hours were paid to the second decimal point. As it relates to any overtime issues, the data showed
5 that when employees worked over 8.0 hours, they were paid 1.5 times their regular rate.
6 Moreover, Defendant provided overall strong written policies as it related to wage and hour
7 practices and showed that Plaintiff acknowledged the policies. There were and there remain risks
8 to Plaintiff's claim for unreimbursed expenses. Plaintiff alleges that Defendant did not reimburse
9 him or the other Aggrieved Employees for work shoes (steel tip shoes) and for use their own
10 personal cell phones. In addition to other arguments asserted by Defendant, there was a risk that
11 the Court may consider Plaintiff's claims as to Defendant's alleged failure to indemnify for
12 business expenses to be individualized in nature. As such, Plaintiff's Counsel concluded it was
13 appropriate to significantly discount the value of this claim during settlement negotiations.

14 26. Moreover, Plaintiff's counsel is unaware of any California State court decision
15 awarding a plaintiff and the other Aggrieved Employees he represents multiple civil penalties
16 (i.e. stacking penalties) for the same pay period under different Labor Code provisions. As such,
17 one of the risks Plaintiff faces is that the Court would refuse to "stack" civil penalties arising
18 under the various Labor Code statutes. Given this, Plaintiff's counsel concluded it was
19 appropriate to substantially discount the value of these claims in the settlement negotiations for
20 this and a variety of other reasons. At best, Plaintiff could only reasonably hope to recover one
21 penalty for each pay period (regardless of the different Labor Code violations that potentially
22 occurred for the same employee, during the same pay periods). This appeared especially so given
23 Defendant's robust policies and evidence of high compliance rates.

24 27. Additionally, PAGA states a court has discretion to award a lesser amount than
25 the maximum penalty. *See Lab. Code*, § 2699, subd. (e)(2) ("...a court may award a lesser amount
26 than the maximum civil penalty amount specified by this part if, based on the facts and
27 circumstances of the particular case, to do otherwise would result in an award that is unjust,
28 arbitrary and oppressive, or confiscatory."); *see also Thurman v. Bayshore Transit Management*,

1 *Inc.* (2012) 203 Cal.App.4th 1112, 1135 (reducing PAGA award). Here, Defendant was
2 previously involved in a prior class action lawsuit and, as a result, made substantial efforts to
3 ensure future compliance, as evidenced, for example, by the quite low rate of subsequent facial
4 meal period violations. This demonstrated good-faith effort was a significant factor during
5 settlement negotiations, as there is a substantial risk that the Court could reduce civil penalties to
6 an insignificant amount if it is unpersuaded by Plaintiff's evidence of willful and intentional
7 conduct. *Carrington v. Starbucks* (2018) 30 Cal.App.5th 504 ("*Carrington*") illustrates this. In
8 that case, the Court of Appeal affirmed a trial court's heavily discounted award of only \$5 per
9 violation because it was within the Court's discretion to significantly reduce PAGA penalties
10 even when there is a finding that a violation of the California Labor Code occurred. The plaintiff
11 in *Carrington* had requested penalties in excess of \$70 million and was successful in proving the
12 PAGA claim during a bench trial. However, the trial court reduced the total award after trial to
13 only \$150,000 (30,000 violations x \$5) and stated that this reduction was warranted because
14 imposing the maximum penalty would be "unjust, arbitrary, and oppressive", based on
15 Starbucks's "good faith attempts" to comply with meal break obligations and because the Court
16 found the violations were minimal. Echoing the *Carrington* considerations, Defendant also posed
17 formidable defenses to the Labor Code claims underlying Plaintiff's allegations. Thus, Plaintiff
18 viewed the chance of Plaintiff recovering a higher amount than the Gross Settlement Amount as
19 highly uncertain.

20 28. All in all, considering all of the risks detailed above, as well as potential
21 manageability issues, the risk of not prevailing at trial, the risk that, even if Plaintiff prevailed,
22 the damages would be limited due to the largely discretionary nature of the damages, and taking
23 into account Defendant's defenses and robust compliance on the merits, Plaintiff applied a 50%
24 discount to the maximum PAGA exposure of \$457,521.00, resulting in a risk-discounted realistic
25 potential exposure of \$228,760.50. Given this, Plaintiff views the Gross Settlement Amount of
26 \$115,000 as a great result: it constitutes relief consistent with the underlying purpose of PAGA,
27 and represents approximately 50.27% of the risk-discounted realistic potential recovery. *See In*
28 *re Cendant Corp., Derivative Action Litig.*, 232 F. Supp. 2d 327 (D. N.J. 2002) (approving

1 settlement that only provided a 2% recovery based on the estimated liability exposure).

2 29. The Parties further recognized that the issues presented in the representative
3 PAGA claim were likely only to be resolved with extensive and costly pretrial and trial
4 proceedings, and that further litigation would cause inconvenience, distraction, disruption, delay,
5 and expense disproportionate to the maximum potential benefits to the Aggrieved Employees
6 and Plaintiff from continued litigation.

7 30. The settlement of the representative PAGA claim involves monetary relief to all
8 Aggrieved Employees, Plaintiff, his attorneys, and the State of California. The Settlement is
9 reasonable given the uncertainties this lawsuit entails. It is also reasonable given the structure
10 and purpose of the PAGA, since the PAGA is not a restitution statute. Rather, it is essentially a
11 punishment statute. It provides for civil penalties only. Within the PAGA framework he is bound
12 by, Plaintiff, considering the evidence he faced, achieved a great result for the employees
13 concerned. Furthermore, any employees who are dissatisfied with the amount they received in
14 civil penalties can pursue any damages they believe they are owed by the Defendant. The
15 Settlement does not require them to opt out to do so.

16 31. Furthermore, Plaintiff recognizes that continued litigation presents significant
17 risks that support a significant downward departure from Plaintiff's estimated civil penalties
18 amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable
19 compromise amount for these claims and is in the best interest of Plaintiff and the Aggrieved
20 Employees and thus, warrants approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479
21 (9th Cir. June 3, 2014) 2014 WL 2465049, * 3. The PAGA settlement and its terms are fair, just,
22 reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of
23 the current economic climate, and are the product of good faith, and informed arms-length
24 negotiations between the parties consistent with public policy and fully comply with applicable
25 provisions of law.

26 32. As such, the Gross Settlement Amount of \$115,000.00, of which 75% of the net
27 amount after PAGA Counsel's attorneys' fees and costs, Representative Plaintiff's Service
28 Award and Settlement Administrator costs (\$44,412.50) will be paid to the LWDA and 25%

1 (\$14,804.17) will be distributed to the Aggrieved Employees, is reasonable and appropriate under
2 the circumstances.

3 *Individual PAGA Payments*

4 33. Defendant represented that at the time of mediation there were approximately
5 797 Aggrieved Employees during the PAGA Period. After deducting the requested Court-
6 approved PAGA Counsel's Attorneys' Fees (\$38,333.33), PAGA Counsel's litigation costs
7 (\$9,500.00), Plaintiff's Service Award (\$1,000) and the Settlement Administration Costs
8 (\$6,950.00), the Net Settlement Amount will be approximately \$59,216.67. Seventy five percent
9 (75%) of the Net Settlement Amount will be paid to the Labor and Workforce Development
10 Agency ("LWDA") (\$44,412.50), and twenty five percent (25%) (\$14,804.17) will be paid to the
11 Aggrieved Employees on a pro-rata basis based upon their respective number of pay periods
12 during the PAGA Period. Agreement, ¶¶ 30-31. Based on this amount, the average estimated
13 individual recovery for an Aggrieved Employee is approximately \$18.57 (\$14,804.17/797
14 Aggrieved Employees). Given the discretionary nature of awarding PAGA penalties and
15 Defendant's compliant policies and Aggrieved Employees' pay and time data, and considering
16 the risk of not being able to proceed on a representative basis at all due to the risk of not
17 prevailing at trial, and the risk that, even if Plaintiff prevailed, the damages would be limited
18 due to the largely discretionary nature of the damages, this is an excellent result, amounting to
19 relief consistent with the underlying purpose of PAGA.

20 *Attorneys' Fees and Costs*

21 34. I represent Plaintiff on a straight contingency basis. My firm's request for
22 \$38,333.33 in attorney fees and \$9,500.00 in litigation costs related to the PAGA Settlement is
23 fair and reasonable. "[R]egardless whether the percentage method or the lodestar method is used,
24 fee awards in class actions average around one-third of the recovery." (See *Chavez v. Netflix, Inc.*
25 (2008) 162 Cal.App.4th 43, 66, fn.11 ("*Chavez*")); *In re Pacific Enter. Sec. Litig.* (9th Cir. 1995)
26 47 F.3d 373, 379 ("*Pacific*") [affirming 33% fee award]; *Williams v. MGM-Pathe*
27 *Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027 ("*MGM*") (awarding 33% of total fund
28 amount).) This is also consistent with my experience in wage and hour class and PAGA

1 settlements.

2 35. To date, I have investigated and prosecuted this matter vigorously, including
3 reviewing the initial intake; researching the company and past lawsuits against it; drafting the
4 LWDA letter; drafting the lawsuit and preparing the court filing forms; drafting informal
5 mediation discovery requests, reviewing Defendant's informal document production, including
6 wage and hour policies; sending and receiving emails on the case with defense counsel, the legal
7 assistants, and Plaintiff; multiple calls with Defense counsel; calls and text messages with Plaintiff
8 and the legal assistant; sending the PAGA data to Plaintiff's expert for review/analysis and
9 reviewing the expert's findings/conclusions; drafting a comprehensive mediation brief and
10 engaging in a full day mediation; reviewing the PAGA Settlement Agreement; obtaining bids
11 from settlement administrators; and drafting this PAGA approval motion. I will make detailed
12 copies of such time records available to the Court for inspection upon its request. I also expect to
13 perform additional work on this case if the Court grants final approval of the Settlement, including
14 supervision of the Settlement Administrator's disbursement of the settlement funds to the
15 Aggrieved Employees.

16 36. My previous experience in litigating wage and hour actions also supports the
17 reasonableness of the fee request. Based on past experience with similar matters, I was able to
18 evaluate the strengths and weaknesses of this case and the reasonableness of the Settlement.
19 Because it is reasonable to compensate me commensurate with my skill, reputation, and
20 experience, attorney's fees of approximately one-third of the Gross Settlement Amount is
21 reasonable. Likewise, the caliber and experience of opposing counsel in labor and employment
22 litigation, Brian Weilbacher of LightGabler LLP , also supports the fairness and reasonableness
23 of the requested fee award. The award of attorneys' fees sought is justified here by the
24 contingency nature of the attorney-client relationship, the risks of non-payment and non-
25 reimbursement, the delay in payment and cost reimbursement, and the great results Plaintiff's
26 Counsel has achieved for the Aggrieved Employees while bearing the substantial burdens of
27 contingency representation.

28 37. In addition, my firm incurred substantial costs to date, \$9,525.84 as part of the

1 PAGA Settlement. My firm only seeks reimbursement of \$9,500, which is the maximum amount
2 allowable under the terms of the Settlement. This amount consists of the LWDA filing fee, the
3 complaint filing fees, the data analyst fees, mediator fees, court filing fees, and attorney service
4 fees in the Action . A true and correct summary of my firm’s costs and expenses incurred to date
5 is attached as **Exhibit 6** to this declaration. As the evidence submitted herewith shows, all of
6 these costs are documented and reasonably incurred. Accordingly, they warrant the Court’s
7 approval.

8 ***PAGA Representative Service Award***

9 38. Plaintiff’s PAGA Representative Service Award is being paid to Plaintiff for his
10 service to the State of California and the Aggrieved Employees in prosecuting the Lawsuit. *See*
11 *generally* Declaration of Adolfo Lozoya Ramirez (“Ramirez Decl.”).

12 39. The PAGA statute does not forbid service awards. California federal district
13 court decisions recognize that incentive awards may be awarded in PAGA-only representative
14 actions. In *Mancini v. W.&S. Life Ins. Co.*, the court noted that the plaintiff had “asserted no
15 non-PAGA claims.” *Mancini v. W.&S. Life Ins. Co.* (S.D. Cal. 2018) U.S. Dist. LEXIS 160320
16 at *7. The settlement agreement under consideration provided for \$5,000 as “an incentive award
17 to Plaintiff for his status as the PAGA representative.” *Id.* at *7. The district court took no issue
18 with the fact that the case involved claims solely under PAGA, instead holding that the terms of
19 the settlement agreement – including “the provision[] for incentive awards” – were
20 “reasonable.” *Id.* at *5. Further, in *Bruce v. Del Monte Foods, Inc.*, the district court granted an
21 incentive award to the named plaintiff out of a settlement sum “treated exclusively as a civil
22 penalty under PAGA.” *Bruce v. Del Monte Foods, Inc.* (N.D. Cal. 2018) U.S. Dist. LEXIS
23 53800 at *1. Although the court ultimately reduced the named plaintiff’s requested incentive
24 award, cautioning that “enhancement or incentive awards are to be treated with skepticism[,]”
25 the court nonetheless granted an additional award to the named plaintiff, noting that the named
26 plaintiff had made representations about “possible injury and expense above and beyond” that
27 sustained by other Plaintiff. *Id.* at *7.

28 40. Plaintiff’s Service Award of \$1,000 for his service to the State of California and

1 the Aggrieved Employees in prosecuting the Lawsuit is entirely reasonable given Plaintiff's
2 efforts in the Lawsuit and the risks he undertook on behalf of the Aggrieved Employees. *See*
3 *generally* Ramirez Decl. Plaintiff devoted many hours advancing the interests of the Aggrieved
4 Employees. *Id.* The work Plaintiff has done on this case includes hiring my firm, speaking with
5 our office on many occasions by phone, explaining what his employment at BEMUS was like,
6 explaining what his employment at BEMUS had in common with other employees who worked
7 for BEMUS, explaining his claims to me and my staff, and communicating with me and my
8 staff about the settlement agreement and related documents. In doing this, Plaintiff has been
9 exposed to significant risks, including the risk of an order to pay Defendant's attorneys' fees
10 and costs if this action had been unsuccessful and in bad faith (*See* Labor Code §§ 218.5-218.6).
11 The efforts and risks that Plaintiff undertook on behalf of the Aggrieved Employees show that
12 the proposed Service Award to Plaintiff is fair, adequate, and reasonable, and thus warrants
13 approval. *See generally* Ramirez Decl.

14 ***Settlement Administration Costs***

15 41. I can attest that the settlement administration costs provision is reasonable.
16 Before agreeing to ILYM Group, Inc. ("ILYM"), the parties sought and reviewed bids from
17 other reputable third-party administrator and ILYM Group, Inc.'s bid was the lowest. A true and
18 correct copy of the bid from ILYM Group, Inc. is attached hereto as **Exhibit 7**. Furthermore, the
19 Declaration of Lisa Mullins with attached exhibits, filed under separate cover, sets forth ILYM's
20 qualifications and costs to administer the settlement. *See generally* Declaration of Lisa Mullins.
21 Thus, the settlement administration costs provision should be given approval.

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1 *Notice of Settlement to the LWDA*

2 42. Pursuant to Lab. Code § 2699(1)(2), Plaintiff submitted a copy of the Settlement
3 with the LWDA at the same time the Settlement is being filed with the Court. True and correct
4 copies of Plaintiff's submission with the LWDA and the confirmation email are collectively
5 attached as **Exhibit 8** to this declaration.

6 I declare under the penalty of perjury of the laws of the State of California that the
7 foregoing is true and correct to the best of my knowledge.

8 Executed November 12, 2025, at Glendale, California.

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11 MARALLE MESSRELIAN,
12 Declarant
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EXHIBIT 1

MARALLE MESSRELIAN (SBN 316974)
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Attorneys for Defendant
Bemus Landscape, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ADOLFO LOZOYA RAMIREZ, as an
“aggrieved employee” on behalf of himself and
other similarly situated “aggrieved employees”
under the Labor Code Private Attorneys
General Act of 2004,

Plaintiff,

vs.

BEMUS LANDSCAPE, INC., a California
corporation; and DOES 1 to 25, inclusive,

Defendants.

Case No.: 24STCV08944 (PAGA Representative
Action)

**STIPULATION AND AGREEMENT FOR
PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Judge: The Honorable Doreen B. Boxer
Dept.: 19

Complaint filed: April 9, 2024
Trial date: Not Set

1 This Stipulation and Agreement for PAGA Action Settlement (the “Agreement”) is made
2 and entered into by and between Plaintiff Adolfo Lozoya Ramirez (“Plaintiff”) and Defendant
3 Bemus Landscape, Inc. (“Defendant,” “Bemus,” or the “Company”). The Parties agree that the
4 above-entitled individual and representative action shall be settled on the terms and conditions set
5 forth in this Agreement, subject to the approval of the Court pursuant to Section 2699(l) of the
6 California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
7 (“PAGA”).

8 DEFINITIONS

9 The following terms have the following definitions as used herein:

10 1. “**Action**” means and refers to the above-captioned action, *Adolfo Lozoya Ramirez v.*
11 *Bemus Landscape, Inc., et al.*, Case No. 24STCV08944, which is currently pending in Los Angeles
12 County Superior Court.

13 2. “**Aggrieved Employees**” means all non-exempt employees who were employed or
14 were alleged to have been employed by Defendant, in the State of California, at any time from
15 February 1, 2023 through September 16, 2025.

16 3. The terms “**Agreement**,” “**Settlement**,” and “**Settlement Agreement**” mean this
17 Stipulation and Agreement for PAGA Action Settlement.

18 4. “**Court**” means the Superior Court of the State of California in and for the County
19 of Los Angeles.

20 5. “**Defendant**” means the defendant in the Action, Bemus Landscape, Inc.

