

D.LAW, INC.
Emil Davtyan (SBN 299363)
emil@d.law
David Yeremian (SBN 226337)
d.yeremian@d.law
Alvin B. Lindsay (SBN 220236)
a.lindsay@d.law
Enoch (SBN 261146)
e.kim@d.law
Antonia McKee (SBN 344511)
a.bliznets@d.law
450 N Brand Blvd., Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Fax: (818) 962-6469

Attorneys for Plaintiff RAUL N. RAMIREZ,
on behalf of herself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

RAUL N. RAMIREZ, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

v.

TENFOLD SENIOR LIVING, LLC, an
Oregon limited liability company; and DOES
1 through 50, inclusive,

Defendants.

Case No.: 24CV003161

CLASS ACTION

Assigned for All Purposes To:
Hon. Laurie A. Damrell

**DECLARATION OF ENOCH J. KIM IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: July 11, 2025

Time: 9:00 a.m.

Dept.: 22

Original Complaint Filed: February 22, 2024
First Amended Complaint Filed: May 16, 2024
Trial Date: None Set

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

1. I am an attorney licensed and admitted to practice before all courts of the State of California and the United States District Court for the Central, Southern, Eastern, and Northern Districts of California. I am Senior Counsel at D.Law, Inc. and counsel for Plaintiff Raul N. Ramirez (“Plaintiff”), on behalf of himself and all other similarly situated employees of Defendant Tenfold Senior Living, LLC (“Defendant”) (Plaintiff and Defendant are collectively referred to herein as “the Parties”).

9
10
11
12
13
14
15

16

17
18
19
20
21

22
23
24
25
26
27
28

226, 1198.5, (11) Failure To Reimburse Necessary Business Expenses Under Labor Code § 2802, And (12) Violation Of Business & Professions Code § 17200 *et seq.* (the “Action”).

5. Plaintiff submitted a PAGA notice (LWDA-CM-1012539-24) to the Labor and Workforce Development Agency (“LWDA”) on February 22, 2024. A true and correct copy of the PAGA notice is attached hereto as **Exhibit 2**. On May 16, 2024, Plaintiff filed his First Amended Complaint (“Operative Complaint”), which adds claims for penalties under PAGA, Labor Code §2698. (*Id.*)

6. Plaintiff contends that Defendant failed to pay all wages due and owing, by requiring systematic off the clock work, failed to pay all wages due on a timely basis during employment and upon termination, failed to pay overtime at the proper rates, failed to provide meal and rest breaks, failed to furnish and maintain accurate wage statements, failed to maintain accurate records, and failed to reimburse necessary business expenses.

Investigation

7. Before filing the lawsuit, conducted a thorough investigation and researched the facts and circumstances underlying the pertinent issues and applicable law. This required thorough discussions and interviews between Class Counsel and Plaintiff, in addition to the above-described research into the various legal issues involved in the case. After filing the lawsuit, Class Counsel conducted a thorough investigation of the facts and claims giving rise to the action, including (1) conducting informal discovery and meeting and conferring with defense counsel about same; (2) reviewing and analyzing records and data, as well as employment-related policies; (3) reviewing Plaintiff’s personnel file and other documentation; (4) interviewing Plaintiff regarding potential Class Members; (5) researching the applicable law and potential defenses; (6) constructing damage models based on interpretations of California law and the facts and numbers provided by Defendant; and (7) reviewing information provided by Defendant in response to informal discovery and in advance of the mediation. The Parties conducted their own evaluations of the potential recoveries based on the claims alleged in the Action, including consulting experts.

8. Defendant, for its part, vigorously contested liability, the amount of claimed damages, and the propriety of class certification. After analyzing the relevant documents and other

1 gathered data, Class Counsel believed that this case was appropriate for resolution via mediation.
2 Given the high level of risk present for both sides, the Parties elected to mediate Plaintiff's claims
3 and attempt settlement.

4 **Settlement Efforts**

5 9. On October 10, 2024, the Parties participated in an all-day mediation with David
6 Lowe, Esq., a skilled mediator experienced in wage and hour class actions. During mediation,
7 counsel for Plaintiff and Defendant discussed all aspects of the case, including the risks of continued
8 litigation and the risks to both parties of proceeding with a class certification motion, as well as the
9 law relating to unpaid wages, meal periods, rest periods, wage statements, and final pay. Following
10 mediation, the Parties accepted a mediator's proposal outlining general settlement terms to resolve
11 the lawsuit. The Parties continued to work together on a long-form Settlement Agreement following
12 mediation, which resulted in the Settlement Agreement before the Court for approval.

13 10. From Class Counsel's review of the facts, strengths, and weaknesses of the case and
14 the risks and delays posed by further litigation, Class Counsel believes that the recovery for each
15 Class Member is fair and reasonable. Further, the Settlement Agreement was the product of a non-
16 collusive settlement process in which the Parties were forced to make significant compromises in
17 the interest of reaching a full and complete settlement of the lawsuit.

18 **Summary of the Settlement**

19 11. Under the terms of the proposed Settlement Agreement, Defendant has agreed to pay
20 \$265,000.00 ("Gross Settlement Amount" or "GSA") on a non-reversionary basis. (Exhibit 1,
21 Settlement Agreement, ¶ 3.1). In addition to and separate from the Gross Settlement Amount,
22 Defendant will pay the employers' portion of any payroll taxes on the wage allocation portion of
23 the individual settlement payments to Class Members. The Settlement Agreement defines the
24 "Class" as "all current and former non-exempt, hourly dining, culinary, housekeeping, and
25 maintenance individuals who worked for Defendant in California during the Class Period," which
26 is May 1, 2020, to October 10, 2024. (Exhibit 1, Settlement Agreement, ¶¶ 1.5, 1.12.) The
27 Settlement Agreement also defines "Aggrieved Employees" as "all current and former non-
28 exempt, hourly dining, culinary, housekeeping, and maintenance individuals who worked for
Defendant in California during the PAGA Period," which is February 22, 2023, through October
10, 2024. (Exhibit 1, Settlement Agreement, ¶¶ 1.4, 1.34). The "Net Settlement Amount,"

1 available for distribution to Class Members, is the Gross Settlement Amount, less the Individual
2 PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel
3 Litigation Expenses Payment, Class Representative Service Payment, and the Administration
4 Expenses Payment. (Exhibit 1, Settlement Agreement, ¶ 1.29.) These amounts are detailed as
5 follows:

- 6 • Class Counsel Fees and Litigation Expenses Payment: Up to one-third of the Gross
7 Settlement Amount, or **\$88,333.33**, to Class Counsel as attorneys' fees for the litigation and
8 resolution of this Action and up to **\$20,000.00** for actual costs incurred in this Action.
9 (Exhibit 1, Settlement Agreement, ¶ 3.2.2);
- 10 • Class Representative Service Payment: Up to **\$10,000.00** to Plaintiff as an award for her
11 service as the class representative (Exhibit 1, Settlement Agreement, ¶ 3.2.1);
- 12 • Settlement Administration Costs Payment: A not-to-exceed amount of **\$8,500.00** to the
13 Settlement Administrator for its fees and costs to administer the Settlement (Exhibit 1,
14 Settlement Agreement, ¶ 3.2.3);
- 15 • PAGA Penalties Payment: **\$10,000.00** for settlement of claims for civil penalties under
16 PAGA, with 25% (\$2,500.00) to be paid on a pro-rata basis to the Aggrieved Employees
17 ("Individual PAGA Payments") and 75% (\$7,500.00) allocated to the LWDA ("LWDA
18 PAGA Payment") (Exhibit 1, Settlement Agreement, ¶ 3.2.5).

19 12. If the Court approves the above allocations from the Gross Settlement Amount, the
20 Net Settlement Amount is estimated to be **\$128,166.67**. Twenty percent (20%) of the "Net
21 Settlement Amount" will be allocated to the settlement of wage claims (the "Wage Portion") and
22 will be subject to tax withholding and reported on an IRS W-2 Form. Each Class Member's share
23 of the Net Settlement Amount ("Individual Settlement Payment") will be calculated based on the
24 number of workweeks the Class Member worked during the Class Period. (Exhibit 1, Settlement
25 Agreement, ¶ 1.24). For the approximately 284 Class Members (if no exclusions), the average gross
26 Individual Share Payment, using a straight average, is \$451.29. The estimated average amount each
27 Class Member will receive per workweek based on the Net Settlement Amount and 13,158
28 workweeks is \$9.74. If the Court approves a lesser amount for any of the above requested allocations

1 from the Net Settlement Amount, the remainder will be added to the Net Settlement Amount to be
2 distributed to Class Members. (Exhibit 1, Settlement Agreement, ¶ 3.2.5.2).

3 13. Not later than fourteen (14) calendar days after the Court grants Preliminary
4 Approval of the Settlement, Defendant will deliver the Class Information to the Settlement
5 Administrator in the form of a Microsoft Excel spreadsheet. The Settlement Administrator will mail
6 the Class Notice with Spanish translation to all Class Members in no event later than fourteen (14)
7 days following the receipt of Class Data via first class United States Postal Service (“USPS”) mail.
8 (Exhibit 1, Settlement Agreement, ¶ 7.4.2). Before mailing the Class Notice, the Settlement
9 Administrator will update Class Member addresses using the National Change of Address database.
10 The Class Notice includes a summary of the case and settlement terms and provides Class Members
11 with detailed instructions on how to exclude themselves, object to the settlement, and dispute the
12 number of workweeks and/or pay periods attributed to each Class Member per Defendant’s records.
13 (Exhibit A, Class Notice). Any mailing returned to the Settlement Administrator as undeliverable
14 will be sent within three (3) days via First Class U.S. Mail to the forwarding address affixed thereto,
15 if applicable. If no forwarding address is provided, the Settlement Administrator will attempt to
16 determine the correct address again using all reasonably available sources and methods, including
17 the National Change of Address database, skip traces, and direct contact by the Settlement
18 Administrator with Class Members, and re-mail the Class Notice to the most current address
19 obtained. Class Members will have sixty (60)¹ days from the mailing of the Class Notice (plus an
20 additional fourteen (14) calendar days if they receive a re-mailed Notice) to opt out of or object to
21 the Settlement or to dispute the number of work weeks and/or pay periods. (Exhibit 1, Settlement
22 Agreement, ¶ 7.4.4). The parties selected Apex Class Action LLC (“Apex”) to handle the notice and
23 administration of the Settlement based on the competitiveness of their bid, their competency in
24 administering settlements, and their responsiveness to the parties’ counsel and settlement class
25 members. (Exhibit 1, Settlement Agreement, § 7.1). Apex will have a website for Class Members
26 to review and reference for details regarding the Final Approval Hearing and any Final Approval
27

28 ¹ The Settlement Agreement provides for forty-five (45) days but the Parties through their counsel have agreed to extend the notice period to sixty (60) days. The sixty (60) day notice period will also be reflected in the Class Notice.