21 6. “**Effective Date**” means the date when all of the following have occurred:

22 a) This Agreement has been signed by the parties hereto, PAGA Counsel, and Defendant’s
23 Counsel;

24 b) The Court has unconditionally and finally approved the Settlement;

25 c) The Court has entered and filed the Final Order and Judgment in accordance with the
26 terms herein; and

27 d) The Judgment is final. Under this Settlement, if no objection or challenge to the
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1 Settlement is made or pending in the Superior Court, the Judgment is final as of the day
2 the Court signs and enters Judgment. If there is an objection, request for review, writ, or
3 other challenge to the Settlement, the Effective Date shall occur sixty-five (65) calendar
4 days after the date the Court enters the Final Order and Judgment to the Settlement if no
5 appeal, request for review, writ, or other challenge is pending regarding the Settlement.
6 If an appeal, request for review, writ, or other challenge is filed or pending regarding the
7 Settlement, the Effective Date will not occur and no amounts will be payable until all
8 appeals, requests for review, writs, or other pending challenges have lapsed or have been
9 favorably resolved in favor of the Settlement and no other appeal, review request, writ
10 or other appellate court review is possible.

11 7. **“Final Order and Judgment”** means the order granting approval of the Settlement
12 and entering Judgment by the Court, in the form as attached to this Agreement as **Exhibit A**.

13 8. **“Gross Settlement Amount”** or **“GSA”** means a maximum total of **\$115,000.00**,
14 which includes all amounts owed and to be paid by Defendant under this Agreement, including,
15 without limitation: the Net Settlement Amount; Representative Plaintiff’s Service Award;
16 Settlement Administrator costs; and PAGA Counsel’s attorneys’ fees and costs as awarded by the
17 Court.

18 9. **“Individual PAGA Payment”** means an individual employee’s pro rata share of the
19 PAGA Aggrieved Employee Payment.

20 10. **“LWDA Payment”** means the payment to the California Labor Workforce and
21 Development Agency in an amount equal to 75% of the Net Settlement Amount.

22 11. **“Net Settlement Amount”** mean the Gross Settlement Amount minus all of the
23 following: PAGA Counsel’s attorneys’ fees and costs, Representative Plaintiff’s Service Award,
24 and Settlement Administrator costs. It is comprised of and shall be used to fund the LWDA Payment
25 and the PAGA Aggrieved Employee Payment.

26 12. **“PAGA”** means the California Labor Code Private Attorneys General Act of 2004,
27 Cal. Lab. Code sections 2698 *et seq.*, as amended.
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1 13. **“PAGA Aggrieved Employee Payment”** means a payment of 25% of the Net
2 Settlement Amount, which shall be distributed among and paid to the Aggrieved Employees out of
3 the Gross Settlement Amount as part of this settlement of the PAGA Claim.

4 14. **“PAGA Claim”** means Representative Plaintiff’s individual claim and
5 representative claim on behalf of the Aggrieved Employees for civil penalties under PAGA, as
6 alleged in the Action and in Representative Plaintiff’s PAGA notice letter sent to the Labor and
7 Workforce Development Agency and dated February 1, 2024.

8 15. **“PAGA Counsel”** means the law firm of MM Law, APC, including its attorney
9 Maralle Messrelian.

10 16. **“PAGA Period”** means February 1, 2023 through September 16, 2025.

11 17. **“Parties”** means Plaintiff and Representative Plaintiff Adolfo Lozoya Ramirez and
12 Defendant Bemus Landscape, Inc.

13 18. **“Released PAGA Claims”** means any and all claims, demands, rights, liabilities,
14 debts, primary rights, claims for relief, and causes of action for PAGA penalties during the PAGA
15 Period arising out of or relating to the employment of Plaintiff or the Aggrieved Employees that:
16 1) are alleged, were alleged, or could have been alleged in the complaint(s) in the Action (including
17 any previously filed complaints in the Action) or any PAGA notice letter; or 2) arise out of, are
18 comprised of, and/or are related to the facts, matters, transactions or occurrences alleged in the
19 complaint in the Action or any PAGA notice letter. This includes, without limitation, claims and
20 allegations made pursuant to the PAGA for claims against Defendant for: failure to pay all wages
21 earned; failure to provide meal periods (or pay premium pay); failure to provide rest breaks (or pay
22 premium pay); failure to indemnify or reimburse for necessary business expenses; failure to provide
23 complete and accurate itemized wage statements; failure to timely pay all wages owed during
24 employment and/or waiting time penalties to former employees; failure to pay all wages owed to
25 discharged and quitting employees; failure to keep or maintain required records; failure to provide
26 toilet facilities, potable water, and/or cleansing agent; failure to provide sick leave or written notice
27 of sick leave available; failure to provide any records, including personnel file and signed
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documents; and for any violations of California Labor Code sections, including sections 200, 201-203, 204, 210, 226, 226.3, 226.7, 246, 248.1, 248.2, 248.3, 248.6, et seq., 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 et seq., 2350, 2800, 2802, 2698 *et seq.*, the applicable IWC Wage Order provisions; and primary and statutory rights alleged in Plaintiff's operative complaint in the Action and in Plaintiff's PAGA notice letter dated February 1, 2024 and referenced in Plaintiff's complaint at paragraph 81.

19. **"Released Parties"** means Defendant Bemus Landscape, Inc., and Defendant's current and former subsidiaries, parents, predecessors, successors, assigns, and Defendant's current and former owners, investors, shareholders, members, partners, officers, directors, managers, employees, supervisors, agents, attorneys, insurers, and representatives.

20. **"Representative Plaintiff"** or **"Plaintiff"** means Plaintiff Adolfo Lozoya Ramirez.

21. **"Service Award"** means the amount the Court authorizes to be paid to Plaintiff, up to \$1,000, as compensation for Plaintiff serving as a representative plaintiff in this Action.

22. **"Settlement Administrator"** shall mean ILYM Group, Inc. or such other neutral third-party administrator agreed to by the Parties, subject to approval by the Court.

RECITALS

23. Plaintiff alleges that, on or about February 1, 2024, Plaintiff and PAGA Counsel sent a PAGA notice and administrative exhaustion letter to the Labor and Workforce Development Agency ("LWDA"), with a copy to Defendant, and such letter and notification to the LWDA is alleged at paragraph 81 of Plaintiff's complaint in the Action.

24. On or about April 9, 2024, Plaintiff filed his PAGA Complaint in Los Angeles County Superior Court, in a case entitled *Adolfo Lozoya Ramirez v. Bemus Landscape, Inc., et al.*, Case No. 24STCV08944, and the case is now pending in Los Angeles County Superior Court.

25. The Action alleges a PAGA claim for civil penalties and seeks an award of reasonable attorneys' fees and costs.

26. The Parties have conducted a thorough investigation into the facts of the Action and various related matters and Defendant has provided extensive data and information, as well as

pertinent documents, relating to the underlying alleged violations. On July 2, 2025, the Parties attended a full-day mediation with mediator Kevin Barnes and participated in numerous follow-up discussions and negotiations by telephone with Mr. Barnes, and subsequent ongoing settlement negotiations occurred. In connection with this, the Parties reached the present Settlement. The Parties understand, acknowledge, and agree that this Settlement constitutes a compromise of the present PAGA Claim, and that it is the desire and intention of the Parties to effect a final and complete resolution of the PAGA Claim.

27. The Parties enter into this Settlement Agreement on a conditional basis with the understanding that Court approval of the Settlement is necessary. In the event the Court does not enter a Final Order and Judgment as set forth in this Settlement Agreement, this Settlement Agreement will be deemed null and void ab initio and will be of no force or effect whatsoever, and will not be referred to or utilized for any purpose whatsoever, including as an admission of anything, or as a waiver of any objections, arguments, or positions in connection with the Action.

28. Defendant denies and has denied all of the claims in the Action, and does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations upon all legal, procedural, and factual grounds should this Settlement Agreement not become effective or final. Defendant disputes and denies any and all liability, violations, or other improper conduct in connection with the Action, and maintain that it has at all times complied with all relevant laws and obligations and has not engaged in any illegal or otherwise actionable conduct with respect to Plaintiff or any other allegedly aggrieved employees. Defendant has entered into this Settlement Agreement to resolve the dispute or disputes that have arisen with Plaintiff (including, without limit, the Action), and to avoid the burden and expense of litigation.

29. The Parties stipulate and agree to the following terms of this Settlement Agreement with the intent that this Agreement finally disposes of the Action.

TERMS AND CONDITIONS

30. **Settlement Payments and Calculation of Claims.** Subject to final Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and

promises set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of One Hundred and Fifteen Thousand Dollars and No Cents (\$115,000). The following table sets forth the allocation and distribution of the Gross Settlement Amount as provided for and proposed under the Settlement:

- **PAGA Counsel reasonable attorneys' fees not to exceed \$38,333.33 (1/3 of GSA).**
- **PAGA Counsel costs not to exceed \$9,500.00**
- **Representative Plaintiff's Service Award Payment not to exceed \$1,000.**
- **Settlement Administration Costs, not to exceed \$6,950.00**
- **\$59,216.67 for the Net Settlement Amount (*i.e.* the total of the LWDA Payment and PAGA Aggrieved Employee Payment, to be distributed to the LWDA and Aggrieved Employees)**
 - **\$44,412.50 for the LWDA Payment ($59,216.67 \times 75\% = 44,412.50$)**
 - **\$14,804.17 for the PAGA Aggrieved Employee Payment ($59,216.67 \times 25\% = 14,804.17$)**

31. **Apportionment of Gross Settlement Amount.** Subject to Court approval and the conditions specified in this Agreement, the Gross Settlement Amount shall be apportioned as follows:

a. **Settlement Administration Fees And Costs:** The fees and costs associated with settlement administration (*e.g.*, preparing and mailing payments to the Aggrieved Employees, tax documentation, etc.) (the "Settlement Administration Costs") shall be paid from the Gross Settlement Amount and shall not exceed \$6,950 (currently estimated to be **\$6,950**).

b. **PAGA Counsel's Attorneys' Fees And Costs / Representative Plaintiff's Service Award:** PAGA Counsel's attorneys' fees and costs and Representative Plaintiff's Service Award shall be paid from the Gross Settlement Amount.

- PAGA Counsel shall be paid from the Gross Settlement Amount an amount that is up to one third of the Gross Settlement Amount for reasonable attorneys' fees (*i.e.* **\$38,333.33**), plus actual, reasonable documented litigation costs not to exceed **\$9,500**.
- Representative Plaintiff shall be paid from the Gross Settlement Amount an amount up to \$1,000 as Representative Plaintiff's Service Award, which will

1 be paid from the Gross Settlement Amount. The Service Award shall be in
2 addition to such payment amount Representative Plaintiff may be entitled to
3 as an Aggrieved Employee under the Settlement.

- 4 ○ The Court's ruling concerning PAGA Counsel's application for attorney fees
5 and costs and Representative Plaintiff's Service Award (whether awarded as
6 requested or altered at the discretion of the Court) shall not affect the
7 enforceability of this Agreement, or the ability of the Court to otherwise
8 approve the Settlement. Any amount requested, but not awarded by the Court,
9 shall be included with the Net Settlement Amount and be distributed to the
10 LWDA and Aggrieved Employees as provided herein.

11 c. Net Settlement Amount: After deducting Court approved PAGA Counsel
12 attorneys' fees and costs, settlement administration costs, and Representative Plaintiff's Service
13 Award from the Gross Settlement Amount, the remaining amount will comprise the Net Settlement
14 Amount. The Net Settlement Amount is comprised of the LWDA Payment and the PAGA
15 Aggrieved Employee Payment. The Net Settlement Amount of approximately \$59,216.67 shall be
16 allocated 75% to the LWDA Payment, which is estimated to total \$44,412.50 (\$59,216.67 x 75%).
17 The remaining 25% of the Net Settlement Amount, estimated to total \$14,804.17 (\$59,216.67 x
18 25%), shall be allocated to the PAGA Aggrieved Employee Payment and shall be paid to the
19 Aggrieved Employees on a *pro rata* basis as noted below, which shall be referred to as each
20 Aggrieved Employee's "Individual PAGA Payment."

21 Example:¹

22 Aggrieved Employee A was actively employed during the PAGA Period for 25 pay
23 periods. All Aggrieved Employees were actively employed a combined total of 1,000 pay periods
24 during the PAGA Period. Aggrieved Employee A's Individual PAGA Payment would be
25 calculated as follows:

- 26 ➤ 25 pay periods for Aggrieved Employee A ÷ 1,000 total pay periods for all Aggrieved

28 ¹ Example provided for illustrative purposes only and does not reflect an actual payment.

1 Employees = 0.025%.

2 ➤ Aggrieved Employee A is entitled to an Individual PAGA Payment in an amount that
3 is 0.025% of the PAGA Aggrieved Employee Payment.

4 d. Taxes and Reporting: The Individual PAGA Payments will be treated as non-
5 wage income to the Aggrieved Employees and reported by the Settlement Administrator on IRS
6 Form 1099. Any payment to PAGA Counsel for attorney fees and costs will be treated and reported
7 by the Settlement Administrator as IRS Form 1099 income to PAGA Counsel.

8 32. **Aggrieved Employee Size Estimates/Escalator Clause**. Based on its records,
9 Defendant estimated that, as of the date of the 7/2/2025 mediation, there were approximately 797
10 Aggrieved Employees who worked approximately 53,826 pay periods from February 1, 2023
11 through the July 2, 2025 mediation date and this estimate served as the basis for Plaintiff accepting
12 the settlement. If the number of actual pay periods for the Aggrieved Employees during such period
13 exceeds 53,826 by more than ten percent (10%) (*i.e.* are greater than 59,208), then the Gross
14 Settlement Amount will increase proportionately according to the number of additional pay periods
15 over the ten percent (10%) increase.

16 33. **Release By Aggrieved Employees, State of California, and PAGA Counsel.**

17 a. Terms Of Release: In exchange for the consideration recited in this
18 Settlement Agreement, Representative Plaintiff, on behalf of himself for purposes of his individual
19 PAGA claim and as the representative for the State of California and all Aggrieved Employees, as
20 well as each of their respective current, former, and future heirs, executors, administrators,
21 attorneys, agents, and assigns, fully, finally, and forever release, relinquish, settle, and discharge
22 all Released PAGA Claims against the Released Parties, including for all civil penalties under
23 PAGA. The Aggrieved Employees and the State of California are deemed by operation of the
24 Final Order and Judgment to have agreed not to sue or otherwise make a claim against any of the
25 Released Parties for any Released PAGA Claims.

26 b. No Opt-Outs. Aggrieved Employees and the State of California shall have
27 no right to opt out of this Settlement, either in whole or in part.
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1 c. No Claims Based On Stipulation And Agreement. No Aggrieved Employee
2 will have any claim against any of the Released Parties, Defendant's counsel, the Representative
3 Plaintiff, or PAGA Counsel, based on errors in administering claims or performing the mailing
4 and skip-tracing requirements of the Settlement Administrator under this Agreement.

5 d. Release by PAGA Counsel. PAGA Counsel releases on behalf PAGA
6 Counsel, and their present and former attorneys, employees, principals, agents, successors and
7 assigns, Defendant and each of the Released Parties from all claims for attorney fees and costs
8 incurred relating to the Action and the PAGA Period as provided under any complaint in the
9 Action and all PAGA notices in the Action.

10 e. No Other Actions or Claims. By executing this Agreement, Representative
11 Plaintiff represents, warrants, and confirms that Representative Plaintiff has no other filed or
12 unfiled individual or representative claim or charge of any type (whether class, collective, PAGA,
13 or otherwise) against Defendant or the Released Parties. Representative Plaintiff hereby
14 represents, warrants, and agrees he will not serve as a PAGA representative or class representative
15 in any further claim against Defendant based upon any action, event, or occurrence prior to the
16 date he signs this Settlement Agreement.

17 34. **Request For Final Order And Judgment.**

18 a. Upon execution of this Agreement, Representative Plaintiff shall promptly
19 file a motion or application with the Court requesting approval of this Settlement which shall
20 include submitting the proposed Final Order and Judgment attached hereto as **Exhibit A.**

21 b. On the date Representative Plaintiff files the motion or application
22 discussed in this paragraph, Representative Plaintiff and PAGA Counsel will also provide notice
23 and advise the LWDA of the Settlement in accordance with PAGA, including, without limit,
24 submitting to the LWDA a notice of the Settlement and enclosing a copy of the Settlement
25 Agreement. Plaintiff's notice and advisement of the Settlement to the LWDA shall also otherwise
26 comply with the notice / settlement requirements of PAGA or orders by the Court.

27 35. **No Right to Opt Out / Waiver of Appeal.** Representative Plaintiff, Aggrieved
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1 Employees, and the State of California shall have no right to opt out of this Settlement, either in
2 whole or in part. Any Aggrieved Employee who does not object to the Settlement waives any and
3 all rights to appeal from or challenge the Final Order and Judgment, including all rights to any
4 post-judgment proceeding and appellate proceeding such as a motion to vacate the judgment,
5 motion for new trial, and extraordinary writs. This waiver does not include a waiver of the right to
6 oppose any appeals, appellate proceedings or post judgment proceedings, if any.

7 36. **Settlement Funding and Payment Date.**

8 a. On or before 7 days after the Effective Date, the Settlement Administrator
9 shall send Defendant's counsel instructions for Defendant to fund and pay the Gross Settlement
10 Amount either by electronic wire or check payment, as Defendant may elect.

11 b. On or before 21 days after the Effective Date, Defendant shall pay the Gross
12 Settlement Amount in accordance with the Settlement Administrator payment instructions.

13 c. On or before 14 days after Defendant's payment of the Gross Settlement
14 Amount, the Settlement Administrator shall issue the payments provided by this Agreement.

15 37. **PAGA List.**

16 a. On or before 21 days after the Effective Date, Defendant will provide a
17 PAGA List to the Settlement Administrator which will based on Defendant's records identifying
18 the Aggrieved Employees by name, social security number, and last known home address, and
19 identify the number of pay periods worked by each Aggrieved Employee during the PAGA Period.
20 ("PAGA List"). In observance of and to protect the privacy interests of Aggrieved Employees, the
21 Settlement Administrator shall preserve and maintain the confidentiality of the PAGA List provided
22 by Defendant and the PAGA List shall not be disclosed to any other person or party unless
23 authorized in writing by Defendant's counsel

24 38. **Individual PAGA Payments To Aggrieved Employees.**

25 a. On or before 14 days after Defendant's payment of the Gross Settlement
26 Amount, the Settlement Administrator will mail to each Aggrieved Employee, via first-class United
27 States Mail, the following: (a) the PAGA Settlement Notice in English and Spanish, attached as
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1 **Exhibit B** to this Agreement; and (b) their Individual PAGA Payment check (collectively, the
2 “PAGA Packet”). The amount of such payment will be calculated as provided above and paid from
3 the PAGA Aggrieved Employee Payment.

4 b. Prior to mailing, the Settlement Administrator will update all addresses using
5 the National Change of Address System (NCOA). In the event that a PAGA Packet is returned to
6 the Settlement Administrator with a forwarding address, the Settlement Administrator will re-send
7 the PAGA Packet to the forwarding address identified. If no forwarding address is provided, then
8 the Settlement Administrator will promptly conduct a “standard search,” sometimes called a “skip
9 trace,” to locate a better address. If a better address is found, the Settlement Administrator will
10 promptly re-send the PAGA Packet to such better address. If a better address is not found or the
11 PAGA Packet is ultimately returned without a forwarding address, neither the Settlement
12 Administrator, Defendant, Defendant’s counsel, Plaintiff, or PAGA Counsel shall be required to
13 take further action.

14 c. Aggrieved Employees shall have 180 calendar days after the date the PAGA
15 Packet is mailed to them to cash their settlement payment checks. If any Aggrieved Employee’s
16 check is not cashed within that period, the settlement payment check will be voided and a stop-
17 payment will be issued. Neither Defendant, Defendant’s counsel, Plaintiff, nor PAGA Counsel shall
18 have any liability for lost or stolen settlement payment checks, forged signatures on settlement
19 payment checks, unauthorized negotiation of settlement payment checks, or failure to timely cash a
20 settlement payment check within the 180 day period.

21 d. Any unpaid cash residue or unclaimed Aggrieved Employee funds, plus any
22 accrued interest that has not otherwise been distributed pursuant to order of the Court, shall be
23 transmitted to the California State Controller’s office Unclaimed Property Fund in the name of the
24 Aggrieved Employee.

25 39. **Payments Of Service Award, Attorneys’ Fees And Costs, And The LWDA**
26 **Settlement Payment.**

27 On or before 14 days after Defendant’s payment of the Gross Settlement
28

1 Amount:

2 a. The Settlement Administrator will pay from the Gross Settlement Amount
3 the Representative Plaintiff Service Award as awarded by the Court. The payment will be made by
4 sending to PAGA Counsel a check payable to “Adolfo Lozoya Ramirez” in the amount of the Court-
5 approved Service Award. This payment is conditional upon PAGA Counsel providing the
6 Settlement Administrator with a completed Form W-9 for the Representative Plaintiff.

7 b. The Settlement Administrator will pay from the Gross Settlement Amount to
8 PAGA Counsel the Court-approved Attorneys’ fees and costs award. Such payment is conditional
9 upon PAGA Counsel providing the Settlement Administrator with a completed Form W-9.

10 c. The Settlement Administrator will pay the LWDA Payment from the Net
11 Settlement Amount by issuing a check in the amount approved by the Court for such LWDA
12 Payment, payable to the “California Labor Workforce and Development Agency.”

13 40. **Deadlines.**

14 If any deadline specified in this Agreement falls on a Saturday, Sunday, or Court holiday,
15 such deadline will be automatically extended to the next regular business day. Unless specified
16 otherwise, all references to “days” shall mean calendar days.

17 41. **Enforcement And Continuing Jurisdiction Of The Court.**

18 Pursuant to the Parties’ agreement, this Settlement Agreement shall be approved by the
19 Court and is enforceable by the Court pursuant to California Code of Civil Procedure section 664.6.
20 Following entry of the Final Order and Judgment, this Court will have and retain continuing
21 jurisdiction over the Action and over the Parties and the Aggrieved Employees, to the fullest extent
22 necessary and in conformance with applicable law to enforce and effectuate the terms and intent of
23 this Settlement Agreement and the matters provided for in it.

24 42. **Mutual Full Cooperation.**

25 The Parties shall cooperate with each other in accordance with the terms of this Settlement
26 Agreement.

1 43. **Non-Admission of Liability.**

2 Defendant has entered into this Agreement to resolve the dispute that has arisen in
3 connection with the Action and to avoid the burden, expense and risk of continued litigation. In
4 entering into this Agreement, Defendant does not admit, and specifically denies, that Defendant has
5 violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant
6 to any statute or any other applicable laws, regulations or legal requirements; violated or breached
7 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct
8 with respect to the Action. Defendant disputes and denies that Plaintiff's Action is suitable for
9 representative action treatment. Neither this Agreement, nor any of its terms or provisions, nor any
10 of the negotiations connected with it, shall be construed as an admission or concession by Defendant
11 with respect to any allegation of Plaintiff, with respect to any alleged violations or failures to comply
12 with any applicable law, or as an admission or concession in any other respect. Except as necessary
13 in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions
14 shall not be offered or received as evidence in any action or proceeding for any purpose, including,
15 without limitation, to establish any liability or admission on the part of Defendant, to establish or
16 support any contention, or to establish or support the existence of any condition constituting a
17 violation of, or a non-compliance with, federal, state, local or other applicable law.

18 44. **Effective Date of Defendant's Obligations Under This Agreement.**

19 Defendant's obligations under this Settlement Agreement will become effective only upon
20 the occurrence of the Effective Date. In the event that any of the conditions specified in this
21 Settlement Agreement are not satisfied, or in the event that this Settlement does not obtain approval
22 of the Court for any reason, all matters covered by this Agreement will be null and void. In such
23 event, this Agreement will be void and of no effect, and neither this Agreement nor any negotiations
24 leading to this Settlement will be used or construed by or against any Party as a determination,
25 admission, or concession of any issue of law or fact in the litigation; and the Parties do not waive,
26 and instead expressly reserve, their respective rights regarding the prosecution and defense of the
27 Action in all respects, including all available defenses and affirmative defenses, and to challenge
28

1 any claim, as if this Settlement Agreement never existed. Further, in the event this Settlement
2 Agreement does not become effective for any reason, the Parties shall be restored to their respective
3 positions as of the date this Settlement Agreement was first signed by a party hereto.

4 45. **Binding Effect of Agreement On Representative Plaintiff and Aggrieved**
5 **Employees.**

6 Upon executing this Agreement, Representative Plaintiff shall be bound by all of the terms
7 herein, and upon the Effective Date, all Aggrieved Employees shall be bound by and subject to this
8 Agreement, including, without limit, the release of claims provided for herein.

9 46. **Stay of Litigation Activity.**

10 Besides the Parties' efforts to effectuate the Settlement as provided herein, litigation
11 activity shall otherwise cease during the period the Parties seek to effectuate this Settlement.

12 47. **Nullification.**

13 If: (1) the Court should for any reason fail to enter the Final Order and Judgment; or (2) the
14 Court's Final Order and Judgment is reversed or modified, or declared or rendered void, then (a) the
15 Settlement Agreement shall become null and void; and (b) the Parties will revert to their respective
16 positions as of the date this Settlement Agreement was first signed by a party hereto.

17 48. **Invalidation.**

18 Invalidation of any material term of this Settlement Agreement will invalidate this
19 Agreement in its entirety unless the Parties subsequently agree in writing that the remaining
20 provisions will remain in full force and effect.

21 49. **No Publicity.**

22 Plaintiff and his counsel agree that the terms of this Settlement Agreement (including, but
23 not limited to, the Gross Settlement Amount), the negotiations leading to the execution of this
24 Settlement Agreement, and the Settlement Agreement itself, shall not be discussed with or
25 publicized or promoted to the media. Plaintiff or his counsel shall not issue any press release
26 concerning the Action or this Settlement, respond to any press inquiry, or have any communication
27 with the press about this case and/or the fact, amount, or terms of this Settlement, nor shall Plaintiff's
28

1 counsel publish any internet or website posting or content identifying, mentioning, or discussing
2 Defendant or its management personnel. Notwithstanding the foregoing, Plaintiff and his counsel
3 (1) may tell the public in general only that certain claims “have been resolved by the Parties,” and
4 (2) may disclose the terms of the Settlement Agreement (a) in appropriate filings with the Court in
5 this case; (b) where required by law (e.g., income tax returns, etc.); and (c) to accountants or other
6 tax professionals for the purpose of preparing tax returns.

7 50. **Representative Plaintiff Representation and Warranty Re: No Other Action or**
8 **Assignment of Claims.**

9 Representative Plaintiff hereby warrants and represents that he has not filed any complaint,
10 lawsuit, grievance, demand for arbitration, charge, and/or any other claim against Defendant or the
11 Released Parties with any court, governmental or administrative agency or any other entity asserting
12 any claim or claims released herein. Representative Plaintiff represents and warrants that there has
13 been no assignment or other transfer, whether in whole or in part, of any interest in any claim that
14 Representative Plaintiff may have against Defendant or the Released Parties. Representative
15 Plaintiff agrees to indemnify and hold Defendant and the Released Parties harmless from any
16 liabilities, claims, demands, damages, costs, expenses, and attorneys’ fees incurred by Defendant or
17 the Released Parties as a result of any such assignment or transfer as described herein.

18 51. **Non-Disparagement.**

19 To the fullest extent permitted by law, Representative Plaintiff agrees not to disparage or
20 publish or disseminate information (nor encourage or solicit the disparagement or the dissemination
21 of such information), whether oral or written, that is derogatory in any manner or which may be
22 harmful to Defendant’s reputation, whether such information was acquired before, during, or after
23 Representative Plaintiff’s employment.

24 52. **Entire Agreement.**

25 This Settlement Agreement constitutes the entire agreement between the Parties, and no oral
26 representations, warranties, or inducements have been made to any party concerning this Settlement
27 Agreement other than the representations, warranties, and covenants contained and memorialized in
28

1 this Settlement Agreement. For clarity and avoidance of doubt, any prior agreement to arbitrate
2 involving Plaintiff and/or Defendant is not superseded and remains in full force and effect.

3 53. **Authorization To Act.**

4 The Parties hereto warrant and represent that they are authorized to negotiate and agree to
5 this Settlement as provided herein and to take all appropriate action required or permitted to be taken
6 by such parties pursuant to this Settlement and to otherwise effectuate its terms.

7 54. **Modification Only In Writing.**

8 This Settlement Agreement may be amended or modified only by a written instrument signed
9 by all Parties or their successors in interest.

10 55. **Binding On Successors.**

11 This Settlement Agreement is binding upon and will inure to the benefit of the Parties to this
12 Agreement, as well as their assigns and successors in interest.

13 56. **No Prior Assignments.**

14 The Aggrieved Employees are deemed by operation of the Final Order and Judgment to
15 represent, covenant, and warrant that they have not directly or indirectly assigned, transferred,
16 encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any
17 liability, claim, demand, cause of action, or rights released and discharged by this Agreement.

18 57. **Governing Law.**

19 All terms of this Settlement Agreement will be governed by and interpreted according to the
20 laws of the State of California, without giving effect to conflict of laws principles.

21 58. **Counterparts.**

22 This Settlement Agreement may be executed in one or more counterparts, including by the
23 use of electronic signatures or signatures transmitted by facsimile machine. All executed
24 counterparts and each of them will be deemed to be one and the same instrument. Counsel for the
25 Parties will exchange among themselves any signed counterparts.

26 59. **Exhibits.**

27 This Settlement Agreement includes the attached exhibits.
28

1 60. **Construction Of This Agreement.**

2 The Parties have reached this Settlement Agreement through arms-length negotiations. This
3 Agreement has been drafted and agreed to jointly by the parties hereto. Hence, for purposes of any
4 construction or interpretation of this Settlement Agreement, the Settlement Agreement shall not be
5 construed against either party as the principal drafter of the Settlement Agreement.

6 61. **Corporate Signatories.**

7 Any person executing this Settlement Agreement or any related document on behalf of a
8 corporate signatory warrants and represents for the benefit of all Parties that such person has been
9 duly authorized by such corporation to execute this Settlement Agreement or any related document.

10 62. **No Tax Advice.**

11 Nothing contained herein constitutes legal advice regarding the taxability or tax
12 consequences of any amounts paid in connection with the Settlement, nor should anything contained
13 herein be relied upon as such, and PAGA Counsel and Defendant's counsel are not providing
14 representation or advice regarding taxes or any withholding matters in connection with this
15 Settlement, either to Plaintiff or Defendant.

16 63. **Representation By Counsel.**

17 The Parties acknowledge and agree that each has been represented by counsel and each has
18 been given the opportunity to consult counsel regarding the contents of this Settlement Agreement,
19 and that each has sought the advice of counsel to the extent each Party believes is necessary to do
20 so prior to entering into this Settlement Agreement.

21 64. **Attorneys' Fees And Costs.**

22 Except as otherwise expressly provided for in this Settlement Agreement, the Parties will
23 each bear responsibility for their own attorneys' fees and costs, taxable or otherwise, incurred by
24 them or arising out of this Action and will not seek reimbursement thereof from any Party to this
25 Settlement Agreement, and no party hereto shall be considered a "prevailing party" (or similar
26 designation) in connection with this matter.

27 [SIGNATURE PAGE(S) TO FOLLOW]

1 **IT IS SO AGREED:**

2 Dated: 09/02/2025

PLAINTIFF ADOLFO LOZOYA RAMIREZ

3
4 Adolfo Lozoya Ramirez
Adolfo Lozoya Ramirez (Sep 2, 2025 14:45:35 PDT)

5
6 Dated:

DEFENDANT BEMUS LANDSCAPE, INC.

7
8
9 By:
10 Its:

11 Dated: 09/02/2025

APPROVED AS TO FORM ONLY:

12
13 By: Maralle Messrelan
14 MM Law, APC
Maralle Messrelan

15 Attorneys for Plaintiff Adolfo Lozoya Ramirez and
16 the Aggrieved Employees

17 Dated:

18 By: _____
LightGabler LLP
19 Brian R. Weilbacher
20 Attorney for Defendant Bemus Landscape, Inc.

21
22
23
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1 IT IS SO AGREED:

2

3 Dated:

PLAINTIFF ADOLFO LOZOYA RAMIREZ

4

5

6

7 Dated: 9/19/25

DEFENDANT BEMUS LANDSCAPE, INC.

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10

11

12 Dated:

APPROVED AS TO FORM ONLY:

13

14

By:

MM Law, APC
Maralle Messrelian

15

Attorneys for Plaintiff Adolfo Lozoya Ramirez and
the Aggrieved Employees

16

17

Dated: 9/22/25

By:

LightGabler LLP
Brian R. Weilbacher

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Attorney for Defendant Bemus Landscape, Inc.

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EXHIBIT A

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

ADOLFO LOZOYA RAMIREZ, as an
“aggrieved employee” on behalf of himself and
other similarly situated “aggrieved employees”
under the Labor Code Private Attorneys
General Act of 2004,

Plaintiff,

vs.

BEMUS LANDSCAPE, INC., a California
corporation; and DOES 1 to 25, inclusive,

Defendants.

Case No.: 24STCV08944 (PAGA
Representative Action)

**[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT
AND JUDGMENT**

Judge: The Honorable Doreen B. Boxer
Dept.: 19

Complaint filed: April 9, 2024

[PROPOSED] ORDER AND JUDGMENT

Plaintiff Adolfo Lozoya Ramirez (“Plaintiff” or “Representative Plaintiff”), individually on behalf of himself, and on behalf of the State of California and the aggrieved employees, has moved for an order requesting the Court grant approval of the “Stipulation and Agreement For PAGA Representative Action Settlement” (the “Settlement” or “Settlement Agreement”) seeking to resolve the above-captioned Private Attorneys General Act (“PAGA”) action in its entirety.

Having received and considered the Settlement Agreement, the supporting papers filed by Plaintiff and his counsel in connection therewith, and good cause appearing therefor, the Court hereby grants approval of the Settlement and **HEREBY ORDERS AND MAKES THE FOLLOWING DETERMINATIONS:**

1. Except as otherwise defined in this Order and Judgment (“Order”), all capitalized terms have the same meaning as defined in the Settlement Agreement, which is attached as **Exhibit 1** to this Order.

2. The California Labor Workforce and Development Agency (“LWDA”) has been provided due and adequate notice of the Settlement in accordance with applicable law and PAGA, including California Labor Code § 2699(1)(2), (1)(4). In particular, in connection with Representative Plaintiff filing his motion seeking approval of the Settlement with the Court, Representative Plaintiff submitted to the LWDA a notice of the Settlement enclosing a copy of the Settlement Agreement. Representative Plaintiff’s notice of the Settlement to the LWDA has complied with the notice requirements of PAGA.

3. The Court has jurisdiction over the subject matter of this litigation, over Representative Plaintiff and all Aggrieved Employees, and over those persons undertaking or subject to affirmative obligations under the Settlement.

4. The Settlement is approved under the PAGA statutes, including Labor Code §2699(s)(2). The Court has considered all relevant factors for determining the fairness and adequacy of the Settlement and has concluded that such factors weigh in favor of granting approval to the settlement. In particular, the Court finds that the Settlement was reached following meaningful investigation and discovery conducted by PAGA Counsel; that the Settlement is the result of serious,

1 informed, adversarial, and arm's-length negotiations between the parties; and that the terms of the
2 Settlement are in all respects fair, adequate, and reasonable.

3 5. The PAGA Settlement Notice to Aggrieved Employees, attached as **Exhibit 2** to this
4 Order, fairly and adequately describes the Action, the approved Settlement, and is the best notice
5 practicable under the circumstances.

6 6. The Court finds and declares that, in accordance with the Settlement Agreement,
7 Representative Plaintiff, on behalf of himself individually and as the representative for the State of
8 California and all Aggrieved Employees, releases, relinquishes, settles, and discharges all Released
9 PAGA Claims against the Released Parties, including for all civil penalties under PAGA.