Order and Judgement. If the Court grants final approval of the Settlement, a copy of the Final Approval Order and Judgment will be posted on this website for Class Members to review. The website will be provided to Class Members in the Class Notice that is mailed to them.

Certification for Settlement Purposes Only is Appropriate

14. Plaintiff alleges that the proposed Class satisfies the criteria for certification of a settlement class under California law, as embodied in California Code of Civil Procedure § 382. Defendant has agreed to the conditional certification of the class for settlement purposes only. Defendant does not concede that certification is appropriate outside of this Settlement and preserves all rights to oppose certification if, for any reason, the Settlement does not become effective. In general, courts may take a proposed settlement into account in evaluating the propriety of class certification. *See Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1807 fn. 19. Indeed, a “lesser standard” of scrutiny applies in certifying classes for settlement purposes. *Id.* Therefore, the Court should take into consideration the fact that the Parties have settled their claims and stipulated to certification for settlement purposes when assessing whether the Settlement is fair and reasonable.

15. Numerosity and Ascertainability. The putative Class is so numerous that joinder of all members is impractical. Class Members are all current and former non-exempt, hourly dining, culinary, housekeeping, and maintenance employees of Defendant employed in California during the Class Period (May 1, 2020, to October 10, 2024). Defendant has identified 284 Class Members based on a review of its payroll and personnel records. Thus, the requirements of numerosity and ascertainability are met here.

16. Well-Defined Community of Interest. Plaintiff contends, and Defendant does not dispute for settlement purposes only, that common issues of fact and law predominate as to each of the claims alleged by Plaintiff, and the Class is united in its proof. This action involves, *inter alia*, a determination about Defendant’s alleged failure to pay wages and overtime due to off-the-clock work, failure to provide meal and rest periods, the resulting failure to pay timely and final wages when required and to provide accurate wage statements, failure to reimburse business expenses, and largely derivative claims under the UCL and PAGA. Plaintiff contends Defendant’s practices affected Class Members in the same way and presents questions that are suitable for common

1 adjudication because all Class Members were subject to the same employment policies and
2 practices. The outcome of litigation in this matter depends upon questions that are common to Class
3 Members.

4 17. Typicality. The class representatives' claims are typical when they arise from the
5 same event, practice, or course of conduct that gives rise to the claims of other putative Class
6 Members and if their claims rest on the same legal theories. Here, Plaintiff alleges that his claims
7 are typical of Class Members' claims because they arose from the same factual basis and are based
8 on the same legal theories. Plaintiff and Class Members were employed by Defendant during the
9 Class Period and were subject to the allegedly unlawful meal and rest policies and pay practices at
10 issue in this litigation. Thus, the typicality requirement is satisfied.

11 18. Adequacy. Plaintiff's interests are aligned with those of the Class Members, as he
12 has suffered the same injuries as the Class Members and has no conflicts of interest. Plaintiff has
13 not shrunk from this responsibility. Indeed, Plaintiff has devoted a substantial amount of time and
14 energy to litigating this action and effectuating a settlement. Furthermore, as set forth below, Class
15 Counsel are experienced in wage-and-hour litigation, especially class actions, and have zealously
16 represented the interests of the class in litigating this case and have no conflicts of interest.
17 Accordingly, the adequacy requirement is satisfied.

18 19. Predominance and Superiority. Plaintiff contends that individualized issues do not
19 predominate over the issues of law and fact that are common to the Class as a whole. As explained,
20 *supra*, Plaintiff alleges there are common issues of law and fact given that Plaintiff and all Class
21 Members were subjected to the same policies and pay practices during the relevant time period.
22 Plaintiff and Class Members seek meal and rest premiums, unpaid wages and overtime, and
23 penalties for work performed as non-exempt employees for Defendant. Plaintiff alleges that these
24 issues are suitable for common adjudication because all Class Members were allegedly subject to
25 the same employment policies, and Plaintiff contends the practices applied uniformly to all Class
26 Members.

27 20. Plaintiff contends that class resolution is superior to other available methods for the
28 fair and efficient adjudication of the controversy as there is little interest or incentive for Class

Members to individually control the prosecution of separate actions. Although the alleged injury resulting from Defendant's policies and practices are allegedly real and significant, the cost of individually litigating each such case against Defendant would easily exceed the value of any relief that could be obtained by any one Class Member individually. If Class Members are forced to litigate their claims individually this would result in over 284 individual actions against Defendant. Here, the alternative methods of resolution are individual suits for relatively small amounts. Hence, an individual suit would prove uneconomical for potential plaintiffs because litigation costs would dwarf a potential recovery.

The Settlement is Fair, Adequate, and Reasonable

21. In deciding whether to approve a proposed class action settlement, the Court must find that a proposed settlement is "fair, adequate, and reasonable" and falls within the "range of approval." *Dunk*, 48 Cal.App.4th at 1801-02. The trial court considers all relevant factors, such as "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the Class Members to the proposed settlement." *Id.* The Settlement satisfies all of these requirements.

A. The Settlement is the Result of Serious, Informed, Non-Collusive Negotiations.

22. The proposed settlement was reached as a result of arm's length negotiations after the completion of pertinent discovery and the exchange of necessary Class Information. The negotiations have been, at all times, adversarial and non-collusive in nature. *See*, 4 Newberg on Class Actions § 13:45 (5th ed.) (due to the preference of settlement over litigation, "a court will presume that a proposed class action settlement is fair when certain factors are present, particularly evidence that the settlement is the product of arms-length negotiation, untainted by collusion."). Although Plaintiff steadfastly maintains that his claims are meritorious, Plaintiff acknowledges that there were substantial risks and uncertainty in proceeding with litigation. As described below, Defendant presented multiple defenses to Plaintiff's claims, both on the merits and with respect to class certification. Thus, while Plaintiff was prepared to litigate these claims through class

1 certification, and ultimately trial, success was far from certain. Assistance from a well-respected
2 mediator ensured that negotiations were non-collusive and well-informed.

3 **B. Extent of Discovery and Stage of Proceedings.**

4 23. As stated above, the Parties engaged in substantial informal discovery before the
5 Settlement was reached to allow them to fully evaluate the class claims and Defendant's defenses.
6 This litigation has reached the stage where the Parties have a clear view of their respective strengths
7 and weaknesses.

8 **C. Strength of Plaintiff's Case and the Risk, Expense, Complexity, and Likely Duration**
9 **of Any Litigation.**

10 24. Plaintiff's claims are based on Defendant's alleged failure to pay wages (including
11 overtime), failure to provide meal and rest periods, failure to reimburse business expenses, the
12 resulting failure to pay final wages when required and provide accurate wage statements, and largely
13 derivative claims under the UCL and PAGA.

14 25. Plaintiff alleges that Defendant failed to pay Plaintiff and Class Members at least
15 minimum wages for all hours worked and proper overtime wages for hours worked in excess of
16 eight hours in a day and 40 hours in a week. Specifically, Plaintiff alleges that Defendant required
17 Plaintiff and Class Members to arrive and perform work off the clock before their scheduled shift
18 start times, including undergoing COVID screenings. Moreover, due to the heavy volume of work
19 and personnel shortages, Plaintiff alleges that Class Members were compelled to work after clocking
20 out at the end of their scheduled shifts to perform tasks such as cleaning and taking out the trash.

21 26. Defendant contends that it did not require off the clock work, paid for all reported
22 hours worked, that Class Members were instructed and required to record all hours worked, that any
23 alleged off the clock work was performed without Defendant's knowledge and was de minimis, that
24 any bonuses or incentives paid to Class Members were discretionary and not includable in the
25 regular rate of pay calculation, and that it paid wages at the proper rates. Defendant also argues that
26 given its written policies and practices, any unrecorded hours are likely subject to individualized
27 inquiry and unlikely to be certified. Given the difficulty in certifying this claim, Class Counsel
28 applied a significant discount to damages based on this theory.

1 27. Plaintiff also alleges that Defendant failed to provide proper meal breaks to Plaintiff
2 and Class Members. For example, Plaintiff alleges that Defendant's policy required Class Members
3 to take a meal break once instructed to do so by the kitchen lead and once they or management found
4 adequate coverage. Plaintiff alleges that constant short-staffing led to recurrent late meal periods,
5 and on-duty meal periods, that were interrupted by customer, management, and work demands.

6 28. Defendant contends that Class Members were given a reasonable opportunity to take
7 their meal periods, and when compliant meal periods were not provided, Defendant provided
8 premium pay to Class Members as reflected in their time and pay records. Defendant also contends
9 that the relevant Class Members signed valid meal period waivers. Defendant further contends that
10 the meal break claim requires individualized inquiries which would preclude class certification. If
11 Defendant's contentions are proven true and prevail in trial, the likely outcome would be no
12 recovery for the Class Members on the meal break claim.