10 7. The Court finds and declares that each Aggrieved Employee, in accordance with the
11 Settlement Agreement, releases all Released PAGA Claims against the Released Parties. Aggrieved
12 Employees and the State of California have no right to opt out of this Settlement, either in whole or
13 in part.

14 8. The Court finds and declares that, in accordance with the Settlement Agreement,
15 PAGA Counsel releases on behalf PAGA Counsel, and their present and former attorneys,
16 employees, principals, agents, successors and assigns, Defendant and each of the Released Parties
17 from all claims for attorney fees and costs incurred relating to the Action and the PAGA Period as
18 provided under any complaint in the Action and all PAGA notices in the Action.

19 9. The Gross Settlement Amount and the structure and methodology used for
20 calculation and distribution of the Gross Settlement Amount, including the LWDA Payment, the
21 PAGA Aggrieved Employee Payment, and the Individual PAGA Payments set forth in the
22 Settlement Agreement, are fair, reasonable, and adequate and are approved.

23 10. The Court approves the Service Award to Representative Plaintiff in the amount of
24 \$1,000.00. The Court authorizes the Settlement Administrator to make this payment, in accordance
25 with the terms of the Settlement Agreement.

26 11. The Court approves ILYM Group, Inc. to act as the Settlement Administrator. The
27 Court awards the Settlement Administrator in this Action fees and costs in accordance with the terms
28 of the Settlement Agreement in the amount of \$6,950.

1 12. The Court approves MM Law, APC, including its attorney Maralle Messrelian as
2 PAGA Counsel.

3 13. The Court awards PAGA Counsel attorneys' fees in the amount of \$38,333.33 and
4 costs in the amount of \$ _____ which the Court finds to be fair and reasonable. The Court
5 authorizes the Settlement Administrator to make these payments, in accordance with the terms of
6 the Settlement Agreement.

7 14. The Court authorizes the Settlement Administrator to calculate the Net Settlement
8 Amount, inclusive of the LWDA Payment and the PAGA Aggrieved Employee Payment (which is
9 comprised of the Individual PAGA Payments), in accordance with the terms of the Settlement
10 Agreement.

11 15. The Court finds that payment to the LWDA of 75% of the Net Settlement Amount
12 as its share of the settlement proceeds and in settlement of the Action is fair, adequate, and
13 reasonable. The Court authorizes the Settlement Administrator to pay the LWDA Payment, in
14 accordance with the terms of the Settlement Agreement.

15 16. The Court finds that payment to the Aggrieved Employees of 25% of the Net
16 Settlement Amount as the Aggrieved Employees' share of the settlement proceeds and in
17 settlement of the Action is fair, adequate, and reasonable. The Court authorizes the Settlement
18 Administrator to fund the PAGA Aggrieved Employee Payment and distribute the Individual
19 PAGA Payments in accordance with the terms of the Settlement Agreement.

20 17. Checks for Individual PAGA Payments sent to Aggrieved Employees shall be valid
21 for 180 calendar days after issuance. Funds remaining from any checks for Individual PAGA
22 Payments uncashed after 180 calendar days will be dispersed to the California State Controller's
23 Unclaimed Property Fund in the name(s) of the individuals who did not cash their checks, in
24 accordance with the terms of the Settlement Agreement.

25 18. A final accounting and status conference regarding the status of settlement
26 administration and completion shall take place on _____, 2026, at 8:30 a.m. in this
27 Department. A final report from the Settlement Administrator Re: Status of Settlement
28 Administration shall be filed at least ten (10) days prior to the hearing. The report from the

1 Settlement Administrator shall be in the form of a Declaration from the Settlement Administrator,
2 by a declarant with personal knowledge of the facts, and describes: (i) the date the checks were
3 mailed, (ii) the total number of checks mailed to Aggrieved Employees, (iii) the average amount of
4 those checks, (iv) the number of checks that remain uncashed, (v) the total value of those uncashed
5 checks, (vi) the average amount of the uncashed checks, and (vii) the holder/location and date of the
6 disposition of those unclaimed funds.

7 19. Except as otherwise expressly provided for herein, the parties will each bear
8 responsibility for their own attorneys' fees and costs, taxable or otherwise, incurred by them or
9 arising out of or related to this Action and will not seek reimbursement thereof from any other
10 party.

11 20. In accordance with the Settlement Agreement, nothing in this Order or the
12 Settlement shall be construed as an admission or concession by any party. The Settlement and this
13 resulting Order and entry of judgment simply represent a compromise of disputed allegations,
14 contentions, and claims. The Court acknowledges that, as stated in the Settlement Agreement, in
15 entering into this Agreement, Defendant has not admitted, and has specifically denied, that
16 Defendant has violated any federal, state, or local law; violated any regulations or guidelines
17 promulgated pursuant to any statute or any other applicable laws, regulations or legal
18 requirements; and that, as indicated, this Settlement was entered into by Defendant to avoid the
19 burden and expense of continued litigation.

20 JUDGMENT

21 21. In accordance with, and for the reasons stated above, judgment is hereby rendered
22 and entered under and in accordance with the terms of the Settlement Agreement, whereby the
23 Representative Plaintiff, PAGA Counsel, the State of California, and Aggrieved Employees, shall
24 obtain that which is expressly set forth in the executed Settlement Agreement and in conformance
25 with the Court's approval order. This judgment, upon the effectiveness of the releases of claims
26 provided for in the Settlement, shall constitute a full and complete bar against Representative
27 Plaintiff, PAGA Counsel, the Aggrieved Employees, and the State of California as to all of the
28 claims released by the Settlement and shall be res judicata and collateral estoppel with respect to

1 such released claims.

2 22. Pursuant to California Code of Civil Procedure §664.6 and Rule 3.769(h) of the
3 California Rules of Court and in accordance with Settlement Agreement, this Court reserves
4 exclusive and continuing jurisdiction over this Action, the Representative Plaintiff, the Aggrieved
5 Employees, and Defendant in the action, for the purpose of supervising the implementation,
6 enforcement, construction, and interpretation of the Settlement Agreement, and the Court's
7 approval order and judgment in the Action.

8 23. Plaintiff is directed to submit a copy of this Order and Judgment to the LWDA within
9 10 days of the date of this Order and Judgment.

10 **IT IS SO ORDERED:**

11 DATED: _____, 2025

The Honorable Doreen B. Boxer
Judge of The Superior Court

EXHIBIT B

Exhibit B
PAGA Settlement Notice

[Date], 2025

ILYM Group

[ILYM Group Street Address]

[City, State Zip]

[Employee Name]

[Employee Street Address]

[City, State Zip]

Re: **Adolfo Lozoya Ramirez v. Bemus Landscape, Inc., et al. – PAGA Settlement Payment**

Dear Current or Former Employee:

You have received this notice because the records of defendant Bemus Landscape, Inc. (“Defendant” or “Bemus”) indicate that you worked for Defendant for some time from February 1, 2023 through September 16, 2025. This notice relates to the settlement of a lawsuit entitled *Adolfo Lozoya Ramirez v. Bemus Landscape, Inc., et al.*, Case No. 24STCV08944 (the “Action”).

In the Action, Plaintiff Adolfo Lozoya Ramirez (“Plaintiff”) made allegations and sought civil penalties against Defendant Bemus pursuant to the California Private Attorneys General Act (“PAGA”), a law which allows a plaintiff to attempt to recover penalties on behalf of the State of California and on behalf of employees who the plaintiff alleges were “aggrieved” by alleged wage and hour violations. Plaintiff made a variety of allegations in connection with his PAGA claim, including, for example: alleging failure to pay minimum wages; failure to pay overtime wages; failure to provide meal periods; failure to provide rest breaks; failure to reimburse for business expenses; failure to timely pay earned wages during employment; failure to provide complete and accurate itemized wage statements; failure to timely pay all earned wages at time of separation; failure to maintain accurate employment records; and failure to provide toilet facilities, potable water, and cleansing agent.

Defendant Bemus Has Disputed and Denied All of Plaintiff’s Claims and Allegations: From the beginning of the case and to the present, Defendant has disputed and denied all of Plaintiff’s allegations, has asserted that Plaintiff’s claims are without basis and invalid, and have asserted that Defendant has complied with the California Labor Code, the California Wage Orders, and all other relevant California state and federal laws and regulations. Defendant chose to resolve this matter solely to minimize the expense and disruption to its business caused by Plaintiff’s Action.

The Court has not issued any ruling regarding whether Plaintiff’s Action is valid or meritorious. To avoid the cost, burden, and distraction of litigation, Defendant made a business decision to settle the Action and the settlement has now been approved by the Court.

As part of the settlement of the Action, Defendant agreed to and the Court has approved a settlement under which Defendant paid, in total, the settlement amount of \$115,000. In accordance

with the Court's approval, the settlement amount is being distributed to pay for PAGA Counsel's attorneys fees and costs, Representative Plaintiff's service award, settlement administration costs, and payments to the State of California and Defendant's employees. After deducting fees and costs, the Net Settlement Amount of \$ [[Net Settlement Amount to be input post Court approval – estimated to be \$59,216.67]] is being distributed to the State of California and current and former employees of Defendant Bemus.

The settlement has resolved the Action in its entirety and it releases the PAGA claims described in this notice. The Net Settlement Amount is divided, as provided by law, between the State of California and Defendant's allegedly aggrieved employees, with the State receiving 75 percent of the penalties and employees receiving the remaining 25 percent.

Under the settlement, Plaintiff, on behalf of the State of California, the "Aggrieved Employees," and himself fully, finally, and forever released, relinquished, settled, and discharged all "Released PAGA Claims" against the "Released Parties."

"Aggrieved Employees" means: "means all non-exempt employees who were employed or were alleged to have been employed by Defendant, in the State of California, at any time from February 1, 2023 through September 16, 2025."

"Released PAGA Claims" means: "any and all claims, demands, rights, liabilities, debts, primary rights, claims for relief, and causes of action for PAGA penalties during the PAGA Period arising out of or relating to the employment of Plaintiff or the Aggrieved Employees that: 1) are alleged, were alleged, or could have been alleged in the complaint(s) in the Action (including any previously filed complaints in the Action) or any PAGA notice letter; or 2) arise out of, are comprised of, and/or are related to the facts, matters, transactions or occurrences alleged in the complaint in the Action or any PAGA notice letter. This includes, without limitation, claims and allegations made pursuant to the PAGA for claims against Defendant for: failure to pay all wages earned; failure to provide meal periods (or pay premium pay); failure to provide rest breaks (or pay premium pay); failure to indemnify or reimburse for necessary business expenses; failure to provide complete and accurate itemized wage statements; failure to timely pay all wages owed during employment and/or waiting time penalties to former employees; failure to pay all wages owed to discharged and quitting employees; failure to keep or maintain required records; failure to provide toilet facilities, potable water, and/or cleansing agent; failure to provide sick leave or written notice of sick leave available; failure to provide any records, including personnel file and signed documents; and for any violations of California Labor Code sections, including sections 200, 201-203, 204, 210, 226, 226.3, 226.7, 246, 248.1, 248.2, 248.3, 248.6, et seq., 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 et seq., 2350, 2800, 2802, 2698 *et seq.*, the applicable IWC Wage Order provisions; and primary and statutory rights alleged in Plaintiff's operative complaint in the Action and in Plaintiff's PAGA notice letter dated February 1, 2024 and referenced in Plaintiff's complaint at paragraph 81."

"Released Parties" means: "Defendant Bemus Landscape, Inc., and Defendant's current and former subsidiaries, parents, predecessors, successors, assigns, and Defendant's current and

former owners, investors, shareholders, members, partners, officers, directors, managers, employees, supervisors, agents, attorneys, insurers, and representatives.”

The enclosed settlement check represents your portion of the Court-approved PAGA settlement. Cashing your check will not affect your current or former employment with Defendant Bemus. Checks that are not cashed within 180 calendar days of issuance will be voided and the funds will be distributed to the California State Controller’s Unclaimed Property Fund in the name of the employee.

Regardless of what you do with the settlement check, based on applicable law and the Court’s approval of the settlement, the release of claims above has become effective and binding on you, and you are deemed to have released such claims as described above.

If you have any questions about this notice, please contact the Settlement Administrator, _____ at _____.

EXHIBIT 2

PAGA Settlement Notice

[Date], 2025

ILYM Group

[ILYM Group Street Address]

[City, State Zip]

[Employee Name]

[Employee Street Address]

[City, State Zip]

Re: **Adolfo Lozoya Ramirez v. Bemus Landscape, Inc., et al. – PAGA Settlement Payment**

Dear Current or Former Employee:

You have received this notice because the records of defendant Bemus Landscape, Inc. (“Defendant” or “Bemus”) indicate that you worked for Defendant for some time from February 1, 2023 through September 16, 2025. This notice relates to the settlement of a lawsuit entitled *Adolfo Lozoya Ramirez v. Bemus Landscape, Inc., et al.*, Case No. 24STCV08944 (the “Action”).

In the Action, Plaintiff Adolfo Lozoya Ramirez (“Plaintiff”) made allegations and sought civil penalties against Defendant Bemus pursuant to the California Private Attorneys General Act (“PAGA”), a law which allows a plaintiff to attempt to recover penalties on behalf of the State of California and on behalf of employees who the plaintiff alleges were “aggrieved” by alleged wage and hour violations. Plaintiff made a variety of allegations in connection with his PAGA claim, including, for example: alleging failure to pay minimum wages; failure to pay overtime wages; failure to provide meal periods; failure to provide rest breaks; failure to reimburse for business expenses; failure to timely pay earned wages during employment; failure to provide complete and accurate itemized wage statements; failure to timely pay all earned wages at time of separation; failure to maintain accurate employment records; and failure to provide toilet facilities, potable water, and cleansing agent.

Defendant Bemus Has Disputed and Denied All of Plaintiff’s Claims and Allegations: From the beginning of the case and to the present, Defendant has disputed and denied all of Plaintiff’s allegations, has asserted that Plaintiff’s claims are without basis and invalid, and have asserted that Defendant has complied with the California Labor Code, the California Wage Orders, and all other relevant California state and federal laws and regulations. Defendant chose to resolve this matter solely to minimize the expense and disruption to its business caused by Plaintiff’s Action.

The Court has not issued any ruling regarding whether Plaintiff’s Action is valid or meritorious. To avoid the cost, burden, and distraction of litigation, Defendant made a business decision to settle the Action and the settlement has now been approved by the Court.

As part of the settlement of the Action, Defendant agreed to and the Court has approved a settlement under which Defendant paid, in total, the settlement amount of \$115,000. In accordance

with the Court's approval, the settlement amount is being distributed to pay for PAGA Counsel's attorneys fees and costs, Representative Plaintiff's service award, settlement administration costs, and payments to the State of California and Defendant's employees. After deducting fees and costs, the Net Settlement Amount of \$ [[Net Settlement Amount to be input post Court approval – estimated to be \$59,216.67]] is being distributed to the State of California and current and former employees of Defendant Bemus.

The settlement has resolved the Action in its entirety and it releases the PAGA claims described in this notice. The Net Settlement Amount is divided, as provided by law, between the State of California and Defendant's allegedly aggrieved employees, with the State receiving 75 percent of the penalties and employees receiving the remaining 25 percent.

Under the settlement, Plaintiff, on behalf of the State of California, the "Aggrieved Employees," and himself fully, finally, and forever released, relinquished, settled, and discharged all "Released PAGA Claims" against the "Released Parties."

"Aggrieved Employees" means: "means all non-exempt employees who were employed or were alleged to have been employed by Defendant, in the State of California, at any time from February 1, 2023 through September 16, 2025."

"Released PAGA Claims" means: "any and all claims, demands, rights, liabilities, debts, primary rights, claims for relief, and causes of action for PAGA penalties during the PAGA Period arising out of or relating to the employment of Plaintiff or the Aggrieved Employees that: 1) are alleged, were alleged, or could have been alleged in the complaint(s) in the Action (including any previously filed complaints in the Action) or any PAGA notice letter; or 2) arise out of, are comprised of, and/or are related to the facts, matters, transactions or occurrences alleged in the complaint in the Action or any PAGA notice letter. This includes, without limitation, claims and allegations made pursuant to the PAGA for claims against Defendant for: failure to pay all wages earned; failure to provide meal periods (or pay premium pay); failure to provide rest breaks (or pay premium pay); failure to indemnify or reimburse for necessary business expenses; failure to provide complete and accurate itemized wage statements; failure to timely pay all wages owed during employment and/or waiting time penalties to former employees; failure to pay all wages owed to discharged and quitting employees; failure to keep or maintain required records; failure to provide toilet facilities, potable water, and/or cleansing agent; failure to provide sick leave or written notice of sick leave available; failure to provide any records, including personnel file and signed documents; and for any violations of California Labor Code sections, including sections 200, 201-203, 204, 210, 226, 226.3, 226.7, 246, 248.1, 248.2, 248.3, 248.6, et seq., 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198 et seq., 2350, 2800, 2802, 2698 *et seq.*, the applicable IWC Wage Order provisions; and primary and statutory rights alleged in Plaintiff's operative complaint in the Action and in Plaintiff's PAGA notice letter dated February 1, 2024 and referenced in Plaintiff's complaint at paragraph 81."

"Released Parties" means: "Defendant Bemus Landscape, Inc., and Defendant's current and former subsidiaries, parents, predecessors, successors, assigns, and Defendant's current and

former owners, investors, shareholders, members, partners, officers, directors, managers, employees, supervisors, agents, attorneys, insurers, and representatives.”

The enclosed settlement check represents your portion of the Court-approved PAGA settlement. Cashing your check will not affect your current or former employment with Defendant Bemus. Checks that are not cashed within 180 calendar days of issuance will be voided and the funds will be distributed to the California State Controller’s Unclaimed Property Fund in the name of the employee.

Regardless of what you do with the settlement check, based on applicable law and the Court’s approval of the settlement, the release of claims above has become effective and binding on you, and you are deemed to have released such claims as described above.

If you have any questions about this notice, please contact the Settlement Administrator, _____ at _____.