13 29. Plaintiff also contends that Defendant did not provide Class Members with paid 10-
14 minute rest breaks for every hours or major fraction thereof. Plaintiff contends that job requirements
15 and duties required of Class Members consistently manifested in a failure to authorize and permit
16 Class Members to take all their required rest breaks.

17 30. Defendant maintains that it did provide a reasonable opportunity for Class Members
18 to take duty-free rest breaks during their shifts and dispute all allegations that rest breaks were not
19 provided. Considering that unlike meal periods, rest breaks need not be recorded, these violations
20 would likely be difficult to prove at trial and potentially depress the damages ultimately awarded.
21 Therefore, Class Counsel applied significant and appropriate discounts to the rest break claim.

22 31. Additionally, Plaintiff alleges that Defendant required Plaintiff and Class Members
23 to use their cellular phones for work, including downloading the timekeeping app and responding
24 to calls from management, for which they were not reimbursed. Defendant maintained that
25 individualized issues relating to this claim would preclude class certification.

26 32. As for the wage statement and waiting time penalties claims, Defendant contends
27 that these claims are merely derivative of the underlying claims and that Plaintiff and Class Members
28 would be unable to first establish liability for the underlying claims for the reasons described above.

1 Defendant further contends that even if they could first establish liability for the underlying claims,
2 Plaintiff and Class Members would be unable to establish that Defendant's conduct was willful and
3 knowing as required by the relevant statutes since Defendant acted in good faith to provide accurate
4 wage statements and pay all wages due to Plaintiff and Class Members. Thus, Defendant contends
5 that the wage statement and waiting time penalties claims have little to no value.

6 33. Further, Defendant contends that the PAGA claim is also derivative of the underlying
7 claims in the Action and ultimately fails because the underlying claims have no merit. Defendant
8 also contends that even if Plaintiff and Class Members could establish Labor Code violations, the
9 Court has the discretion to award less than the maximum civil penalty amount and would award
10 substantially less civil penalties here because Defendant acted in good faith to comply with the
11 relevant wage and hour laws and any violations were minor and technical in nature.

12 34. Defendant generally denies all claims alleged in the Action and further denies class
13 and/or representative treatment is appropriate for any purpose other than this Settlement and that it
14 complied with all applicable laws. However, Defendant has concluded that further litigation would
15 be protracted and expensive and that it is desirable that the Action be fully and finally settled in the
16 manner and upon the terms and conditions herein.

17 35. As stated above, while Plaintiff and Class Counsel contend the claims asserted in the
18 Action have merit, they also acknowledge the expense, delay, and risks of continued litigation.
19 Although the Parties engaged in significant informal discovery in advance of mediation, the Parties
20 still had significant discovery to complete had the matter not settled. This would have required the
21 expenditure of substantial time and resources by both Parties that would have very likely spanned
22 several years. Even if Plaintiff were to certify the classes, the Parties would incur considerably more
23 attorney fees and costs through a possible decertification motion, trial, and possible appeal. This
24 Settlement avoids those risks and the accompanying expense.

25 **D. The Risk of Maintaining Class Action Status Through Trial.**

26 36. Plaintiff had not yet filed his motion for class certification, and as such, the extent to
27 which Plaintiff proposed classes were certifiable is somewhat speculative. Absent a settlement, there
28 was a risk that there would not be a certified class at the time of trial, or if there were, it could consist

1 of a significantly smaller group of employees than the proposed Settlement Class, resulting in less
2 overall recovery.

3 37. Finally, in class actions, decertification is always a possibility, and there is always a
4 risk that a trial of this magnitude can become unmanageable. Cases like *Duran v. U.S. Bank Nat.*
5 *Assn.* (2014) 59 Cal. 4th 1, 34 address the complexity of using statistical samples in class actions
6 and demonstrate that decertification is a real risk that Class Counsel must consider. A class trial
7 would have also required expert witnesses, the accrual of extensive litigation costs, and the
8 commitment of extensive further time and financial resources. Finally, given the complexity and
9 unsettled nature of the issues, it is somewhat likely that any outcome at trial would have resulted in
10 a lengthy and costly appeal. An appeal would result in further delay for the Class Members who
11 have already waited years for resolution in this matter. Risk and legal uncertainty must be dealt with
12 in any litigation, and this Settlement was the product of compromise accounting for those risks and
13 that uncertainty.

14 **E. The Presence of a Governmental Participant.**

15 38. Class Counsel will be submitting the Settlement Agreement and this Motion to the
16 LWDA concurrently with the filing of this Motion pursuant to Labor Code § 2699(1)(2).

17 **F. The Amount Offered in Settlement is Fair Given the Potential Value of the Claims.**

18 39. Because the class consists of numerous employees, it was unlikely that the potential
19 monetary claims of individual Class Members would have proved viable without the class-action
20 mechanism. The Settlement Agreement should be approved in light of two California appellate
21 decisions: *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785 and *Kullar v.*
22 *Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

23 40. The strength of the Plaintiff's case in light of the settlement amount is deemed by
24 courts to be the "most important." *Clark v. American Residential Services, LLC* (2009) 175
25 Cal.App.4th 785, 799 (citing *Kullar*). Here, Plaintiff alleges that Defendant failed to pay all wages
26 due and owing by requiring systematic off the clock work, failed to pay all wages due on a timely
27 basis during employment and upon termination, failed to pay overtime at the proper rates, failed to
28 provide meal and rest breaks, failed to furnish and maintain accurate wage statements, failed to

maintain accurate records, and failed to reimburse necessary business expenses, all in violation of California law. Plaintiff seeks related violations of California's Business & Professions Code, penalties pursuant to Labor Code § 2699 *et seq.* Summary calculations for estimated liability for each of these claims follow.

Failure to Pay Minimum and Overtime Wages:

41. Plaintiff alleges that Defendant failed to pay Plaintiff and Class Members at least minimum wages for all hours worked and proper overtime wages for hours worked in excess of eight hours in a day and 40 hours in a week. Specifically, Plaintiff alleges that Defendant required Plaintiff and Class Members to arrive and perform off the clock before their scheduled shift start times, including undergoing COVID screenings, for which they were not paid. For instance, Plaintiff alleges that Class Members were compelled to work after clocking out at the end of their scheduled shifts to perform tasks such as cleaning and taking out the trash.

42. Plaintiff also alleges that Defendant failed to incorporate non-discretionary, performance-based cash awards, bonuses, and/or shift differential pay into the regular rate of pay used to calculate and pay overtime wages to Class Members.

43. Defendant contends that it did not require off the clock work, paid for all reported hours worked, that Class Members were instructed and required to record all hours worked, that any alleged off the clock work was performed without Defendant's knowledge and was de minimis, that any bonuses or incentives paid to Class Members were discretionary and not includable in the regular rate of pay calculation, and that it paid wages at the proper rates. Defendant also argues that given its written policies and practices, any unrecorded hours are likely subject to individualized inquiry and unlikely to be certified. Given the difficulty in certifying this claim, Class Counsel applied a significant discount to damages based on this theory.

44. Class Counsel estimated Defendant's exposure on the unpaid wages claims to be approximately \$107,198.00 (assuming 5 minutes of off the clock work per shift and 16.5% of off the clock hours attributable to overtime). However, given Defendant's defenses and the potential hurdles facing certification of off-the-clock claims, Class Counsel applied a 50% discount making for an adjusted realistic exposure of **\$53,599.00** for Defendant.

Meal Periods and Rest Breaks:

45. Plaintiff argued that Defendant had a common practice and policy of denying compliant meal periods. For example, Plaintiff also alleges that Defendant failed to provide Plaintiff and Class Members with lawful first and second meal periods. For example, Plaintiff alleges that Defendant's policy required Class Members to take a meal break once instructed to do so by the kitchen lead and once they or management found adequate coverage. Plaintiff alleges that constant short-staffing led to recurrent late meal periods, and on-duty meal periods, that were interrupted by customer, management, and work demands.

46. For each meal period missed, of less than 30 minutes, or taken late for which the employee was not provided a reasonable opportunity to take a complete and timely meal period, an employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay." To comply with these laws, every employer must keep, for each employee, accurate time records showing when the employee begins and ends each work period and takes his or her meal periods. See Wage Order 4-2001(7)(A)(3). Plaintiff alleges that Defendant failed to pay the legally required premium at their regular rate of pay whenever meal periods were missed, interrupted, or late.

47. Defendant contends that Class Members were given a reasonable opportunity to take their meal periods, and when compliant meal periods were not provided, Defendant provided premium pay to Class Members as reflected in their time and pay records. Defendant also contends that the relevant Class Members signed valid meal period waivers. Defendant further contends that the meal break claim requires individualized inquiries which would preclude class certification.

48. Class Counsel estimated Defendant's maximum exposure on the meal period claim at approximately \$98,312.00 (meal period premiums due with an offset for meal period premiums paid). However, given Defendant's defenses and the potential hurdles facing certification of the meal break claim, Class Counsel applied a 50% discount making for an adjusted realistic exposure of **\$49,156.00** for Defendant.

49. Rest Breaks: Plaintiff contended that Defendant did not provide Class Members with timely paid 10-minute rest breaks for every four hours or major fraction thereof. Plaintiff contends

1 that job requirements and duties required of Class Members consistently manifested in a failure to
2 authorize and permit Class Members to take all their required rest breaks.

3 50. Defendant maintains that it did provide a reasonable opportunity for Class Members to
4 take duty-free rest breaks during their shifts and dispute all allegations that rest breaks were not
5 provided. Considering that unlike meal periods, rest breaks need not be recorded, these violations
6 would likely be difficult to prove at trial and potentially depress the damages ultimately awarded.

7 51. Class Counsel estimated Defendant's maximum liability exposure on the rest break
8 period claim at approximately \$649,387.50 assuming a 50% violation rate. However, given
9 Defendant's contentions and the difficulties facing certification of rest break claims, Class Counsel
10 applied an 80% discount making for an adjusted realistic exposure of **\$129,877.50** for Defendant.
11 Owing to the arguments above and the fact that the recording of rest periods is not required, this
12 claim was substantially discounted.

13 Inaccurate Wage Statement Violations:

14 52. Under Labor Code § 226(a), Plaintiff and the Class are entitled to recover \$50 for initial
15 violations for inaccurate wage statements and \$100 for subsequent violations, up to a maximum of
16 \$4,000 per employee. Plaintiff alleged Defendant issued wage statements to Plaintiff and the Class
17 Members that did not accurately list all hours worked by omitting off-the-clock work and
18 inaccurately listing applicable hourly rates.

19 53. Defendant challenged Plaintiff's claim for Labor Code § 226(e) penalties, including by
20 arguing they were merely derivative of the other claims that lacked merit, and Plaintiff's failure to
21 prove the underlying claims could result in the dismissal of these derivative claims. Defendant also
22 argued that it did not knowingly and intentionally commit these alleged violations. *See, e.g.*, Labor
23 Code § 226(e) (recovery of penalties requires showing there was "a knowing and intentional failure
24 by an employer").

25 54. Class Counsel estimated Defendant's maximum total exposure on the section 226 claim
26 at approximately \$267,600.00 (assuming \$50/\$100 for initial and subsequent violations and 152
27 employees during the relevant period and a maximum of \$4,000.00 per employee). After
28

1 considering Defendant's contentions and the potential class certification issues, Class Counsel
2 discounted this amount by 80% to get an adjusted realistic exposure of **\$53,520.00**.

3 Failure to Pay Final Wages at Termination or Separation:

4 55. In allegedly failing to pay Class Members their minimum wages, overtime wages, and
5 premium pay for deficiently provided meal periods and rest breaks, all discussed above, Plaintiff
6 alleged that Defendant willfully failed to pay Class Members all wages due and certain at the time
7 of termination or within seventy-two (72) hours of resignation, as required under Labor Code § 203.

8 56. Section 203 further provides that if an employer willfully fails to pay an employee all
9 wages due at termination or within 72 hours of resignation, then that employee's wages will continue
10 as a penalty until paid for a period of up to 30 days from the date they were due. Because Class
11 Members stopped working for Defendant but were allegedly not paid their full compensation for the
12 reasons discussed above, Class Members did not receive all wages due upon termination of
13 employment.

14 57. Defendant challenged this claim under Labor Code § 203 with several arguments,
15 including that this claim is merely derivative of the other claims that lacked merit and that under
16 Labor Code § 203, employers are only obligated to pay waiting-time penalties if they "willfully"
17 fail to pay wages due and owing at the time of termination or resignation. As Title 8, California
18 Code of Regulations, § 13520 states: "A willful failure to pay wages within the meaning of Labor
19 Code Section 203 occurs when an employer intentionally fails to pay wages to an employee when
20 those wages are due. However, a good faith dispute that any wages are due will preclude imposition
21 of waiting time penalties under Section 203." Defendant argued that their good faith disputes and
22 lack of willfulness would excuse its violations. Defendant maintained that because they had viable
23 defenses in both law and fact, such penalties were subject to a three-year limitations period under
24 Labor Code § 203(b).

25 58. Class Counsel estimated Defendant's maximum total exposure on the section 203 claim
26 at approximately \$663,538.00 (200 terminated employees during the relevant period x 30 days x
27 average hourly rate per year x 6.5 hours per work day). Given the foregoing arguments, Class
28 Counsel discounted this amount by 80% to get an adjusted realistic exposure of **\$132,707.60**.

1 Failure to Reimburse for Necessary Business Expenditures:

2 59. Under Labor Code § 22802(a) Defendant must indemnify Plaintiff and Class Members
3 for all necessary expenditures or losses incurred in direct consequence of the discharge of their
4 duties. As discussed above, Plaintiff alleges that Plaintiff and Class Members incurred necessary
5 expenditures in the performance of their job duties for Defendant, including the cost of personal
6 cell phone usage for work related purposes, but were not reimbursed for those expenses by
7 Defendant. Defendant contends that they had an expense reimbursement policy and did reimburse
8 Plaintiff and Class Members for any business expenses incurred pursuant to their policy.

9 60. Plaintiff estimated Defendant's total exposure on the unreimbursed business expenses
10 claim at approximately \$14,200.00 (\$50 x 284 Class Members). However, given Defendant's
11 reimbursement policy and the potential for the need for individualized inquiries making class
12 certification of this claim difficult, Class Counsel applied a 50% discount to get an adjusted
13 realistic exposure of **\$7,100.00**.

14 PAGA Penalties:

15 61. The Labor Code Private Attorneys General Act, Labor Code § 2698 *et seq.*, allows
16 Plaintiff to obtain civil penalties on behalf of herself and other aggrieved employees for Defendant's
17 violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil
18 penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties
19 are recoverable, Labor Code § 2699(f) establishes civil penalties of one (\$100) for each aggrieved
20 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
21 employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), seventy-
22 five percent (75%) of the penalties recovered must be allocated to the Labor and Workforce
23 Development Agency (LWDA), with the remaining twenty-five percent (25%) allocated to the
24 affected employees. The limitations period for all penalties is one year prior to the filing of the
25 complaint.

26 62. The provisions of the Labor Code potentially triggering PAGA penalties in this case
27 include but are not limited to Labor Code §§ 203, 226(a), 226.3, 226.7, 510, and 1194. PAGA
28 penalties are not mandatory and are instead permissive. Labor Code § 2699(e)(2) states that "a court

1 may award a lesser amount than the maximum civil penalty amount specified by this part if, based
2 on the facts and circumstances of the particular case, to do otherwise would result in an award that
3 is unjust, arbitrary and oppressive, or confiscatory.” See *Thurman v. Bayshore* (2012) 203 Cal. App.
4 4th 1112 (substantially reducing PAGA penalties by 30% under this provision). Defendant contested
5 Plaintiffs’ claim for PAGA penalties.

6 63. PAGA penalties are also derivative of each and every other claim, and Defendant argued
7 the PAGA claims would be subject to the same defenses as the underlying claims, and as well as
8 additional equitable defenses, including substantial compliance. Finally, under *Amaral v. Cintas*
9 *Corp.* (2008) 163 Cal.App.4th 1157, Defendant asserted that penalties under PAGA could, at best,
10 be awarded only at the rates obtainable for initial violations under the applicable statutes, because
11 Defendant had never been notified of the alleged violations. *Id.* at 1208-1209.

12 64. Plaintiff estimated Defendant’s total exposure on the PAGA claim at approximately
13 \$267,600.00 (2,676 PAGA Pay Periods x \$100). However, Class Counsel also estimated any PAGA
14 recovery would be substantially reduced and applied discounts in light of the countervailing
15 arguments with regard to the other causes of action and the Court’s power to award “a lesser amount
16 than the maximum civil liability.” The PAGA allocation agreed upon by the Parties therefore was
17 **\$10,000.00**, subject to the Court’s final approval. 75% of that amount (\$7,500.00) will be paid to
18 the LWDA out of the Gross Settlement Amount, and the remaining 25% (\$2,500.00) will remain in
19 the PAGA Settlement Fund for distribution to the Aggrieved Employees.

20 Unfair Business Practices

21 65. Plaintiff pled this cause of action to augment their other causes of action and aid in their
22 prosecution. Business & Professions Code § 17208 extends the statute of limitations on Plaintiff’s
23 wage claims, which qualify as unfair business practices, to four years rather than the three years
24 provided by statute.

25 Summary

26 66. The foregoing discussion establishes the adequacy of the Settlement amount in light of
27 the merits of Plaintiff’s case and establishes the fairness of the class-action settlement in the instant
28 case, including by analyzing it in light of the *Clark* and *Kullar* decisions. It does so by explaining

1 the legal basis for each of Plaintiff's causes of action, summarizing the evidence that Class Counsel
2 gathered in support of those causes of action, and relating to Defendant's legal and factual arguments
3 that worked to detract from the strength of Plaintiff's case.

4 67. Class Counsel applied reasonable and justified discounts, considering the facts and legal
5 contexts outlined above. These substantial discounts were necessary in light of Defendant's
6 contentions and denial of liability. This Settlement, like most others, was the product of
7 compromise. As addressed above, Plaintiff estimated that Defendant faced approximately
8 \$435,960.10 in total realistic exposure on Plaintiff's main claims. The Gross Settlement Amount of
9 \$265,000.00 therefore represents a recovery for the Class Members of approximately 60% of the
10 total realistic exposure Plaintiff estimated Defendant could face on these class-wide claims. Class
11 Counsel submits that this is an optimal result for the Class in light of all of the factors described
12 above.

13 **Class Counsel Fees Payment is Fair and Reasonable**

14 68. Under the Settlement, Class Counsel requests, without opposition from Defendant, an
15 award of \$88,333.33 for attorneys' fees and up to \$20,000.00 for reasonable expenses incurred to
16 prosecute the Action. This request is fair, reasonable, and adequate to compensate Class Counsel
17 for the substantial work they have put into this case and, moreover, the risk they assumed by taking
18 it in the first place as they will not receive any compensation for their efforts until recovery is
19 obtained for the Class. The attorneys' fees award is intended to reimburse Class Counsel for all
20 uncompensated work that they have already done and for all the work they will continue to do in
21 carrying out and overseeing the notification to Class Members, communicating with Class Members
22 regarding their claims, and assisting in the administration of the Settlement if it is preliminarily
23 approved. The requested fee is reasonable for the services provided to Class Members and for the
24 benefits they are to receive. Class Counsel's costs incurred to date and estimated future costs are
25 detailed in their cost log which is attached hereto as **Exhibit 3**.