EXHIBIT 3



February 1, 2024

NOTICE VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency (LWDA)
Attn: PAGA Administrator
<https://dir.tfaforms.net/308>

VIA U.S. CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

Bemus Landscape, Inc.
c/o Vish Cornelius, Agent
951 Calle Negocio, Suite D
San Clemente, CA 92673

**RE: Adolfo Lozoya Ramirez/Bemus Landscape, Inc.
Private Attorneys General Act**

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.* (“PAGA”), Mr. Adolfo Lozoya Ramirez (hereafter “Ramirez”) provides notice on behalf of himself and of all individuals currently and formerly employed in California as non-exempt hourly paid employees (hereafter the “Aggrieved Employees”), by Bemus Landscape, Inc. (hereafter “BEMUS”), of violations of California Labor Code §§ 98.6, 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1102.5, 1174, 1194, 1197, 1198, 2350, and 2802. On behalf of himself and all other Aggrieved Employees, Ramirez hereby provides this notice to the Labor & Workforce Development Agency and BEMUS and its agents and representatives.

At all relevant times, BEMUS has employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Ramirez and the Aggrieved Employees are “employees” within the meaning of Wage Order 5-2001 (hereafter “the Wage Order”) § 2, subdivision (F) and “Aggrieved Employees” within the meaning of Labor Code § 2699, subdivision (c).

An Aggrieved Employee pursuing a representative action under the PAGA could seek civil penalties for alleged Labor Code violations that affected the Aggrieved Employee, as well as separate California Labor Code violations that affected other employees. In *Huff v. Securitas Security Services USA, Inc.*, 233 Cal. Rptr. 3d 502 (Ct. App. 2018), the Court concluded that an employee affected by at least one California Labor Code violation could pursue civil penalties under PAGA on behalf of other Aggrieved Employees for all Labor Code violations by the same employer, even if such violations did not affect the employee initiating the PAGA

action. Consequently, Ramirez can equivocally bring the following labor code violations on behalf of all other employees.

STATEMENT OF FACTS

BEMUS first began to employ Ramirez as a driver and laborer in or around September 2023. Ramirez generally worked Monday through Friday from approximately 6:30 a.m. to 2:30 p.m. or later. Ramirez's rate of pay was \$18.50 per hour. Ramirez's employment ended on or around January 19, 2024.

At all relevant times, BEMUS issued wages to Ramirez and all of the other Aggrieved Employees on a weekly basis and paid them by the hour. At all relevant times, BEMUS classified Ramirez and all of the other Aggrieved Employees as non-exempt employees entitled to the protections of the Labor Code and the Wage Order.

BEMUS failed to pay Ramirez and the other Aggrieved Employees for all time worked or subject to its control. Ramirez and the other Aggrieved Employees consistently worked "off the clock" in that the company had a policy and practice of rounding down work hours and "time shaving" which led to Ramirez and others not being paid for all hours worked, which would include the minimum wage. Ramirez would often stay an extra 30 minutes to finish up work and was not paid for this extra time. In addition, to the extent employees such as Ramirez and others worked through their meal periods and those meal periods were interrupted, they were not compensated for that time, which would be akin to a minimum wage violation. Furthermore, BEMUS ownership/management would often speak to or call Ramirez and the other Aggrieved Employees about work-related matters before the start of their shifts or after their shifts had ended. Ramirez would consistently receive texts from his supervisor, Juan Herrera, concerning work matters.

BEMUS failed to pay Ramirez and the Aggrieved Employees properly-calculated overtime wages even though they worked more than 8 hours per day and/or 40 hours per week throughout their employment. Ramirez's and the Aggrieved Employees' actual work hours (including the "off the clock" hours mentioned above) entitled them to overtime compensation. However, BEMUS did not compensate Ramirez and the Aggrieved Employees with the correct amount of overtime. It was not company policy to keep accurate track of all hours worked and to pay employees the accurate amount of overtime, especially since the "off the clock" work was not factored into the equation. Furthermore, any incentive payments and/or bonus payments were not factored into employees' regular rate of pay for purposes of deciphering the correct overtime rate of pay. In addition, any bonus and/or incentive payments were not factored into the correct sick pay wages and meal and rest break premium pay per *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

BEMUS failed to provide all compliant meal periods and authorize and permit all compliant rest periods to which Ramirez and the other Aggrieved Employees were entitled. Ramirez and the other Aggrieved Employees were entitled to take off-duty, uninterrupted 30-minute meal periods before the fifth and tenth hours of work and to take uninterrupted 10-minute rest periods for every four

hours or major fraction thereof worked. Due to the workload, Ramirez and the Aggrieved Employees did not take compliant rest breaks and would not be able to take timely, uninterrupted meal periods before the 5th or 10th hour worked. On information and belief, BEMUS did not keep track of Ramirez's and the Aggrieved Employees' meal periods. Per *Donohue v. AMN Services, LLC*, (2021) 11 Cal.5th 58, where time records do not facially show an employee took a compliant meal period, a rebuttable presumption arises that the employer failed to provide it, giving rise to a meal period violation. Similarly, Ramirez and the other Aggrieved Employees were not able to take their 10-minute rest breaks due to the work load. Moreover, when Ramirez and the other Aggrieved Employees took their meal periods, BEMUS management would interrupt them with questions about work related matters or their meal periods were cut short due to their work load. On information and belief, BEMUS did not provide premium wages for these meal and rest break violations; if BEMUS did provide premium wages, they were not paid at the correct rate, as explained above.

BEMUS failed to reimburse Ramirez and the other Aggrieved Employees for business expenses they incurred in direct consequence of the discharge of their duties. BEMUS required Ramirez and the Aggrieved Employees to purchase steel tip shoes and use their own personal cell phones to communicate with ownership/management concerning work matters. However, BEMUS did not reimburse Ramirez and the other Aggrieved Employees for these uniform and mobile phone expenses. Accordingly, BEMUS was in violation of California Labor Code sections 2800 and 2802.

BEMUS failed to pay its employees all wages due to them within any time period specified by California Labor Code section 204, including the minimum wages and overtime as described above as well as meal/rest break premiums.

BEMUS did not provide Ramirez and the other Aggrieved Employees accurate, itemized wage statements in violation of Labor Code 226. Wage statements must include all hours worked, overtime hours worked, all applicable hourly rates, the correct legal name and correct address of employer entity, gross wages earned, all deductions, net wages earned, reimbursement for business expenses, the correct start and end of the applicable pay period, the employee ID numbers or social security numbers, among other items. Labor Code § 226(a)(2). BEMUS's failure to maintain accurate records as to the hours worked daily by employees also constitutes a violation of Labor Code section 1174(d).

Finally, because BEMUS did not properly pay all wages earned as explained herein, BEMUS also failed to pay final wages owed to the Aggrieved Employees in violation of Labor Code section 203. These earned but unpaid wages include minimum wages and compensation for all hours worked, overtime compensation, premium pay for missed meal and rest breaks, and business expense reimbursement, among others.

BEMUS has also violated Labor Code section 558 and engaged in business practices which violate Business and Professions Code Section 17200.

In addition, Ramirez would also have individual claims against BEMUS for retaliation under Labor Code sections 98.6, 1102.5, and wrongful termination in violation of public policy. In or around mid/late December 2023, Ramirez complained to management about improper pay and not personally clocking in and out of for the start and end of his work shifts as company policy dictated. Instead, the foreman (Alexis Cortez) himself would input Ramirez's and the other Aggrieved Employees' hours on the "Aspire" app on his mobile phone. However, the foreman would not always arrive at the worksite on time, and it was impossible for him to correctly input Ramirez's and the other employees start time. Ramirez insisted that he and the other employees be allowed to clock in and out themselves. On or around January 19, 2024, BEMUS informed Ramirez that there was no more work for him and terminated his employment. It is our position that BEMUS retaliated against Ramirez for his complaints and wrongfully terminated his employment in violation of public policy. Any justification offered by BEMUS is pretext as BEMUS unequivocally had the required retaliatory animus.

For the reasons herein, on behalf of himself and the Aggrieved Employees, Ramirez alleges that BEMUS committed the following violations of the California Labor Code and the Wage Order: 1) failed to pay wages for all time worked or subject to BEMUS's control, including minimum wages and correctly-calculated overtime wages; 2) failed to provide meal periods or pay correctly-calculated premium wages in lieu thereof; 3) failed to authorize and permit rest periods or pay correctly-calculated premium wages in lieu thereof; 4) failed to reimburse reasonably necessary business expenses; 5) failed to provide compliant wage statements; 6) failed to maintain accurate records; and 7) failed to timely pay all wages owed during and upon separation of employment.

Accordingly, Ramirez now seeks civil penalties on behalf of himself and the Aggrieved Employees based on BEMUS's alleged violations of the California Labor Code and the Wage Order.

THE WAGE ORDER

Wage Order 5-2001 applies to "all persons employed in the public housekeeping industry," where "Public Housekeeping Industry" includes "Establishments contracting for development, maintenance or cleaning of grounds..." (*Id.*, §§ 1 & 2(P)(6)).

At all relevant times during the applicable limitations period, BEMUS, Ramirez, and the Aggrieved Employees were covered by the Wage Order because Ramirez and all of the Aggrieved Employees worked for BEMUS in landscape maintenance occupations. Accordingly, Ramirez and the Aggrieved Employees are entitled to the protections provided under the Wage Orders.

FAILURE TO PAY WAGES FOR ALL HOURS WORKED AT THE CORRECT RATES OF PAY

Labor Code §§ 510, 558, 1194, 1197, and 1198

Labor Code sections 510, 1194, and 1197 require employers to pay the wages agreed to and at least minimum wages for all time under the employer's control, overtime wages for hours worked over eight per day or forty per week at one and one-half times the employee's regular rate of pay,

and double-time wages for hours worked over twelve in one day or for the first eight hours of work on the seventh consecutive day of work at two times the employee's regular rate of pay. Labor Code section 558 establishes a civil penalty for violation of Labor Code section 510. Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

BEMUS failed to pay all minimum, regular and overtime wages to Ramirez and the other Aggrieved Employees because BEMUS paid wages based on rounded times, did not pay for off-the-clock work, and failed to pay overtime wages based on correct regular rates of pay.

FAILURE TO PROVIDE MEAL PERIODS

Labor Code §§ 226.7, 512, and 1198

Employers must provide employees a 30-minute, uninterrupted meal period after no more than five hours of work, and a second such meal period after no more than 10 hours work. Labor Code § 512(a); IWC Wage Order(s) §§ 11(A)-(B); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. If an employer fails to provide an employee a meal period in accordance with California law, the employer must pay the employee one hour of pay at the employee's regular rate for each work day the meal period is not provided. Lab. Code § 226.7(c); IWC Wage Order(s), § 11(D); *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

BEMUS failed to provide Ramirez and the other Aggrieved Employees with compliant meal periods and failed to pay one hour of correctly-calculated premium pay for each day such a meal period was not provided.

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS

Labor Code § 226.7 & 1198

The Rest Period section of the applicable Wage Order provides: "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof. Rest periods shall take place at employer designated areas, which may include or be limited to the employees' immediate work area." IWC Wage Order(s), § 11; Labor Code § 226.7(c); *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

BEMUS failed to authorize and permit Ramirez and the other Aggrieved Employees to take rest periods and failed to pay one hour of correctly-calculated premium pay for each day such a rest period was not provided.

///

FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS

Labor Code §§ 226

California employers are required to provide itemized wage statements showing, among other things, “gross wages earned,” “total hours worked by the employee,” “net wages earned,” 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.” Labor Code §§ 226(a)(1), (2), (5), (9).

BEMUS did not provide itemized wage statements accurately reflecting Ramirez’s and the other Aggrieved Employees’ gross wages earned, total hours worked, net wages earned, and all applicable hourly rates and the number of hours worked at each rate.

FAILURE TO PROVIDE ACCURATE RECORDS

Labor Code §§ 1174, 1174.5, 1198; IWC Wage Order(s), § 6

An employer must maintain payroll records showing hours worked daily by, and wages paid to, its employees, in accordance with rules established by the Industrial Welfare Commission. Labor Code §1174. An employer must also maintain time records showing when each work period, and meal period, begins and ends. IWC Wage Order(s), § 6.

Because BEMUS rounded employees’ time worked, did not record off-the-clock work, and interrupted employees’ meal periods, BEMUS failed to maintain accurate records as to the hours worked daily by employees and as to when each work period and meal period began and ended.

FAILURE TO REIMBURSE FOR EXPENSES

Labor Code §§ 1198, 2802, and 2804

An employer must reimburse its employees for their reasonable business-related expenses. Labor Code § 2802. The right to reimbursement cannot be waived. Labor Code § 2804.

BEMUS failed to reimburse Ramirez and the other Aggrieved Employees for their reasonable business-related expenses, including uniforms (steel tip shoes) and use of their own personal cell phones in effectuating their job duties.

FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT & UPON SEPARATION

Labor Code §§ 201-204

An employer must pay “[a]ll wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment...twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Labor Code § 204. An employer must pay all wages owed to terminated employees at the time of termination, or within 72 hours to employees who quit. Labor Code §§ 201-202. If an employer willfully fails to timely pay all

wages to separated employees, the wages continue at the same rate for up to 30 days, until paid. Labor Code § 203.

As a result of its failure to pay all wages earned, as described above, BEMUS failed to pay all wages due to Ramirez and the Aggrieved Employees during employment and all final wages due to the Aggrieved Employees upon separation of employment and violated Labor Code Sections 201-204.

RETALIATION

Labor Code § 98.6

A person shall not discharge an employee because the employee has filed a bona fide complaint or claim relating to his or her rights that are under the jurisdiction of the Labor Commissioner or made a written or oral complaint that he or she is owed unpaid wages. Lab. Code § 98.6(a).

BEMUS retaliated against Ramirez for objecting to conduct that violated the California Labor Code. During the course of his employment, Ramirez complained to management about improper pay and not personally clocking in and out for the start and end of his work shifts as company policy dictated. Because of his complaints regarding BEMUS's noncompliance with the California Labor Code, BEMUS retaliated against Ramirez by terminating his employment in violation of Labor Code § 98.6.

Ramirez seeks civil penalties under California Labor Code § 98.6(b) (3) in an amount not to exceed \$10,000 for each violation by BEMUS, of California Labor Code § 98.6(a), as well as attorney's fees and costs under Lab. Code § 2699(g).

RETALIATION

Labor Code § 1102.5

An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties. Lab. Code § 1102.5(b).

Ramirez complained to management about improper pay and not personally clocking in and out for the start and end of his work shifts as company policy dictated. Because of his complaints regarding BEMUS's noncompliance with the California Labor Code, BEMUS retaliated against Ramirez by terminating his employment in violation of California Labor Code § 1102.5(b).

Ramirez seeks civil penalties under California Labor Code § 1102.5(f) in an amount not to exceed \$10,000 for each violation by BEMUS of California Labor Code § 1102.5(b), as well as attorney's fees and costs under Labor Code §§ 1102.5(j) and 2699(g).

**FAILURE TO PROVIDE TOILET FACILITIES,
POTABLE WATER, CLEANSING AGENTS**

Labor Code §§ 1198 and 2350

Labor Code § 2350 states,

Every factory, workshop, mercantile or other establishment in which one or more persons are employed, shall be kept clean and free from the effluvia arising from any drain or other nuisance, and shall be provided, within reasonable access, with a sufficient number of toilet facilities for the use of the employees. When there are five or more employees who are not all of the same gender, a sufficient number of separate toilet facilities shall be provided for the use of each sex, which shall be plainly so designated.

Section 10(C) of the Wage Order states, "in all places of employment the employer shall provide an adequate supply of potable water, soap, or other suitable cleaning agent and single use towels for handwashing."

Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

BEMUS failed to provide any toilet facilities for use by Ramirez and all of the other Aggrieved Employees within reasonable access. Additionally, BEMUS failed to provide potable water, soap, or other suitable cleaning agent and single use towels for handwashing for use by Ramirez and all of the other Aggrieved Employees.

CONCLUSION

As noted above, this letter constitutes the required notice under the California Labor Code Private Attorneys General Act of 2004. Please be advised that Adolfo Lozoya Ramirez will seek both reasonable attorneys' fees and costs under Labor Code § 2699, subdivision (g) (1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure §1021.5 to resolve this matter before litigation.

Sincerely,



Maralle Messrelian, Esq.
maralle@mmlawapc.com

EXHIBIT 4

1 MARALLE MESSRELIAN (SBN 316974)

2 maralle@mmlawapc.com

3 MM LAW, APC

4 500 N. Brand Blvd., Ste 2000

5 Glendale, CA 91203

6 Telephone (818) 810-7747

7 Facsimile (818) 230-9018

8 Attorneys for Plaintiff,

9 ADOLFO LOZOYA RAMIREZ, and all others similarly situated

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

12 **(UNLIMITED JURISDICTION)**

13 ADOLFO LOZOYA RAMIREZ, as an
14 “aggrieved employee” on behalf of himself and
15 other similarly situated “aggrieved employees”
16 under the Labor Code Private Attorneys
17 General Act of 2004,

18 *Plaintiff,*

19 vs.

20 BEMUS LANDSCAPE, INC., a California
21 corporation; and DOES 1 to 25, inclusive,

22 *Defendants.*

Electronically FILED by
Superior Court of California,
County of Los Angeles
4/09/2024 10:56 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Tarasyuk, Deputy Clerk

Case No. **24STCV08944**

**COMPLAINT FOR VIOLATIONS
OF THE LABOR CODE AND CIVIL
PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004, LABOR
CODE §§ 2698, ET SEQ.**

JURY TRIAL DEMANDED

1 Plaintiff, Adolfo Lozoya Ramirez (hereafter “Plaintiff”), on behalf of himself, the State of
2 California, and the other Aggrieved Employees, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this representative action under the Labor Code Private Attorneys
5 General Act of 2004, § 2698, *et seq.* (“PAGA”) based on alleged violations of the California
6 Labor Code and Industrial Welfare Commission Order No. 5-2001 (hereafter “the Wage Order”),
7 against Defendants Bemus Landscape, Inc., a California corporation, and DOES 1 to 25, inclusive
8 (collectively “BEMUS” or “Defendants”).

9 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
10 him, the State of California, and the Aggrieved Employees (defined below), for civil penalties
11 and other related relief. These claims are based on Defendants’ failures to: 1) pay all wages,
12 including minimum, regular, overtime, and doubletime wages earned for all hours worked at the
13 correct rates of pay; 2) provide meal periods or pay correctly-calculated premium wages in lieu
14 thereof; 3) authorize and permit rest periods or pay correctly-calculated premium wages in lieu
15 thereof; 4) indemnify for business expenses; 5) issue only accurate and complete itemized wage
16 statements; 6) timely pay wages during employment; 7) timely pay wages upon separation from
17 employment; and 8) maintain accurate employment records. Accordingly, Plaintiff now seeks to
18 recover civil penalties and related relief through this representative action.

19 **JURISDICTION AND VENUE**

20 3. Jurisdiction and Venue are proper in this Court and this action is properly filed in
21 the County of Los Angeles in this judicial district because Defendants Bemus Landscape, Inc.
22 and DOES 1 to 25, inclusive, do business in the County of Los Angeles and because Defendants’
23 obligations and liabilities arise therein, and because the work that was performed by Plaintiff and
24 the Aggrieved Employees in the County of Los Angeles is the subject of this action. Moreover,
25 the aggregate claims of Plaintiff and the Aggrieved Employees, inclusive of all relief, place more
26 than \$25,000 in controversy.

27 ///

28 ///

THE PARTIES

4. Plaintiff Adolfo Lozoya Ramirez is resident of California.

5. Defendant Bemus Landscape, Inc. is a corporation organized and existing under the laws of California and as such, a citizen of California based on Plaintiff's information and belief.

6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of participation in the conduct alleged herein of the Defendants sued as DOES 1-25, inclusive, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

7. The "Aggrieved Employees" are all individuals the Defendants have employed or otherwise contracted with in California as hourly, non-exempt employers, during the period beginning one year before the Plaintiff's notice of February 1, 2024 to the California Labor and Workforce Development Agency ("LWDA") and ending on the date judgment is entered.

8. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters or employers of the remaining defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such agency or employment, and with the approval and ratification of each of the other Defendants.

9. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack of a practice which resulted in Defendants not paying Plaintiff and the other Aggrieved Employees in accordance with applicable California labor laws as alleged herein.

10. Plaintiff is informed and believes and thereon alleges that each and every one of the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other defendants, and that said acts and failures to act were within the course and scope of said agency,

1 employment, and/or direction and control.

2 **FACTUAL ALLEGATIONS**

3 11. IWC Wage Order 5-2001 (“the Wage Order”) “all persons employed in the public
4 housekeeping industry,” where “Public Housekeeping Industry” includes “Establishments
5 contracting for development, maintenance or cleaning of grounds...” (Id., §§ 1 & 2(P)(6). At all
6 relevant times during the applicable limitations period, BEMUS, Plaintiff, and the Aggrieved
7 Employees were covered by the Wage Order because Plaintiff and all of the Aggrieved
8 Employees worked for BEMUS in landscape maintenance occupations. Accordingly, Plaintiff
9 and the Aggrieved Employees are entitled to the protections provided under the Wage Order.

10 12. BEMUS first began to employ Plaintiff as a driver and laborer in or around
11 September 2023. Plaintiff generally worked Monday through Friday from approximately 6:30
12 a.m. to 2:30 p.m. or later. Plaintiff’s rate of pay was \$18.50 per hour. Plaintiff’s employment
13 ended on or around January 19, 2024.

14 13. At all relevant times, BEMUS issued wages to Plaintiff and all of the other
15 Aggrieved Employees on a weekly basis and paid them by the hour. At all relevant times, BEMUS
16 classified Plaintiff and all of the other Aggrieved Employees as non-exempt employees entitled
17 to the protections of the Labor Code and the Wage Order.

18 14. BEMUS failed to pay Plaintiff and the other Aggrieved Employees for all time
19 worked or subject to its control. Plaintiff and the other Aggrieved Employees consistently worked
20 “off the clock” in that the company had a policy and practice of rounding down work hours and
21 “time shaving” which led to Plaintiff and others not being paid for all hours worked, which would
22 include the minimum wage. Plaintiff would often stay an extra 30 minutes to finish up work and
23 was not paid for this extra time. In addition, to the extent employees such as Plaintiff and others
24 worked through their meal periods and those meal periods were interrupted, they were not
25 compensated for that time, which would be akin to a minimum wage violation. Furthermore,
26 BEMUS ownership/management would often speak to or call Plaintiff and the other Aggrieved
27 Employees about work-related matters before the start of their shifts or after their shifts had ended.
28 Plaintiff would consistently receive texts from his supervisor, Juan Herrera, concerning work

1 matters.

2 15. BEMUS failed to pay Plaintiff and the Aggrieved Employees properly-calculated
3 overtime wages even though they worked more than 8 hours per day and/or 40 hours per week
4 throughout their employment. Plaintiff's and the Aggrieved Employees' actual work hours
5 (including the "off the clock" hours mentioned above) entitled them to overtime compensation.
6 However, BEMUS did not compensate Plaintiff and the Aggrieved Employees with the correct
7 amount of overtime. It was not company policy to keep accurate track of all hours worked and to
8 pay employees the accurate amount of overtime, especially since the "off the clock" work was
9 not factored into the equation. Furthermore, any incentive payments and/or bonus payments were
10 not factored into employees' regular rate of pay for purposes of deciphering the correct overtime
11 rate of pay. In addition, any bonus and/or incentive payments were not factored into the correct
12 sick pay wages and meal and rest break premium pay per *Ferra v. Loews Hollywood Hotel, LLC*
13 (2021) 11 Cal. 5th 858, 863.

14 16. BEMUS failed to provide all compliant meal periods and authorize and permit all
15 compliant rest periods to which Plaintiff and the other Aggrieved Employees were entitled.
16 Plaintiff and the other Aggrieved Employees were entitled to take off-duty, uninterrupted 30-
17 minute meal periods before the fifth and tenth hours of work and to take uninterrupted 10-minute
18 rest periods for every four hours or major fraction thereof worked. Due to the workload, Plaintiff
19 and the Aggrieved Employees did not take compliant rest breaks and would not be able to take
20 timely, uninterrupted meal periods before the 5th or 10th hour worked. On information and belief,
21 BEMUS did not keep track of Plaintiff's and the Aggrieved Employees' meal periods. Per
22 *Donohue v. AMN Services, LLC*, (2021) 11 Cal.5th 58, where time records do not facially show
23 an employee took a compliant meal period, a rebuttable presumption arises that the employer
24 failed to provide it, giving rise to a meal period violation. Similarly, Plaintiff and the other
25 Aggrieved Employees were not able to take their 10-minute rest breaks due to the work load.
26 Moreover, when Plaintiff and the other Aggrieved Employees took their meal periods, BEMUS
27 management would interrupt them with questions about work related matters or their meal periods
28 were cut short due to their workload. On information and belief, BEMUS did not provide premium

1 wages for these meal and rest break violations; if BEMUS did provide premium wages, they were
2 not paid at the correct rate, as explained above.

3 17. BEMUS failed to reimburse Plaintiff and the other Aggrieved Employees for
4 business expenses they incurred in direct consequence of the discharge of their duties. BEMUS
5 required Plaintiff and the Aggrieved Employees to purchase steel tip shoes and use their own
6 personal cell phones to communicate with ownership/management concerning work matters.
7 However, BEMUS did not reimburse Plaintiff and the other Aggrieved Employees for these
8 uniform and mobile phone expenses. Accordingly, BEMUS was in violation of California Labor
9 Code sections 2800 and 2802.

10 18. BEMUS failed to pay its employees all wages due to them within any time period
11 specified by California Labor Code section 204, including the minimum wages and overtime as
12 described above as well as meal/rest break premiums.

13 19. BEMUS did not provide Plaintiff and the other Aggrieved Employees accurate,
14 itemized wage statements in violation of Labor Code 226. Wage statements must include all hours
15 worked, overtime hours worked, all applicable hourly rates, the correct legal name and correct
16 address of employer entity, gross wages earned, all deductions, net wages earned, reimbursement
17 for business expenses, the correct start and end of the applicable pay period, the employee ID
18 numbers or social security numbers, among other items. Labor Code § 226(a)(2). BEMUS's
19 failure to maintain accurate records as to the hours worked daily by employees also constitutes a
20 violation of Labor Code section 1174(d).

21 20. Finally, because BEMUS did not properly pay all wages earned as explained
22 herein, BEMUS also failed to pay final wages owed to the Aggrieved Employees in violation of
23 Labor Code section 203. These earned but unpaid wages include minimum wages and
24 compensation for all hours worked, overtime compensation, premium pay for missed meal and
25 rest breaks, and business expense reimbursement, among others.

26 21. BEMUS has also violated Labor Code section 558 and engaged in business
27 practices which violate Business and Professions Code Section 17200.

28 22. Accordingly, Plaintiff now seeks civil penalties on behalf of himself and the

1 Aggrieved Employees based on Defendants' alleged violations of the California Labor Code and
2 the Wage Order.

3 **FIRST (AND ONLY) CAUSE OF ACTION**

4 **CIVIL PENALTIES**

5 **(Lab. Code §§ 2698, *et seq.*)**

6 **(By Plaintiff, on behalf of himself and the other Aggrieved Employees, against all**
7 **Defendants)**

8 23. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

9 24. At all relevant times, Plaintiff and the Aggrieved Employees have been non-
10 exempt employees entitled to the protections of both the Labor Code and the Wage Order.

11 **A. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
12 **THE CORRECT RATES OF PAY**

13 25. Section 2(K) of the Wage Order defines "hours worked" as "the time during which
14 an employee is subject to the control of an employer, and includes all the time the employee is
15 suffered or permitted to work, whether or not required to do so."

16 26. Section 3 of the Wage Order states:

17 The following overtime provisions are applicable to employees 18 years of age or
18 over and to employees 16 or 17 years of age who are not required by law to attend
19 school and are not otherwise prohibited by law from engaging in the subject work.
20 Such employees shall not be employed more than eight (8) hours in any workday
21 or more than 40 in a workweek unless the employee receives one and one half
22 (1½) times such employee's regular rate of pay for all hours worked over 40 hours
23 in the workweek. Eight (8) hours of labor constitutes a day's work. Employment
24 beyond eight (8) hours in any workday or more than six (6) days in any workweek
25 is permissible provided the employee is compensated for such overtime at not less
26 than:

- 27 (a) One and one-half (1½) times the employee's regular rate of pay for all
28 hours worked in excess of eight (8) hours up to and including twelve (12)
hours in any workday, and for the first eight (8) hours worked on the
seventh (7th) consecutive day of work in a workweek;
- (b) Double the employee's regular rate of pay for all hours worked in excess
of 12 hours in any workday and for all hours worked in excess of eight (8)
hours on the seventh (7th) consecutive day of work in a workweek.
- (c) The overtime rate of compensation required to be paid to a nonexempt

1 full-time salaried employee shall be computed by using the employee's
2 regular hourly salary as one fortieth (1/40) of the employee's weekly
3 salary.

4 27. Section 4 of the Wage Order requires an employer to pay non-exempt employees
5 at least the minimum wage set forth therein for all hours worked, which consists of all hours that
6 an employer has actual or constructive knowledge that employees are working.

7 28. Labor Code section 510 states:

8 Eight hours of labor constitutes a day's work. Any work in excess of eight hours
9 in one workday and any work in excess of 40 hours in any one workweek and the
10 first eight hours worked on the seventh day of work in any one workweek shall be
11 compensated at the rate of no less than one and one-half times the regular rate of
12 pay for an employee. Any work in excess of 12 hours in one day shall be
13 compensated at the rate of no less than twice the regular rate of pay for an
14 employee. In addition, any work in excess of eight hours on any seventh day of a
15 workweek shall be compensated at the rate of no less than twice the regular rate of
16 pay of an employee. Nothing in this section requires an employer to combine more
17 than one rate of overtime compensation in order to calculate the amount to be paid
18 to an employee for any hour of overtime work.

19 29. Labor Code section 1194 invalidates any agreement between an employer and an
20 employee to work for less than the minimum wage required under the applicable Wage Order.

21 30. Labor Code section 1197 makes it unlawful for an employer to pay an employee
22 less than the minimum wage required under the applicable Wage Order for all hours worked
23 during a payroll period.

24 31. Labor Code section 1198 makes it unlawful for an employer to employ an
25 employee under conditions that violate the Wage Order.

26 32. In conjunction, these provisions of the Labor Code require employers to pay non-
27 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
28 worked, including unrecorded hours when the employer knew or reasonably should have known
that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
Cal.4th 575, 585.)

33. At all relevant times during the applicable limitations period, Defendants failed to
compensate Plaintiff and the Aggrieved Employees for all hours worked, including, but not
limited to overtime wages for all overtime hours they worked at the correct rates of pay.

34. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'

1 failure to compensate Plaintiff and the other Aggrieved Employees for all hours worked as
2 required by California law.

3 **B. FAILURE TO PROVIDE MEAL PERIODS**

4 35. In relevant part, California Labor Code § 1198 states:

5 The maximum hours of work and the standard conditions of labor fixed by the
6 commission shall be the maximum hours of work and the standard conditions of
7 labor for employees. The employment of any employee for longer hours than those
8 fixed by the order or under conditions of labor prohibited by the order is unlawful.

9 36. In relevant part, In relevant part, California Labor Code § 512 states:

10 An employer shall not employ an employee for a work period of
11 more than five hours per day without providing the employee with
12 a meal period of not less than 30 minutes, except that if the total
13 work period per day of the employee is no more than six hours, the
14 meal period may be waived by mutual consent of both the
15 employer and employee.

16 An employer shall not employ an employee for a work period of
17 more than 10 hours per day without providing the employee with
18 a second meal period of not less than 30 minutes, except that if the
19 total hours worked is no more than 12 hours, the second meal
20 period may be waived by mutual consent of the employer and the
21 employee only if the first meal period was not waived.

22 37. In relevant part, Section 11 of the Wage Order states:

23 Meal Periods:

24 (A) No employer shall employ any person for a work period of
25 more than five (5) hours without a meal period of not less than
26 30 minutes, except that when a work period of not more than
27 six (6) hours will complete the day's work the meal period may
28 be waived by mutual consent of the employer and employee.
Unless the employee is relieved of all duty during a 30 minute
meal period, the meal period shall be considered an "on duty"
meal period and counted as time worked. An "on duty" meal
period shall be permitted only when the nature of the work
prevents an employee from being relieved of all duty and when
by written agreement between the parties an on-the-job paid
meal period is agreed to. The written agreement shall state that
the employee may, in writing, revoke the agreement at any
time.

(B) If an employer fails to provide an employee a meal period in

1 accordance with the applicable provisions of this Order, the
2 employer shall pay the employee one (1) hour of pay at the
3 employee's regular rate of compensation for each work day that
4 the meal period is not provided.

5 38. In relevant part, California Labor Code § 226.7 states:

6 (b) An employer shall not require an employee to work during
7 a meal or rest period mandated pursuant to an applicable
8 statute, or applicable regulation, standard, or order of the
9 Industrial Welfare Commission, the Occupational Safety
10 and Health Standards Board, or the Division of
11 Occupational Safety and Health.

12 (c) If an employer fails to provide an employee a meal period
13 or rest period in accordance with a state law, including, but
14 not limited to, an applicable statute or applicable
15 regulation, standard, or order of the Industrial Welfare
16 Commission, the Occupational Safety and Health
17 Standards Board, or the Division of Occupational Safety
18 and Health, the employer shall pay the employee one
19 additional hour of pay at the employee's regular rate of
20 compensation for each work day that the meal or rest
21 period is not provided.

22 39. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
23 Aggrieved Employees were entitled to uninterrupted meal periods of at least 30 minutes for each
24 day they worked five or more hours. Pursuant to California Labor Code § 512, they were also
25 entitled to a second 30-minute meal period when they worked more than 10 hours in a workday.

26 40. Defendants intentionally failed to provide Plaintiff and the Aggrieved Employees
27 with all required timely 30-minute meal periods free from any work duties in accordance with the
28 Wage Order.

41. At all relevant times, Defendants failed to provide Plaintiff and the Aggrieved
Employees with all timely and uninterrupted meal periods. Furthermore, Defendants failed to pay
premium wages for days on which they failed to provide Plaintiff and the other Aggrieved
Employees with timely meal periods.

42. Plaintiff is informed and believes and thereon alleges that, at all relevant times
within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
which resulted in Defendants not providing the and the Aggrieved Employees with all off-duty
meal periods required by California law.

1 **C. FAILURE TO AUTHORIZE AND PERMIT REST BREAKS**

2 43. In relevant part, California Labor Code § 1198 states:

3 The maximum hours of work and the standard conditions of labor
4 fixed by the commission shall be the maximum hours of work and
5 the standard conditions of labor for employees. The employment
of any employee for longer hours than those fixed by the order or
under conditions of labor prohibited by the order is unlawful.

6 44. In relevant part, Section 12 of the Wage Order states:

7 Rest Periods:

8 (A) Every employer shall authorize and permit all employees to take
9 rest periods, which insofar as practicable shall be in the middle of
10 each work period. The authorized rest period time shall be based
11 on the total hours worked daily at the rate of ten (10) minutes net
12 rest time per four (4) hours or major fraction thereof. However, a
13 rest period need not be authorized for employees whose total daily
work time is less than three and one-half (3 ½) hours. Authorized
rest period time shall be counted as hours worked for which there
shall be no deduction from wages.

14 (B) If an employer fails to provide an employee a rest period in
15 accordance with the applicable provisions of this order, the
16 employer shall pay the employee one (1) hour of pay at the
17 employee's regular rate of compensation for each workday
that the rest period is not provided.

18 45. In relevant part, California Labor Code § 226.7 states:

19 (b) An employer shall not require an employee to work during
20 a meal or rest period mandated pursuant to an applicable
21 statute, or applicable regulation, standard, or order of the
22 Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of
Occupational Safety and Health.