26 **Class Representative Enhancement and Service Payment is Fair and Reasonable**

27 69. Plaintiff is entitled to a reasonable service payment for his efforts and initiative in
28 bringing and helping to prosecute this action. Plaintiff spent significant time better apprising himself

1 of his rights, deciding whether remedial action should be taken and how it should be taken, searching
2 for attorneys, and contacting Class Counsel, who spent many hours with Plaintiff discussing the
3 case and the law.

4 70. Both before and after the filing of this lawsuit, Plaintiff conferred with Class Counsel on
5 to discuss every aspect of his case. Plaintiff provided Class Counsel with information about
6 Defendant and about the industry generally, produced and reviewed documents, identified
7 witnesses, consulted with Class Counsel regarding litigation strategy, participated in the mediation
8 process, monitored the progress of the litigation with Class Counsel, and reviewed and signed the
9 Settlement Agreement.

10 71. In light of the foregoing, Class Counsel believes that the \$10,000.00 incentive award to
11 the Class Representative is fair and reasonable.

12 **Proposed Class Notice Provides Adequate Notice**

13 72. The notification procedure set out in the Settlement Agreement provides the greatest
14 likelihood that each and every Class Member will receive the Class Notice, attached to the
15 Settlement as Exhibit A. Under the Settlement, Defendant will deliver the Class Information to the
16 Settlement Administrator in the form of a Microsoft Excel spreadsheet not later than fourteen (14)
17 calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver
18 the Class Information to the Settlement Administrator in the form of a Microsoft Excel spreadsheet.
19 The Settlement Administrator will mail the Class Notice, attached to the Settlement Agreement as
20 Exhibit A, to all Class Members in no event later than ten (10) days following the Preliminary
21 Approval Date via first class United States Postal Service (“USPS”) mail. (Exhibit 1, Settlement
22 Agreement, ¶¶ 4.2, 7.4.1, 7.4.2). The Class Notice includes a summary of the case and settlement
23 terms and provides Class Members with detailed instructions on how to exclude themselves, object
24 to the settlement, and dispute the number of workweeks and/or pay periods attributed to each Class
25 Member per Defendant’s records. (Exhibit A, Class Notice). Class Members will have forty-five
26 (45) days from the mailing of the Class Notice (plus an additional fourteen (14) calendar days if
27 they receive a re-mailed Notice) to opt out of or object to the Settlement or to dispute the number of
28 work weeks and/or pay periods. (Exhibit 1, Settlement Agreement, ¶ 7.4.4). This is the best and

1 most practicable way to ensure the greatest possible number of Class Members will receive the
2 Notice.

3 73. The settlement agreement does not impose any affirmative duties on Participating Class
4 Members. No claim form is required to participate in the Settlement. Individuals who wish to opt
5 out or object may do so. The Class Notice itself fully apprises Class Members of the nature of the
6 lawsuit, the claims involved, the terms of the settlement, and their options thereunder. (Exhibit 1,
7 Settlement Agreement, Exhibit A, Class Notice). It provides for a specific procedure to seek
8 exclusion from the Class, disputing payments and Class Information, challenging workweek and
9 pay period data, and lodging objections to the settlement. (Exhibit 1, Settlement Agreement, ¶ 7.5)-
10 7.7). In the Class Notice, Class Members will also receive Class Counsel's contact information so
11 they can speak to attorneys conversant with the legal and factual issues involved in this case, as well
12 as the contact information for the Settlement Administrator. The efforts taken to ensure that Class
13 Members receive the Class Notice and are well informed about the settlement are reasonable and
14 provide the best notice practicable under the facts.

15 **Qualifications and Adequacy of Class Counsel**

16 74. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases,
17 including class actions and PAGA actions on behalf of employees and others who have had their
18 rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiffs'
19 counsel of record in numerous wage and hour and employment class action and PAGA action cases
20 pending in both state and federal court.

21 75. D.Law is well-qualified and has ample experience, knowledge, and resources to act as
22 counsel and represent Plaintiff and the putative Class and Aggrieved Employees in this action. Our
23 practice is exclusively focused on employment matters and representing plaintiffs in wage and hour
24 actions with the same or similar causes of actions brought forth in the matter pending before this
25 Court.

26 76. D.Law has litigated and successfully resolved many wage and hour class action cases
27 involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. De La Rosa
28 v. The Coca Cola Company et al. (Superior Court of California in Napa, 17CV000787), Harvey v.

1 Bed Bath & Beyond of California Limited Liability Company (Superior Court of California in
2 Alameda, RG17885153), Paredes v. Bottling Group LLC et. al. (Superior Court of California in
3 Kern), Ramirez v. Harris Ranch Beef Company (Superior Court of California in Fresno,
4 16CECG04103), Gates v. Gate Gourmet, Inc. et. al. (Southern District of California, 16-cv-01084-
5 L-AGS), Hargrave v. Antelope Valley Hospital (Superior Court of California in Los Angeles,
6 BC663252), Ramirez v. Milton Roy et. al. (Superior Court of California in Los Angeles, BC 632
7 276), Hawkins v. AvalonBay Communities (Superior Court of California in Santa Clara,
8 17CV316492), Jones Tharpe et al. v. Sprint Corporation et al. (Superior Court of California in Los
9 Angeles, BC644645), Ortega et al. v. Nestle Waters North America, Inc. et al. (Superior Court of
10 California in Los Angeles, BC623610), Schultz v. Jimbo's Natural Family, Inc. (Superior Court of
11 California in San Diego, 37-2017-00022348-CUE-OE-CTL), Ambrose v. Victor Valley Global et
12 al. (Superior Court of California in San Bernardino, CIVDS1709289), Puerta-Gildardo v. Real Time
13 Staffing Services LLC et. al. (Superior Court of California in Los Angeles, BC565445), Vargo v.
14 Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836), Conlin v. Aegis
15 Senior Communities LLC (Northern District of California, 17-cv-05534-LHK), Galarza v.
16 Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO), Estes v. L3
17 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA), Rowser v. Trunk
18 Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v. The Claremont
19 Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau v. PCT
20 Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra Costa
21 MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area Beverage Company (Superior Court
22 of the State of California, County of Contra Costa, MSC18-00859), Roach v. Westcare California,
23 Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), Patton v. Church &
24 Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), Juarez v. ISL
25 Employees, Inc. (Superior Court of California in Madera, MCV074787), Ferraro v. USC Verdugo
26 Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), Ford v. Account
27 Control Technology, Inc., et al. (Superior Court of California in Los Angeles, 19STCV09369),
28 Ornelas v. iStorage, et al. (Superior Court of California in San Francisco, CGC-18-571421),

1 Martinez v. Ronpak, Inc. (Superior Court of California in Riverside, RIC1901307), Barrera et al. v.
2 Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687), Barajas v. Mancha
3 Development Company LLC (Superior Court of California in Orange County, 30-2018-00974707-
4 CU-OE-CXC), Prado v. IMAX Corporation dba IMAC Worldwide Home (Superior Court of
5 California in San Bernardino, CIVDS1820265), Rodriguez v. ND Industries, Inc. (Superior Court
6 of California in Los Angeles, 19STCV38096), Singletary v. Motel 6 Operating LP, et al. (Southern
7 District of California, 3:20-cv-0270-LAB-AHG), Quizon v. CF Watsonville East, LLC, et al.
8 (Superior Court of California in Santa Cruz, 20CV01868), Stephenson v. Bakersfield Dodge, Inc.
9 (Superior Court of California in Kern, BCV-20-102693), Bacerra v. Hugo Boss Retail, Inc.
10 (Superior Court of California in San Diego, 37-2021-00002933-CU-OE-CTL), Walker v. Ariat
11 International, Inc. (Superior Court of California in Alameda, HG19026439), Orr v. Petvet Care
12 Centers (California) Inc. (Superior Court of California in Santa Clara, 19CV354063), Jimenez v.
13 OEC Distribution Services, Inc. (Superior Court of California in San Bernardino, CIVDS1915743),
14 Viridi v. Absolute Security International (Superior Court of California in San Bernardino, CIVDS
15 1909589), Raj v. First Transit, Inc (Superior Court of California in Sacramento, 34-2021-00295895-
16 CU-OE-GDS), Marchbanks v. Torrid Administration, Inc. (Superior Court of California in San
17 Diego, 37-2020-00008179-CU-OE-NC), among others.

18 77. I am Senior Counsel at D.Law where I manage the class action and PAGA settlement
19 department. I was admitted to the California Bar in December 2008. I received my J.D. from
20 Pepperdine University School of Law and B.S. from the University of Southern California. Since
21 graduating from law school, I have dedicated virtually my entire career on the practice of
22 employment law. I have practiced employment law from the plaintiff's side, from the defense side,
23 and from an in-house position. I have significant experience specifically working on wage and hour
24 class actions from the plaintiff's side as well as the defense side, with the majority of my experience
25 coming from the plaintiff's side.

26 78. Attorney Alvin B. Lindsay is Senior Counsel at D.Law and counsel of record for Plaintiff.
27 He graduated from the United States Military Academy at West Point and then served as an Army
28 Officer for 10 years in the Corps of Engineers. He then earned his Juris Doctorate from Whittier

1 Law School and has been practicing in California for over twenty years. Since 2010, he has
2 exclusively focused his practice on representing employees including in wage-and-hour class
3 actions. During his career, he has represented employees in many wage-and-hour class action
4 lawsuits as lead or co-lead counsel (including in the Central, Southern, Eastern, and Northern
5 Districts of California), and has been successful in getting many contested class action cases
6 certified and has secured class and PAGA settlements for many millions of dollars against a range
7 of defendants, including Fortune 500 companies. He is experienced and qualified to evaluate the
8 class and representative claims, to evaluate settlement versus trial on a fully informed basis, and to
9 evaluate the viability of the defenses.

10 79. The collective experience of the D.Law attorneys in litigating employment wage and hour
11 matters has been integral in identifying legal issues, evaluating the strengths and weaknesses of a
12 case, and generally negotiating fair and reasonable class and representative action settlements.
13 Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the
14 constantly evolving substantive law (state and federal), as well as the procedural law of class and
15 representative action litigation. In this action, the attorneys at D.Law are fully equipped to use the
16 skills and knowledge developed over decades of prosecuting and defending wage and hour class
17 actions to fairly and adequately represent the interests of the Class Members and aggrieved
18 employees. Therefore, based on our resources, experience, and knowledge, the attorneys at D.Law
19 are well-qualified to act as class counsel and represent the Plaintiff and the putative Class Members
20 and aggrieved employees in this action.

21 80. We understand the responsibilities owed as counsel to the Settlement Class Members and
22 aggrieved employees we represent. The attorneys at D.Law thoroughly investigated the claims
23 asserted in this action and have remained committed to dedicating the resources necessary to
24 represent the Settlement Class and vigorously pursue their claims. Based upon my experience and
25 understanding of the claims and defenses in this action, I believe the settlement is fair, adequate,
26 and reasonable for the Class Members and aggrieved employees and all involved, and that the
27 Settlement is well within the range of reasonableness that would permit it to be finally approved. I
28

1 am not aware of any conflict of interest with Plaintiff or any other Class Member that would interfere
2 with the duties as Class Counsel.

3 81. On June 17, 2025, Plaintiff submitted the Class Action and PAGA Settlement Agreement
4 and Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement and
5 supporting documents to the LWDA. A true and correct copy of the confirmatory email from the
6 LWDA is attached hereto as **Exhibit 4.**

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct.

9 Executed this 17th day of June 2025, in Glendale, California

10
11 Enoch J. Kim
Enoch J. Kim

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Raul N. Ramirez (“Plaintiff”) and Defendant Tenfold Senior Living, LLC (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

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

1. DEFINITIONS.

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

1.1 “Action” means Plaintiff’s class and PAGA representative action against Defendant entitled *Ramirez v Tenfold Senior Living, LLC*, Sacramento County Superior Court, Case No. 24CV003161 (the “Action”) filed by Plaintiff on February 22, 2024.

1.2 “Administrator” means Apex Class Action LLC (“Apex”), the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses, which are anticipated to not exceed \$8,500.00.

1.4 “Aggrieved Employees” means: All current and former non-exempt, hourly dining, culinary, housekeeping, and maintenance aggrieved individuals who worked for Defendant in California during the PAGA Period.

1.5 “Class” or “Class Members” means: All current and former non-exempt, hourly dining, culinary, housekeeping, and maintenance individuals who worked for Defendant in California during the Class Period.

1.6 “Class Counsel” means D.Law, Inc., including Emil Davtyan, David Yeremian, Alvin B. Lindsay, Rose Sorial, and Enoch Kim.

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

1.8 “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, start and end dates of active employment as a non-exempt employee of Defendant in the State of California, number of Class Workweeks and PAGA Pay Periods (or sufficient information to calculate the number of such workweeks), and any other information required by the Administrator in order to effectuate the terms of the Settlement.

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

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

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

1.12 “Class Period” means the period from May 1, 2020 to October 10, 2024 (unless modified pursuant to Section 8 of this Agreement).

1.13 “Class Representative” means Raul N. Ramirez, the named Plaintiff in the Action seeking Court approval to serve as Class Representative.

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

1.15 “Court” means the Superior Court of California, County of Sacramento

1.16 “Defendant” means named Defendant Tenfold Senior Living, LLC.

1.17 “Defense Counsel” means Gordon Rees Scully Mansukhani, including Marie Trimble Holvick and Helen Barefield.

1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as follows: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; or (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

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

1.22 “Gross Settlement Amount” means Two Hundred and Sixty-Five Thousand Dollars (\$265,000.00) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8, below. The Gross Settlement Amount will be used to pay Individual Class Payments, Employee’s Taxes and Required Withholdings, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, and the Administration Expenses Payment. The Gross Settlement Amount does not include employer’s share of payroll taxes which will be paid by Defendant in addition to the Gross Settlement Amount.

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

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

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

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

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

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

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

1.30 “Operative Complaint” means the operative First Amended Complaint, which was filed by Plaintiff on May 16, 2024.

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

1.32 “PAGA Notice” means Plaintiff’s February 22, 2024, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3(a) (LWDA Case # LWDA-CM-1012539-24).

1.33 “PAGA Penalties” means the total amount of PAGA civil penalties of \$10,000.00 to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500.00) and 75% to the LWDA (\$7,500.00) in settlement of PAGA claims.

1.34 “PAGA Period” means the period commencing on February 22, 2023, and ending on October 10, 2024.

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

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

1.37 “Plaintiff” means Raul N. Ramirez, the named Plaintiff in the Action.

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

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

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

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

1.42 “Released Parties” means: Defendant and each of its past, present and/or future parent companies, partners, subsidiaries, affiliates, divisions, related companies, successors, and predecessors, as well as their respective past, present and future owners, officers, directors, shareholders, employees, agents, members, managers, principals, representatives, accountants, auditors, consultants, insurers and reinsurers, investors, lenders, administrators, company-sponsored employee benefit plans, assigns, joint venturers and attorneys, both individually and in their official capacities, as well as all persons acting by, through, under, or in concert with any of these persons or entities based on the facts alleged in the Actions during the Covered Period, including but not limited to SHI-III Prairie City Landing Owner LLC, SHI-III Prairie City Landing JV Company LLC, SHI-III Bruceville Point Owner LLC, and SHI-III Bruceville Point JV Company LLC.

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

1.44 “Response Deadline” means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a)

fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.

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

1.46 “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. **RECITALS.**

2.1 On February 22, 2024, Plaintiff filed a Class Action Complaint initiating the Action against Defendant, alleging the following causes of action: (1) failure to pay minimum wages for all hours worked, (2) failure to pay wages and overtime under Labor Code § 510, (3) meal period violation under Labor Code § 226.7, (4) rest break violation under Labor Code § 226.7, (5) violation of Labor Code § 226(a), (6) violation of Labor Code § 221, (7) violation of Labor Code § 204, (8) violation of Labor Code § 203, (9) failure to maintain records required under §§ 1174, 1174.5, (10) failure to produce requested employment records under Labor Code §§ 226, 1198.5, (11) failure to reimburse necessary business expenses under Labor Code § 2802, and (12) violation of Business & Professions Code § 17200.

2.2 Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending his PAGA Notice on February 22, 2024. On May 16, 2024, Plaintiff filed the operative First Amended Complaint adding a cause of action for civil penalties under the PAGA.

2.3 Prior to mediation, Plaintiff’s counsel provided Defendant’s counsel with a comprehensive listing of informal discovery items required to constructively mediate. Defendant responded with a 25% sampling of data, consisting of time and payroll records. Defendant’s responsive production covered the time frame from May 1, 2020, to September 15, 2024. Defendant also provided summary numbers for Class members during the various applicable liability periods and work weeks and pay periods. Plaintiff was therefore provided with documents, and information obtained pertaining to his wage and hour claims, including, but not limited to, wage and hour policy and procedure documents, an adequate sampling of employee time and payroll records, and the exchanges of relevant data points pertaining to the Class and PAGA claims. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.4 On October 10, 2024, the Parties participated in a full-day mediation with David Lowe, Esq., which led to this Agreement to settle the Action.

2.5 Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged. Defendant further denies that, for any purpose other than settling this Action, these claims are appropriate for class or representative treatment.

2.6 The Parties agree that this Agreement is for settlement purposes only and if, for any reason, the Agreement is not approved, the Agreement will be of no force or effect. In such event, nothing in this Agreement shall be used or construed by or against any party as a determination, admission, or concession of any issue of law or fact in the Action; and the Parties do not waive, and instead expressly reserve, their respective rights with respect to the prosecution and defense of this Action as if this Agreement never existed. If the court fails to grant either preliminary or final approval, the Parties shall be restored to their positions at the time of the execution of this agreement, which shall include but not be limited to, all funds paid by Defendant shall be returned to Defendant, with the exception that if any settlement administration costs are due and payable, Defendant and Plaintiff agree to split those costs.

2.7 The Court has not granted class certification.

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

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

2.10 This is an all-in and all-inclusive, “checks mailed,” cash settlement. The participating Settlement Class Members shall not be required to submit a claim, but shall have a pro rata share of the Net Settlement mailed to them upon approval of the Court pursuant to the remaining terms herein. As further detailed below, for tax purposes, the parties agree to allocate payments to class members as follows: twenty percent (20%) to wages, and eighty percent (80%) to penalties and interest. Defendant will pay the employer’s share of payroll taxes on the portion of the settlement allocated to wages in addition to the Gross Settlement Amount. If required by law, class members shall receive an IRS Form 1099 for the full amount paid to them, which shall be provided by the settlement administrator. Uncashed checks shall be distributed as set forth in California Code of Civil Procedure Section 384, as amended. Uncashed checks will be sent to the State Controller’s Unclaimed Property Fund to be held in the name of the Settlement Class Member.

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Two Hundred and Sixty Five Thousand Dollars (\$265,000.00) and no more as the Gross Settlement Amount and to separately pay any and all Employer Taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of \$10,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for Class Representative Service Payment that does not exceed this amount. As part of the Final Approval motion, Plaintiff will seek Court approval for any Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$88,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments provided that the requests do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$8,500.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. More specifically, the claims administrator shall make any payments to proposed Settlement Class Members on a pro rata basis by dividing the Net Settlement by the total number of workweeks worked by Settlement Class Members in a non-exempt position during the period from May 1, 2020 through October 10, 2024. The result will then be multiplied by the number of workweeks each Settlement Class Member worked in a non-exempt position during this period to calculate the amount owed to that individual. The

payments to Settlement Class Members will be reduced by any required legal deductions for each Settlement Class Member.