23 (c) If an employer fails to provide an employee a meal period
24 or rest period in accordance with a state law, including, but
25 not limited to, an applicable statute or applicable
26 regulation, standard, or order of the Industrial Welfare
Commission, the Occupational Safety and Health
27 Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
28 additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest

period is not provided.

46. Pursuant to the Wage Order, Plaintiff and the Aggrieved Employees were entitled to be authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

47. Defendants intentionally failed to authorize and permit Plaintiff and the Aggrieved Employees to take all 10-minute rest periods free from any work duties in accordance with the Wage Order.

48. At all relevant times, Defendants failed to authorize and permit Plaintiff and the Aggrieved Employees to take all timely rest periods. Furthermore, Defendants failed to pay premium wages to Plaintiff and the Aggrieved Employees for days on which they failed to authorize and permit Plaintiff and the other Aggrieved Employees to take timely rest periods.

49. At all relevant times, due to high workload, Defendants failed to authorize and permit Plaintiff and the Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. Defendants did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. Moreover, Defendants failed to pay Plaintiff and the Aggrieved Employees premium wages on workdays they failed to authorize and permit them to take 10-minute rest periods every four hours worked or major fraction thereof.

50. Plaintiff is informed and believes and thereon alleges that, at all relevant times within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy which resulted in Defendants not authorizing and permitting Plaintiff and the Aggrieved Employees to take all rest breaks required by California law.

D. FAILURE TO INDEMNIFY

51. In pertinent part, California Labor Code section 2802(a) states, “An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.”

52. Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

53. At all relevant times during the applicable limitations period, as a condition for employment, Defendants required Plaintiff and the Aggrieved Employees to incur certain business expenses. These costs include, but are not limited to, uniforms (steel tip shoes) and use

1 of personal cell phones to communicate with management concerning work matters. However,
2 Defendants did not reimburse Plaintiff and the others for these business expenses.

3 54. Therefore, Defendants failed to indemnify Plaintiff and the Aggrieved Employees
4 for expenditures incurred as a direct consequence of discharging their duties in violation of
5 California Labor Code sections 2800 and 2802.

6 55. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
7 Defendants maintained a policy and/practice, or lack thereof, which resulted in Defendants'
8 failure to indemnify Plaintiff and the Aggrieved Employees for the reasonable expenses they
9 incurred during the course of performing their duties.

10 **E. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE**
11 **STATEMENTS**

12 56. Pursuant to California Labor Code § 226(a), Plaintiff and the Aggrieved
13 Employees were entitled to receive, bi-weekly or at the time of each payment of wages, an
14 accurate itemized statement showing: a) gross wages earned; b) net wages earned; c) all applicable
15 hourly rates in effect during the pay period; and d) the corresponding number of hours worked at
16 each hourly rate by the employee.

17 57. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
18 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
19 the employer fails to provide accurate and complete information as required by California Labor
20 Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement
21 alone one or more of the following:

22 A. The amount of the gross wages or net wages paid to the employee during
23 the pay period or any of the other information required to be provided on the itemized wage
24 statement pursuant to California Labor Code § 226(a);

25 B. Which deductions the employer made from gross wages to determine the
26 net wages paid to the employee during the pay period;

27 C. The name and address of the employer and, if the employer is a farm labor
28 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
and address of the legal entity that secured the services of the employer during the pay period;

D. The name of the employee and only the last four digits of his or his social
security number or an employee identification number other than a social security number; and

1 E. The number of piece-rate units earned and the piece rate.

2 58. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
3 means a reasonable person would be able to readily ascertain the information without reference
4 to other documents or information.

5 59. As alleged herein, at all relevant times during the applicable limitations period,
6 Defendants violated California Labor Code section 226 because they did not properly and
7 accurately itemize each employee’s gross wages earned, net wages earned, the total hours worked,
8 the corresponding number of hours worked at each rate by the employee and other requirements
9 of California Labor Code section 226. Defendants failed to state in the wage statements they
10 issued to Plaintiff and the other Aggrieved Employees all their hours worked and wages earned,
11 including, but not limited to, regular and overtime wages for work they performed off-the-clock
(as described above).

12 60. Defendants’ failure to provide Plaintiff and the other Aggrieved Employees with
13 accurate wage statements was knowing and intentional. Defendants had the ability to provide
14 Plaintiff and the other Aggrieved Employees with accurate wage statements but intentionally
provided wage statements that Defendants knew were not accurate.

15 61. As a result of being provided with inaccurate wage statements by Defendants,
16 Plaintiff and the other Aggrieved Employees have suffered injury. Their legal rights to receive
17 accurate wage statements were violated and they were misled about the amount of wages they
18 had actually earned and were owed. In addition, the absence of accurate information on their wage
19 statements prevented immediate challenges to Defendants’ unlawful pay practices, has required
20 discovery and mathematical computations to determine the amounts of wages owed, has caused
21 difficulty and expense in attempting to reconstruct time and pay records and/or has led to the
22 submission of inaccurate information about wages to state and federal government agencies.
23 Further, Plaintiff and the other Aggrieved Employees were not able to ascertain from the wage
24 statements whether Defendants complied with their obligations under California Labor Code
section 226(a).

25 **F. UNTIMELY WAGES DURING EMPLOYMENT**

26 62. Labor Code § 204 states:

- 27 (a) All wages, other than those mentioned in Section 201,
28 201.3, 202, 204.1, or 204.2, earned by any person in any
employment are due and payable twice during each

1 calendar month, on days designated in advance by the
2 employer as the regular paydays. Labor performed
3 between the 1st and 15th days, inclusive, of any calendar
4 month shall be paid for between the 16th and the 26th day
5 of the month during which the labor was performed, and
labor performed between the 16th and the last day,
inclusive, of any calendar month, shall be paid for
between the 1st and 10th day of the following month. ...

6 (b) (1) Notwithstanding any other provision of this
7 section, all wages earned for labor in excess of the normal
8 work period shall be paid no later than the payday for the
next regular payroll period.

9 (2) An employer is in compliance with the
10 requirements of subdivision (a) of Section 226
11 relating to total hours worked by the employee, if
12 hours worked in excess of the normal work period
13 during the current pay period are itemized as
14 corrections on the paystub for the next regular pay
15 period. Any corrections set out in a subsequently
issued paystub shall state the inclusive dates of
the pay period for which the employer is
correcting its initial report of hours worked.

16 (c) However, when employees are covered by a collective
17 bargaining agreement that provides different pay
18 arrangements, those arrangements shall apply to the
covered employees.

19 (d) The requirements of this section shall be deemed satisfied
20 by the payment of wages for weekly, biweekly, or
21 semimonthly payroll if the wages are paid not more than
seven calendar days following the close of the payroll
period.

22 63. Defendants failed to compensate Plaintiff and the Aggrieved Employees for all
23 hours worked at the correct rates of pay, including overtime. Defendants failed to provide Plaintiff
24 and the Aggrieved Employees with all meal and rest periods in compliance with California laws.
25 Defendants also failed to provide Plaintiff and the Aggrieved Employees with all premium wages
26 on workdays they failed to provide them with one or more meal or rest periods in compliance
27 with California laws. As a result, Defendants failed to timely pay all earned minimum, overtime,
28 and premium wages due during employment within the time periods set by California Labor Code

1 section 204.

2 **G. UNTIMELY FINAL WAGES**

3 64. Labor Code § 201 provides that all earned and unpaid wages of an employee who
4 is discharged are due and payable immediately at the time of discharge.

5 65. Labor Code § 202 provides that all earned and unpaid wages of an employee who
6 quits after providing at least 72-hours notice before quitting are due and payable at the time of
7 quitting and that all earned and unpaid wages of an employee who quits without providing at least
8 72-hours notice before quitting are due and payable within 72 hours.

9 66. By failing to pay earned minimum and premium wages to Plaintiff and the
10 Aggrieved Employees, Defendants failed to timely pay them all earned and unpaid wages in
11 violation of Labor Code § 201 or § 202.

12 67. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
13 and the Aggrieved Employees all of their earned and unpaid wages (described above) have been
14 willful in that, at all relevant times, Defendants have deliberately maintained policies and
15 practices that violate the requirements of the Labor Code and the Wage Order, even though at all
16 relevant times, they have had the ability to comply with those legal requirements.

17 **H. FAILURE TO MAINTAIN ACCURATE EMPLOYMENT RECORDS**

18 68. Labor Code § 1174 states:

19 Every person employing labor in this state shall:

20 ...

21 (c) Keep a record showing the names and addresses of all employees
22 employed and the ages of all minors.

23 (d) Keep, at a central location in the state or at the plants or establishments
24 at which employees are employed, payroll records showing the hours
25 worked daily by and the wages paid to, and the number of piece-rate
26 units earned by and any applicable piece rate paid to, employees
27 employed at the respective plants or establishments. These records shall
28 be kept in accordance with rules established for this purpose by the
commission, but in any case shall be kept on file for not less than three
years. An employer shall not prohibit an employee from maintaining a
personal record of hours worked, or, if paid on a piece-rate basis, piece-
rate units earned.

1 69. Labor Code § 1174.5 states:

2 Any person employing labor who willfully fails to maintain the records required
3 by subdivision (c) of Section 1174, or to allow any member of the commission
4 or employees of the division to inspect records pursuant to subdivision (b) of
5 Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

6 70. Section 7 of the Wage Order states:

7 (A) Every employer shall keep accurate information with respect to
8 each employee including the following:

9 (1) Full name, home address, occupation and social security
10 number.

11 (2) Birth date, if under 18 years, and designation as a minor.

12 (3) Time records showing when the employee begins and ends
13 each work period. Meal periods, split shift intervals and
14 total daily hours worked shall also be recorded. Meal
15 periods during which operations cease and authorized rest
16 periods need not be recorded.

17 (4) Total wages paid each payroll period, including value of
18 board, lodging, or other compensation actually furnished to
19 the Employee.

20 (5) Total hours worked in the payroll period and applicable
21 rates of pay. This information shall be made readily
22 available to the employee upon reasonable request.

23 (6) When a piece rate or incentive plan is in operation, piece
24 rates or an explanation of the incentive plan formula shall
25 be provided to employees. An accurate production record
26 shall be maintained by the employer.

27 71. Labor Code § 1198 prohibits employers from employing their employees under
28 conditions prohibited by the Wage Order.

 72. On information and belief, Defendants have willfully failed to maintain the records
required by § 1174 and Wage Order, including, but not limited to, the total premium wages earned
for missed meal and rest periods, and records pertaining to all unpaid hours worked by Plaintiff
and the Aggrieved Employees.

 73. Accordingly, Plaintiff seeks an award of civil penalties against the Defendants on

1 behalf of himself and all of the other Aggrieved Employees as follows: (1) \$500 for each
2 aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code
3 section 1174.5); and (2) \$100 for each aggrieved employee for each initial violation of Labor
4 Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per
5 pay period (penalties set by Labor Code section 2699(f)(2)).

6 **I. FAILURE TO PROVIDE TOILET FACILITIES, POTABLE WATER,**
7 **CLEANSING AGENT**

8 74. Labor Code § 2350 states:

9 Every factory, workshop, mercantile or other establishment in which one or more
10 persons are employed, shall be kept clean and free from the effluvia arising from
11 any drain or other nuisance, and shall be provided, within reasonable access, with
12 a sufficient number of toilet facilities for the use of the employees. When there are
13 five or more employees who are not all of the same gender, a sufficient number of
14 separate toilet facilities shall be provided for the use of each sex, which shall be
15 plainly so designated.

16 75. Section 10(C) of the Wage Order states, “in all places of employment the employer
17 shall provide an adequate supply of potable water, soap, or other suitable cleaning agent and
18 single use towels for handwashing.”

19 76. Labor Code § 1198 makes it unlawful for an employer to employ an employee
20 under conditions that violate the Wage Order.

21 77. At all times during the relevant time period, BEMUS failed to provide any toilet
22 facilities for use by Plaintiff and all of the other Aggrieved Employees within reasonable access.
23 Additionally, BEMUS failed to provide potable water, soap, or other suitable cleaning agent and
24 single use towels for handwashing for use by Plaintiff and all of the other Aggrieved Employees,
25 in violation of Labor Code section 6720 and the Wage Order.

26 **J. CIVIL PENALTIES SOUGHT**

27 78. During the applicable time period, Defendants violated California Labor Code
28 §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, 2350, 2802 and related
Labor Code statutes.

79. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
behalf of themselves and other current or former employees, to bring a civil action to recover civil

1 penalties pursuant to the procedures specified in California Labor Code § 2699.3.

2 80. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the Aggrieved
3 Employees are entitled to recover civil penalties for each of the Defendants' violations of
4 California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198,
5 2350, and 2802 during the applicable limitations period in the following amounts:

6 A. For violations of California Labor Code § 204, one hundred dollars
7 (\$100.00) for each aggrieved employee for each initial violation and two hundred dollars
8 (\$200.00) for each aggrieved employee for each subsequent, willful or intentional violation
9 (penalty amounts established by California Labor Code § 210).

10 B. For violations of California Labor Code § 226, two hundred fifty dollars
11 (\$250.00) per employee for initial violation and one thousand dollars (\$1,000.00) per employee
12 for each subsequent violation (penalty amounts established by California Labor Code § 226.3).

13 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
14 (\$50.00) for each aggrieved employee for each initial violation for pay period for which the
15 employee was underpaid and one hundred dollars (\$100.00) for each underpaid employee for
16 each pay period for which the employee was underpaid (penalty amounts established by
17 California Labor Code § 558).

18 D. For violations of California Labor Code § 1174, five hundred dollars
19 (\$500.00) for each Aggrieved Employee for each initial violation (penalty amounts established
20 by Labor Code § 1174.5).

21 E. For violations of California Labor Code § 1197, one hundred dollars
22 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred
23 fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period
24 (regardless of whether the initial violations were intentionally committed) (penalty amounts
25 established by California Labor Code § 1197.1).

26 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
27 1198, 2350, and 2802, one hundred dollars (\$100.00) for each aggrieved employee per pay period
28 for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay

1 period for each subsequent violation (penalty amounts established by California Labor Code
2 § 2699(f)(2)).

3 **K. NOTICE TO THE STATE OF CALIFORNIA AND DEFENDANTS**

4 81. Plaintiff has complied with the procedures for bringing suit specified in California
5 Labor Code § 2699.3. By letter dated February 1, 2024, Plaintiff gave written notice by certified
6 mail to the Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific
7 provisions of the California Labor Code alleged to have been violated, including the facts and
8 theories to support the alleged violations. The LWDA has failed to take action in response within
9 65 days of Plaintiff’s notice dated February 1, 2024.

10 82. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
11 Employees are entitled to an award of civil penalties, reasonable attorneys’ fees, and costs in
12 connection with their claims for civil penalties.

13 **PRAYER FOR RELIEF**

14 83. WHEREFORE, Plaintiff, on behalf of himself and the Aggrieved Employees,
15 prays for relief and judgment against Defendants as follows:

- 16 A. Civil penalties;
- 17 B. Costs of suit;
- 18 C. Reasonable attorneys’ fees; and
- D. Such other relief as the Court deems just and proper.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff, on behalf of himself and all other Aggrieved Employees, hereby demands a jury
21 trial on all issues so triable.

22 Respectfully submitted,

23 Dated: April 9, 2024

MM LAW, APC

24 By: Maralle Messrelan
25 Maralle Messrelan, Esq.
26 Attorney for Plaintiff,
27 ADOLFO LOZOYA RAMIREZ, and
28 all others similarly situated

EXHIBIT 5

LightGabler LLP

By: Jonathan Fraser Light (State Bar #101049)
Brian R. Weilbacher (State Bar #211472)
Chancellor D. Nobles (State Bar #330081)
760 Paseo Camarillo, Suite 300
Camarillo, CA 93010
(805) 248-7208
(805) 248-7209 (fax)

jlight@lightgablerlaw.com
bweilbacher@lightgablerlaw.com
cnobles@lightgablerlaw.com

Attorneys for Defendant
Bemus Landscape, Inc.

Electronically FILED by
Superior Court of California,
County of Los Angeles
6/06/2024 9:07 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By R. Sanchez, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

ADOLFO LOZOYA RAMIREZ, as in
“aggrieved employee” on behalf of
himself and other similarly situated
“aggrieved employees” under the
Labor Code Private Attorneys
General Act of 2004,

Plaintiff,

vs.

BEMUS LANDSCAPE, INC., a
California corporation, and DOES 1
to 25, inclusive,

Defendants.

Case No. 24STCV08944

PAGA COMPLAINT

**ANSWER TO COMPLAINT FOR
VIOLATIONS OF THE LABOR CODE AND
CIVIL PENALTIES UNDER THE LABOR
CODE PRIVATE ATTORNEYS GENERAL
ACT OF 2004, LABOR CODE §§ 2698, ET
SEQ.**

Complaint Filed: April 9, 2024
Assigned To: Hon. Stephanie M. Bowick
Department: 19

Trial Date: Not Set.

Defendant Bemus Landscape, Inc. (“Defendant”) for itself alone, and for no other defendant, answers the unverified Complaint (“Complaint”) of Plaintiff Adolfo Lozoya Ramirez (“Plaintiff”), under the Private Attorney General Act (“PAGA”) (Labor Code Sections 2698 et seq.) as follows:

Pursuant to the provisions of section 431.30(d) of the California Code of Civil Procedure, Defendant denies, generally and specifically, each and every allegation of the Complaint and further denies, generally and specifically, that Plaintiff is

1 entitled to damages or to any other relief whatsoever by reason of any act or
2 omission on the part of Defendant.

3 In addition to asserting its general and specific denials, and without admitting
4 any facts alleged by Plaintiff, Defendant asserts the following affirmative defenses to
5 the claims alleged by Plaintiff:

6 **FIRST AFFIRMATIVE DEFENSE**

7 **(Failure To State A Cause Of Action)**

8 1. The Complaint and the purported claims alleged therein fail to state a claim
9 upon which relief can be granted.