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

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

3.2.5 To the LWDA and Aggrieved Employees. PAGA Penalties in the amount of \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. Calculation of Individual PAGA Payment. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$2,500.00) by the total number of workweeks worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's workweeks. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks. Based on a review of its records, Defendant estimates approximately the Settlement Class Members collectively worked a total of 13,158 eligible workweeks during the Settlement Class Period.

4.2 Class Data. Not later than fourteen (14) days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Class Counsel shall not receive a copy of the Class Data or any content thereof.

Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date. At least seven five (7) business days prior to Defendant's deadline for funding of the Gross Settlement Amount, the Administrator shall calculate the total Employer Taxes due on the wage portion of the Individual Class Payments and issue Defendant instructions and the amount of the Employer Taxes.

4.4 Payments from the Gross Settlement Amount. Within ten (10) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks and/or wire payment for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, Class Representative Service Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. Not less than 180 days after the date of mailing the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, within ten (10) calendar days of the check void date, the Administrator shall transmit the funds represented by

such checks to the State of California State Controller's Office, in the Class Member's name to be held as unclaimed property for the Class Member.

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

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all the employer's share of payroll taxes owed on the Wage Portion of the Individual Class Payments, Class Members (including the Class Representative) and Aggrieved Employees will release claims against all Released Parties during the Covered Period or Release Period for proposed Settlement Class Members, which is from May 1, 2020 to October 10, 2024 (the "Covered Period").

5.1 **Plaintiff's Release.** Plaintiff and his representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint; (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA Notice; and (c) all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination, such as by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act; the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq.; and the law of contract and tort. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now know or believe to be true but agree, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR

HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims, rights, demands, liabilities, and causes of action alleged or which could have reasonably been alleged based on the facts alleged in the Operative Complaint that accrued during the Class Period, including claims under Labor Code §§ 201, 202, 203, 204, 218.5, 218.6, 221, 226, 226.7, 510, 512, 1174, 1174.5, 1194, 1198, 1198.5, 1197, 1197.1, 2698, 2699, 2800, and 2802, CA Code of Civil Procedure § 382, CA Civil Code 3287, and B&P 17200, et. seq. (collectively “Released Class Claims”). Expressly excluded from the release are claims for retaliation, discrimination, unemployment insurance, disability, workers compensation, and claims outside the Released Class Claims.

5.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA civil penalties that are alleged or which reasonably could have been alleged based on the facts alleged in the Operative Complaint and the PAGA Notices to the LWDA that accrued during the PAGA Period (collectively “Released PAGA Claims”).

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

6. MOTION FOR PRELIMINARY APPROVAL. Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”).

6.1 Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of Class and PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from

Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)).

6.2 Responsibilities of Counsel. Class Counsel is responsible for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval Order to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

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

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

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

7.4 Notice to Class Members.

7.4.1 No later than five (5) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than ten (10) business days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. Concurrently with the mailing of the Class Notice, the Administrator will also post a copy of the Class Notice on its website at least until the date of the Final Approval Hearing. The Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual

PAGA Payment payable to the Class Member, and the number of Class Workweeks and PAGA Workweeks (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

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

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

7.5 Requests for Exclusion (Opt-Outs).

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

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

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

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

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

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

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the

Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

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

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

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, and Class Counsel Litigation Expenses Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. If Final Approval is granted, the Administrator will post the above-listed information of interest for at least 180 days after the date of mailing Individual Class Payments and Individual PAGA Payments.

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

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

7.8.4 Workweek Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member

challenges over the calculation of Workweeks. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

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

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

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

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE. Defendant represented the Settlement Class Members worked a total of 13,158 eligible workweeks during the Settlement Class Period. The Parties further agree that if the final Workweeks during the Class Period, which formed the basis of the Settlement, increases by more than ten percent (10% = 1,316 Workweeks) above 13,158 Workweeks (e.g., to greater than 14,474 Workweeks), Defendant agrees to (1) increase the Gross Settlement Amount proportionally by the workweeks worked in excess of 14,474 workweeks multiplied by the same workweek rate as before, or (2) elect to end the Class Period on the date the number of Workweeks is less than or equal to 13,158 in lieu of paying an increase to the Gross Settlement Amount. For example, if there are 11% more eligible

Workweeks, Defendants will increase the GSA by 1%. Class Counsel's requested attorneys' fees would increase in that event to one-third of the final total increased Gross Settlement Amount.

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect. Defendant shall meet and confer with Plaintiff's counsel before withdrawing from the Settlement pursuant to this provision.

10. MOTION FOR FINAL APPROVAL. Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel for review prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected as set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the

Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. **ADDITIONAL PROVISIONS.**

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

12.2 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission

by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.3 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Administrator and the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

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

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

12.7 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying

the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

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

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

12.10 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

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

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

12.13 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

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

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

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

12.17 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in

connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

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

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

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

To Plaintiff:

D.LAW, INC.

Emil Davtyan

Emil@d.law

David Yeremian

d.yeremian@d.law

Alvin Lindsay

a.lindsay@d.law

Enoch J. Kim

e.kim@d.law

450 N. Brand Blvd., Ste. 840

Glendale, CA 91203

Telephone: (818) 962-6465

Facsimile: (818) 962-6469

To Defendant:

GORDON REES SCULLY MANSUKHANI

Marie Trimble Holvick

mholvick@grsm.com

Helen Barefield

hbarefield@grsm.com

315 Pacific Avenue

San Francisco, CA 94111

Telephone: 415.986.5900

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

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

APPROVED ON BEHALF OF PLAINTIFF

Dated: 03/13/2025, 2025

Signed by:


Raul N. Ramirez

APPROVED ON BEHALF OF DEFENDANT

Tenfold Senior Living, LLC

Dated: _____, 2025

Name:
Title:

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

APPROVED ON BEHALF OF PLAINTIFF

Dated: _____, 2025

Raul N. Ramirez

APPROVED ON BEHALF OF DEFENDANT

Tenfold Senior Living, LLC

April 22, 2025 | 1:04 AM CDT
Dated: _____, 2025

DocuSigned by:



Name: Thomas Bahrman

Title: Principal

APPROVED AS TO FORM:

D.LAW, INC.

Dated: May 1, 2025



Emil Davtyan
David Yeremian
Alvin Lindsay
Enoch J. Kim
Attorneys for Plaintiff and Settlement Class

**GORDON REES SCULLY
MANSUKHANI**

Dated: May 13, 2025



Marie Trimble Holvick
Helen Barefield
Attorneys for Defendant

EXHIBIT A

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

Ramirez v. Tenfold Senior Living, LLC

The Superior Court for the State of California authorized this Notice. Read it carefully!

It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Tenfold Senior Living, LLC ("Tenfold") for alleged wage and hour violations. The Action is filed by a former Tenfold employee Raul N. Ramirez ("Plaintiff") who alleges Tenfold violated various provision of the California Labor Code and asserting causes of action for: (1) failure to pay minimum wages for all hours worked, (2) failure to pay wages and overtime under Labor Code § 510, (3) meal period violation under Labor Code § 226.7, (4) rest break violation under Labor Code § 226.7, (5) violation of Labor Code § 226(a), (6) violation of Labor Code § 221, (7) violation of Labor Code § 204, (8) violation of Labor Code § 203, (9) failure to maintain records required under §§ 1174, 1174.5, (10) failure to produce requested employment records under Labor Code §§ 226, 1198.5, (11) failure to reimburse necessary business expenses under Labor Code § 2802, (12) violation of Business & Professions Code § 17200, and (13) seeking civil penalties under the California Private Attorney General Act ("PAGA"). Plaintiff has been preliminarily approved by the Court to represent all current and former non-exempt, hourly dining, culinary, housekeeping, and maintenance individuals who worked for Tenfold in California during the Class Period of May 1, 2020, through October 10, 2024. ("Class Members"). The settlement also encompasses PAGA penalties against Tenfold on behalf of current and former non-exempt, hourly dining, culinary, housekeeping, and maintenance aggrieved individuals who worked for Tenfold in California during the PAGA Period of February 22, 2023, through October 10, 2024. ("Aggrieved Employees" or "PAGA Settlement Members").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Tenfold to fund Individual Class Payments, and (2) a PAGA Settlement requiring Tenfold to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

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

The above estimates are based on Tenfold's records showing that you worked [REDACTED] workweeks during the Class Period and you worked [REDACTED] Pay Periods during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

1. **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Tenfold.
2. **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Tenfold, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement. If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Tenfold that are covered by this Settlement (Released Claims).

You Can Opt-Out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is **DATE**. If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You Cannot Opt-out of the PAGA Portion of the Proposed Settlement. Tenfold must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by **DATE**. All Class Members who do not opt-

out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court’s Final Approval Hearing is scheduled to take place on **DATE**. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks. Written Challenges Must be Submitted by **DATE**. The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many workweeks you worked at least one day during the PAGA Period, respectively. The number of workweeks you worked according to Tenfold’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by **DATE**. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Tenfold employee. The Action accuses Tenfold of violating California labor laws by failing to pay overtime wages, minimum wages, meal and rest break premium wages; failing to provide meal and rest breaks; issuing inaccurate wage statements; collecting wages already paid, failing to timely pay wages, failing to pay wages due upon termination of employment, failure to maintain accurate records, failing to produce requested records, and failing to reimburse necessary business expenses. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by D.Law., Inc. in the Action.

Tenfold strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Tenfold violated any laws. In the meantime, Plaintiff and Tenfold hired an experienced mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Tenfold have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Tenfold does not admit any violations or concede the merit of any claims.

Tenfold has however agreed to pay a settlement sum after considering the strength of the claims and the risks and uncertainties of continued litigation. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine whether to finally approve the Settlement.

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

Tenfold Will Pay \$265,000.00 as the Gross Settlement Amount (Gross Settlement). Tenfold has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Tenfold will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

- Up to \$88,333.33 (one-third of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- Up to \$10,000.00 as a Class Representative Service Payment to Plaintiff) for filing the Action, working with Class Counsel and representing the Class. Class Representative Service Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
- Up to \$8,500.00 to the Administrator for services administering the Settlement.
- Up to \$10,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Workweeks.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

Taxes Owed on Payments to Class Members. Plaintiff and Tenfold are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to penalties and interest ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Tenfold will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as

penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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

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

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Tenfold based on the PAGA Period facts alleged in the Action.