10 **SECOND AFFIRMATIVE DEFENSE**

11 **(Standing)**

12 2. Plaintiff is barred from relief to the extent that Plaintiff lacks standing to bring
13 some or all of the alleged claims and causes of action against Defendant, either
14 individually or as a representative of the alleged "aggrieved employees."

15 **THIRD AFFIRMATIVE DEFENSE**

16 **(Uncertainty)**

17 3. The Complaint and each alleged cause of action and violation therein are
18 vague and uncertain, including, without limitation because it is impossible to determine
19 from the Complaint the claimed acts or omissions of Defendant allegedly causing the
20 claimed injuries or violations alleged in the Complaint.

21
22 **FOURTH AFFIRMATIVE DEFENSE**

23 **(Statutes Of Limitation)**

24 4. Plaintiff's Complaint and each cause of action and violation alleged therein is
25 barred or limited in scope by the applicable statutes of limitation, including but not limited
26 to, the statute of limitations applicable to Plaintiff's instant PAGA claim (e.g. Labor Code
27 §2699.3).

28 ///

1 **FIFTH AFFIRMATIVE DEFENSE**

2 **(No Direction and Control)**

3 5. Plaintiff's claims are barred to the extent they seek to recover penalties for
4 acts or omissions that Defendant did not suffer or permit, or that were not performed while
5 under the direction and control of or for the benefit of Defendant.

6 **SIXTH AFFIRMATIVE DEFENSE**

7 **(No Knowledge)**

8 6. The claims by Plaintiff are barred to the extent Plaintiff or aggrieved
9 employees performed work without Defendant's actual or constructive knowledge.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11 **(Privileged, Good Faith and Justified Conduct)**

12 7. Any recovery on Plaintiff's Complaint is barred because Defendant's
13 conduct was privileged and/or justified under California law and for valid business
14 reasons. Plaintiff and the purportedly represented employees are not entitled to penalties,
15 recovery, or other relief under the California Labor Code because at all times relevant and
16 material herein, Defendant acted in good faith and had reasonable grounds for believing
17 that its respective conduct was not violating the wage provisions of the California Labor
18 Code or Industrial Welfare Commission Order.

19 **EIGHTH AFFIRMATIVE DEFENSE**

20 **(Defense of Payment)**

21 8. Plaintiff's claims, or some of them, are barred, in whole or in part, by the
22 defense of payment.

23 **NINTH AFFIRMATIVE DEFENSE**

24 **(Exempt from California Wage and Hour Laws)**

25 9. Plaintiff's claims, or some of them, are barred because Plaintiff and the
26 putatively represented employees have at relevant times, or various relevant times, been
27 exempt from or not subject to the wage and hour obligations alleged in the Complaint.

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TENTH AFFIRMATIVE DEFENSE

(Release)

10. Plaintiff and the purportedly represented employees, or some of them, have released the claims Plaintiff attempts to raise in the Complaint herein, and therefore are barred from bringing such claims.

ELEVENTH AFFIRMATIVE DEFENSE

(Ratification and Consent)

11. The alleged conduct of Defendant complained of in Plaintiff's Complaint was approved, consented to, authorized, and/or ratified by Plaintiff and represented employees through their actions, omissions and course of conduct; accordingly, Plaintiff's Complaint and each purported cause of action therein is barred to such extent.

TWELFTH AFFIRMATIVE DEFENSE

(Failure to Follow Directions)

12. Defendant alleges that any failure on Plaintiff's or represented employees' part to take necessary meal and/or rest periods or to otherwise comply with Defendant's time recording and overtime policies and requirements was the result of Plaintiff's and represented employees' failure to follow reasonable instructions of their employer.

THIRTEENTH AFFIRMATIVE DEFENSE

(Waiver and Estoppel)

13. The Complaint and each purported cause of action and claimed violation alleged therein are barred, in whole or in part, by the doctrines of waiver and estoppel. Plaintiff and various represented employees are estopped from bringing claims or seeking penalties for wage and hour violations because the claimed violations were by their own actions or done voluntarily or for personal reasons and not due to any action by any answering Defendant.

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1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 **(Meal Period Waiver)**

3 14. Plaintiff's claims are barred in whole or in part to the extent Plaintiff and/or
4 the putatively represented employees waived their meal breaks for shifts of six hours or
5 less. Such claims are also barred in whole or in part to the extent Plaintiff and/or the
6 putatively represented employees waived their second meal breaks for shifts of twelve
7 hours or less. See Cal. Labor Code 512(a) and applicable wage orders of the California
8 Industrial Welfare Commission.

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 **(Unclean Hands)**

11 15. The Complaint and each purported cause of action and violation alleged
12 therein are barred, in whole or in part, by virtue of Plaintiff's and the represented
13 employees' own negligence, misconduct, and unclean hands. Therefore, the Complaint
14 and each purported cause of action and violation alleged therein are barred to the extent
15 that Plaintiff or the represented employees have engaged in improper conduct connected
16 to the matter alleged in the Complaint.

17 **SIXTEENTH AFFIRMATIVE DEFENSE**

18 **(Acts or Omissions of Plaintiff)**

19 16. The Complaint, and each purported cause of action therein, is barred to the
20 extent that damages, if any, resulted from the acts and/or omissions of Plaintiff and/or all
21 represented employees.

22 **SEVENTEENTH AFFIRMATIVE DEFENSE**

23 **(No Causation)**

24 17. Plaintiff and/or the represented employees are barred from relief to the
25 extent the Complaint, and each purported cause of action or claimed violation asserted
26 therein, cannot be maintained against Defendant because any alleged losses or harms
27 sustained by Plaintiff and/or the represented employees, if any, which Defendant denies,
28 resulted from causes other than any act or omission of Defendant.

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EIGHTEENTH AFFIRMATIVE DEFENSE

(Laches)

18. Plaintiff is barred by the doctrine of laches from pursuing the Complaint and each purported cause of action and claimed violation therein by reason of Plaintiff's inexcusable and unreasonable delay. In addition, the represented employees that Plaintiff purports to represent inexcusably and unreasonably delayed providing notice of the claimed violations and filing of this action, causing prejudice to Defendant.

NINETEENTH AFFIRMATIVE DEFENSE

(Good Faith Dispute)

19. The Complaint does not state facts sufficient nor constitute a valid claim for penalties, including, without limitation, for violation of California Labor Code section 201 or 202 or for penalties under Labor Code section 203, because there is a bona fide, good faith dispute with respect to Defendant's obligation to pay wages and other amounts allegedly claimed.

TWENTIETH AFFIRMATIVE DEFENSE

(Wage Statements)

20. To the extent Defendant issued any wage statements that did not comply with all legal requirements, although such is not admitted here, Defendant did not knowingly and intentionally issue such statements within the meaning of California Labor Code Section 226(e) and related law.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(No Knowing and/or Willful Violation or Failure to Pay)

21. The Complaint and each cause of action and claimed violation therein are barred because any act or omission of Defendant was not knowing, willful, malicious or intentional. Any Defendant failure, if any, to comply with the Labor Code was not willful and therefore not subject to the requested penalties, including, without limitation, any claimed failure pay wages or other sums allegedly owed.

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TWENTY-SECOND AFFIRMATIVE DEFENSE

(No Injury)

22. The causes of action and claimed violations in the Complaint are barred because Plaintiff and/or the allegedly aggrieved employees did not suffer any injury as a result of any alleged failure to provide accurate wage statements, although such is not admitted here.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(De Minimis Principles)

23. Defendant alleges that any claimed noncompliance, although such is not admitted here, is barred from recovery based on de minimis principles and being non-ascertainable or indeterminable relative to the burden and expense of litigation.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Substantial Compliance / Good-Faith)

24. The civil penalties sought in the Complaint should be barred or recovery reduced because, to the extent Defendant did not comply with applicable law, although such is not admitted here, Defendant nonetheless substantially complied with the law with respect to Plaintiff and the allegedly aggrieved employees and/or acted in good-faith in Defendant's efforts to do so.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Claims Subject to Arbitration and Stay)

25. To the extent any claim asserted in the Complaint is subject to arbitration pursuant to agreements to arbitrate executed by Plaintiff and/or putative aggrieved employees, these should be dismissed and subject to individual arbitration instead.

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TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Employer’s Internal Grievances)

26. There are and were employer provided internal grievance procedures available to address employee claims. Plaintiff and all putatively represented employees failed to use these internal grievance procedures and raise any of the claims within the Complaint to Defendant prior to the filing of this lawsuit.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

27. Without admitting any facts pled by Plaintiff, Defendant asserts that if Plaintiff and/or any putatively represented employees have sustained any loss, injury, or damages either as alleged in Plaintiff’s Complaint or at all, which Defendant denies, the same were directly and proximately caused and/or were exacerbated by Plaintiff’s and the putatively represented employees’ own conduct, promises, and representations to Defendant, and their failure to take actions to mitigate claimed losses, injuries, damages, or penalties due.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies and Prerequisites to Filing)

28. Plaintiff’s Complaint, and the purported causes of action and claimed violations alleged therein, are barred, in whole or in part, to the extent Plaintiff and any person on whose behalf relief is sought, failed to satisfy the notice and exhaustion requirements under California’s Private Attorney General Act (“PAGA”), and to the extent they otherwise have failed to exhaust administrative remedies and jurisdictional prerequisites.

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TWENTY-NINTH AFFIRMATIVE DEFENSE

(PAGA Claim Unmanageable)

29. Plaintiff’s PAGA claim alleged in the Complaint is unmanageable, including, without limitation, because resolving Plaintiff’s claims and allegations would require individualized inquiries and litigation, and Plaintiff has not and cannot put forth a workable trial plan for resolving Plaintiff’s claims and allegations.

THIRTIETH AFFIRMATIVE DEFENSE

(Unjust, Arbitrary, Oppressive, And/Or Confiscatory Penalties)

30. The Complaint fails to allege facts to establish a sufficient claim or basis for the requested penalties, and an award of penalties as requested by Plaintiff would result in an award that is unjust, arbitrary and oppressive, or confiscatory as set forth in Labor Code section 2699. Additionally, Plaintiff may not recover unpaid wages in this PAGA action.

THIRTY-FIRST AFFIRMATIVE DEFENSE

(No Penalties Beyond “Initial” Violation)

31. The purported cause of action under PAGA is barred to the extent Plaintiff, and the individuals on whose behalf Plaintiff seeks relief, seek penalties beyond the “initial” violation as described in Labor Code section 2699(f)(2).

THIRTY-SECOND AFFIRMATIVE DEFENSE

(No Stacking of PAGA Penalties)

32. Defendant alleges that to the extent the Complaint seeks multiple civil penalties for the same underlying alleged violation, or multiple civil penalties for claimed multiple alleged violations in a single pay period, such double recovery is prohibited and would constitute unjust enrichment.

THIRTY-THIRD AFFIRMATIVE DEFENSE

(Unconstitutionality / Protection From Excessive Fines)

33. Plaintiff’s Complaint violates the rights of Defendant to protection from

1 "excessive fines" as provided in the Eighth Amendment of the United States Constitution
2 and in Article I, Section 17 of the Constitution of the State of California.

3 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

4 **(Failure to Identify "Aggrieved Employees")**

5 34. Defendant alleges that Plaintiff has failed to adequately identify other
6 allegedly "aggrieved employees," as provided under the PAGA statute.

7 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

8 **(Procedural Due Process)**

9 35. Plaintiff's Complaint is barred because the PAGA statute is
10 unconstitutionally vague and overbroad as applied to the facts and circumstances of
11 Plaintiff's Complaint, and prosecution of this action as a representative action would
12 constitute a denial of Defendant's due process rights. Further, to the extent that Plaintiff's
13 action may be deemed to seek punitive or exemplary damages, it violates the rights of
14 Defendant to procedural due process under the Fourteenth Amendment to the United
15 States Constitution and under the Constitution of the State of California and fails to state
16 a cause of action upon which punitive or exemplary damages may be awarded.

17 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

18 **(Offset / Unjust Enrichment)**

19 36. Defendant alleges that it is entitled to an offset against any relief allegedly
20 due Plaintiff or the putatively represented employees to the extent that they received
21 consideration in exchange for releasing Defendant from claims they may have against
22 Defendant and/or to the extent that they received compensation in excess of any
23 compensation earned by virtue of their work performed, and because allowing such
24 recovery would result in unjust enrichment.

25 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

26 **(No Equitable Relief)**

27 37. Any claim by Plaintiff for equitable relief is barred because, to the extent
28 Plaintiff and/or all represented employees are entitled to any remedy, which is not

1 admitted hereby or herein, Plaintiff and/or all represented employees have an adequate
2 remedy at law.

3 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

4 **(Injunctive Relief)**

5 38. To the extent that such remedy is sought, the Complaint fails to allege facts
6 sufficient to state a claim for injunctive relief.

7 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

8 **(Declaratory Relief)**

9 39. To the extent that such remedy is sought, the Complaint fails to allege facts
10 sufficient to entitle Plaintiff to declaratory relief.

11 **FORTIETH AFFIRMATIVE DEFENSE**

12 **(Contributory Fault)**

13 40. Any recovery on Plaintiff's Complaint, or any purported cause of action
14 alleged therein, is barred in whole or in part by Plaintiff and/or all represented employees'
15 own contributory and/or comparative fault.

16 **FORTY-FIRST AFFIRMATIVE DEFENSE**

17 **(No Attorneys' Fees or Costs)**

18 41. Defendant alleges that the Complaint does not state facts sufficient to
19 constitute a claim for which attorneys' fees and costs may be awarded.

20
21 **FORTY-SECOND AFFIRMATIVE DEFENSE**

22 **(Request for Jury)**

23 42. Plaintiff is not entitled to have this PAGA action tried to a jury, and any
24 Plaintiff demand for a jury trial should be denied.

25 **RESERVATION OF RIGHTS**

26 In view of the vagueness, uncertainty, and other defects associated with the
27 Complaint, Defendant hereby gives notice that Defendant intends to rely upon such other
28 and further affirmative defenses as may become apparent through investigation of and

1 discovery in this action and Defendant reserves the right to amend this Answer in
2 accordance with applicable law to assert subsequently discovered defenses.

3 **PRAYER FOR RELIEF:**

4 WHEREFORE, Defendant prays for relief as follows:

5 1. That Plaintiff take nothing by reason of the Complaint and that the
6 Complaint be dismissed with prejudice;

7 2. That judgment be entered in favor of Defendant;

8 3. For costs of suit incurred, including reasonable attorneys' fees
9 pursuant to California Labor Code section 218.5; and

10 4. For such other and further relief as the Court may deem just and
11 proper.

12
13 Dated: June 5, 2024

LightGabler LLP

14
15 By:



Jonathan Fraser Light
Brian R. Weilbacher
Chancellor D. Nobles
Attorneys for Defendant
Bemus Landscape, Inc.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF VENTURA

I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the within action; my business address is: 760 Paseo Camarillo, Suite 300, Camarillo, California 93010.

On June 5, 2024, I served the foregoing document described as **ANSWER TO COMPLAINT FOR VIOLATIONS OF THE LABOR CODE AND CIVIL PENALTIES UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004, LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Maralle Messrelian	<i>Attorneys for Plaintiff</i>
MM Law, APC	
500 N. Brand Blvd., Ste 2000	Phone: (818) 810-7747
Glendale, CA 91203	Fax: *818) 230-9018
	Email: maralle@mmlawapc.com

☒ **BY EMAIL**

Based on a court order or an agreement between the parties to accept service by email or electronic transmission, I caused the above document(s) to be sent by email to the parties at the email addresses listed above. The transmission was reported as complete and without error.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 5, 2024, at Camarillo, California.


ELLEN RIVERA

EXHIBIT 6

Adolfo Lozoya Ramirez v. Bemus Landscape, Inc.
Superior Court of California, County of Los Angeles
Case No. 24STCV08944

MM Law, APC: Costs and Expenses (PAGA)	Total
LWDA Notice Filing Fee	\$ 75.00
Complaint filing fee	\$ 454.22
Misc. court filing costs	\$ 123.21
Mediation Fees	\$ 7,500.00
Data Analyst for Mediation	\$ 1,300.00
PAGA Motion Filing Costs	\$ 73.41
Total Costs through 11/12/2025	\$ 9,525.84

EXHIBIT 7

Case Name: Ramirez v. Bemus Landscape, Inc.
Friday, August 1, 2025

Requesting Attorney:
Maralle Messrelian, Esq.
MESSRELIAN LAW INC.
maralle@mmlawapc.com
818.810.7747

ILYM Group Contact:
Lisa Mullins
ILYM Group, Inc.
Lisa@ilymgroup.com
714.878.8836

Estimate For Administrative Solutions: PAGA

KEY ASSUMPTIONS	
Total Number of Aggreived Employees	830
Estimated Percentage of Remails	15%
Certified Spanish Translation	Yes
ILYM Group Static Website	No
NCOA	Yes
Case Duration (Years)	1

Summary of ILYM Group, Inc.'s Fees & Expenses

Case Startup:	\$1,955.00
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$4,425.00
Case Conclusion:	\$570.00

Estimated ILYM Fees & Expenses: \$6,950.00

ILYM | GROUP, Inc.

CLASS ACTION ADMINISTRATION

Case Name: Ramirez v. Bemus Landscape, Inc.

Friday, August 1, 2025

Requesting Attorney's Name: Maralle Messrelian, Esq.

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	2	\$300.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	3	\$360.00
Certified Spanish Translation	Flat Fee	\$750.00	1	\$750.00
NCOA	Flat Rate	\$245.00	1	\$245.00
Toll-Free Customer Service Representative	Flat Rate	\$300.00	1	\$300.00

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

Subtotal \$1,955.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	2	\$300.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	2	\$250.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$1.50	830	\$1,245.00
USPS First Class 1oz Postage	Per Piece	\$0.70	830	\$581.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.00	125	\$249.00
Preparation of Taxes	Hourly	\$150.00	2	\$300.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$4,425.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Process Unclaimed Funds to the State	Flat Fee	\$350.00	1	\$350.00
Declaration	Hourly	\$120.00	1	\$120.00

Subtotal \$570.00

Estimated ILYM Fees & Expenses: \$6,950.00

ILYM Group's Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT 8