The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a judgment. It is also possible the Court will enter a judgment that is reversed on appeal. Plaintiff and Tenfold have agreed that, in either case, the Settlement will be void: Tenfold will not pay any money and Class Members will not release any claims against Tenfold.

Administrator. The Court has appointed a third party company, Apex Class Action (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

Participating Class Members' Release. After the Judgment is final and Tenfold has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means

that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Tenfold or related entities for wage and hour violations based on the Class Period facts and PAGA penalties based on the facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members' Release states: "All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims, rights, demands, liabilities, and causes of action alleged or which could have reasonably been alleged based on the facts alleged in the Operative Complaint that accrued during the Class Period (collectively "Released Class Claims"). Expressly excluded from the release are claims for retaliation, discrimination, unemployment insurance, disability, workers compensation, and claims outside the Released Class Claims.

Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Tenfold has paid the Gross Settlement and separately paid the employer-side payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against Tenfold, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Tenfold or its related entities based on the facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Release states: "All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA civil penalties that are alleged or which reasonably could have been alleged based on the facts alleged in the Operative Complaint and the PAGA Notices to the LWDA that accrued during the PAGA Period (collectively "Released PAGA Claims")."

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$2,500.00 by the total number of Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of Pay Periods worked by each individual Aggrieved Employee.

Workweek Challenges. The number of Workweeks you worked during the Class Period and the number of Pay Periods you worked during the PAGA Period, as recorded in Tenfold's records, are stated in the first page of this Notice. You have until **DATE** to challenge the number of Class and PAGA Workweeks credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as *Ramirez v. Tenfold Senior Living, LLC*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by **DATE**, or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Tenfold are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you.

A Participating Class Member who disagrees with any aspect of the Agreement or the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending

written objections to the Administrator is **DATE**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Ramirez v. Tenfold Senior Living, LLC* and include your name, current address, telephone number, and approximate dates of employment with Tenfold and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on **DATE** at **TIME** in Department 22, Sacramento County Superior Court, located at **ADDRESS**. At the Hearing, the Court will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website (**URL**) for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Tenfold and Plaintiff have promised to do under the proposed Settlement. If you have questions or would like additional information, you can telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (**URL**) and entering the Case Number for the Action, *Ramirez v. Tenfold Senior Living, LLC*, Case No. 24CV003161.

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

Class Counsel:
D.LAW, INC.
Alvin Lindsay
a.lindsay@d.law
Enoch J. Kim
e.kim@d.law
450 N. Brand Blvd., Ste. 840
Glendale, CA 91203
Telephone: (818) 962-6465
Facsimile: (818) 962-6469

Settlement Administrator: Name

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

February 22, 2024

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128>

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

(by certified mail to Tenfold Senior Living, LLC)

Tenfold Senior Living, LLC
985 SW Disk Dr. Ste. 120
Bend, OR 97702
Certified Mail Tracking Number: 9414 8112 0620 4984 1988 52

CT Corporation System
Agent for Service of Process for Tenfold Senior Living, LLC
330 N Brand Blvd., Ste 700
Glendale, CA 91203
Certified Mail Tracking Number: 9414 8112 0620 4984 1919 38

**Re: Labor Code § 2698, *et seq.* Private Attorneys' General Act Claim
PAGA Notice Letter to LWDA
Raul N. Ramirez v. Tenfold Senior Living, LLC
Superior Court for the County of Sacramento**

Dear Gentilepersons:

This office represents Plaintiff Raul N. Ramirez ("Plaintiff") and other similarly aggrieved employees employed as non-exempt, hourly assisted living services workers and in related positions at Defendants' locations in California during the relevant period (collectively "Aggrieved Employees") for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 351, 354, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2810.5, 2698, and 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.* ("the Act"). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants Tenfold Senior Living, LLC, an Oregon limited liability company; and Does 1 through 50 inclusive (all defendants being referred to herein collectively as "Defendants").



Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with Plaintiff's Class Action Complaint, which is attached to this Notice letter. The Complaint is being filed concurrently in Sacramento County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff's class-wide claims and representative claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Plaintiff worked as a cook at one of Defendants' facilities and locations in Folsom, California. He and the other Aggrieved Employees were employed by Defendants as non-exempt, hourly employees at Defendants' locations and facilities in California, including in positions related to providing assisted living services to Defendants' customers at Defendants' residential communities in California. Plaintiff worked at Defendants' behest without being paid all wages due and without being provided all required breaks. More specifically, Plaintiff and the other similarly situated Aggrieved Employees were employed by Defendants and (1) shared similar job duties and responsibilities (2) were subjected to the same policies and practices (3) and endured similar violations at the hands of Defendants as the other Employees who served in similar and related positions.

Defendants required Plaintiff and the Aggrieved Employees to work off the clock and failed to record accurate time worked by these Employees, failed to pay them at the appropriate rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and provided Plaintiff and the Aggrieved Employees with inaccurate wage statements that prevented them from learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and the Aggrieved Employees with lawful meal and rest periods, as Employees were required to remain under Defendants' control and were not provided with the opportunity to take full uninterrupted, timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.

Defendant Tenfold Senior Living, LLC, is an Oregon limited liability company that lists its principal address with the California Secretary of State in Bend, Oregon. Tenfold Senior Living, LLC is listed as the employer on the wage statements issued to Plaintiff by Defendants and upon information and belief, to wage statements issued to other Aggrieved Employees with the same Oregon address. Upon information and belief, Tenfold Senior Living, LLC is a parent company that owns and operates various senior living communities, including the Prairie City Landing community where Plaintiff worked. Tenfold Senior Living, LLC's website lists Prairie City Landing and Bruceville Point as some of their communities and explains that: "[At Tenfold] [w]e



are driven to create communities where older adults choose how they live, team members are seen and appreciated, and everyone is inspired to embrace joy, purpose and connection.” Plaintiff and the Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiff also contends that Defendants failed to pay Plaintiff and the Aggrieved Employees all wages due and owing, including by miscalculating wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and failing to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

During the course of Plaintiff and the Aggrieved Employees’ employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in “off the clock” work) and for all their overtime hours worked, or were not paid at the correct rates. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as assisted living-related workers based out of Defendants’ facilities in California.

Plaintiff was employed by Defendants as a cook at Defendants’ Prairie City Landing facility in Folsom California. Plaintiff initially worked over forty hours per week, five days per week, which resulted in shifts of approximately eight hours in duration. Plaintiff’s shifts were generally scheduled from 11:00 a.m. to 7:00 p.m. In the latter part of his employment, Plaintiff worked part-time, averaging between 20-25 hours per week, with shifts generally scheduled from 3:00 p.m. to 7:00 p.m.

The nature of Defendants’ operations and its policies and practices require that Employees endure significant off-the-clock work. Defendants’ facilities included timekeeping systems incorporating electronic recording of time punches by Employees logging on to the Smartlink application on their personal cell phones to record their time entries. On information and belief, the Smartlink app was programmed to function only within a certain radius of a transmitter located within Defendants’ facilities. This feature made it so Employees could not record their time entries when they were not at work. However, it also prohibited Employees from recording all their time worked. The Smartlink app was prone to malfunctioning and routinely did not permit Employee to record their time at all which required them to notify management and record their time entries on paper. In addition, due to internet connectivity issues or technical issues with Smartlink’s transmitter, Employees would be delayed in recording their time because the app would take time to load or required shutting down and re-attempting to log in. Employees would generally spend several minutes attempting to clock in on the app.

Also, the transmitter’s radius only permitted Employees to record their time once inside the lobby. Thus, Employees were not readily able to clock in immediately after they entered the facilities and began to work. Some of this work included spending several minutes talking to residents in the lobby and answering their questions about the day’s menu. It also included inspecting and filling an Employee meal box located within the lobby which contained courtesy



meals for Employees. Because Plaintiff first had to enter the lobby before he could clock in, he was compelled to interact with residents and inspect the meal box while off the clock. Accordingly, Defendants failed to compensate Plaintiff for all his time worked or under Defendant's control. On information and belief, similarly, situated Aggrieved Employees were also deprived of compensation for all their time worked or under Defendant's control.

In addition, before clocking in, Employees were required to undergo COVID screenings. These screenings would take place inside the lobby and consist of temperature scans and attestations of completing the screening. This process could take an additional two to four minutes to complete during which Employees were required to remain under Defendants' control without being compensated for these hours worked. Only after these steps were completed could Employees then enter further into the facility and record their time entries. Owing to Defendants' uniformly applied policy that Employees must clock-in only after having completed the screening, all this time went unrecorded. Accordingly, Plaintiff was not compensated for all of his actual time worked and under Defendants' control.

The failure to maintain accurate timekeeping and payroll records perpetrated by Defendants has also been exacerbated by other off the clock work Defendants required their Employees to endure. Due to the heavy volume of work and personnel shortages, Plaintiff was compelled to work after clocking out at the end of his scheduled shifts to clean and take out the trash to the dumpster. The dumpster was located outside the Smartlink transmitter's radius so Plaintiff could not clock out after taking out the trash and thus was compelled to do so before leaving the facility. In addition, at least once a month, Employees were required to attend mandatory meetings and drills and if their meal periods coincided with these activities, they were still required to attend causing them to perform work while off the clock. Moreover, Plaintiff and other Employees' rest breaks were routinely interrupted or not provided at all due to pressing work demands. Due to understaffing and the heavy volume of work, Employees were frequently only able to take only rest break, if they could take one at all. Additionally, Plaintiff and the Aggrieved Employees were also required to work or otherwise remain under Defendants' control after their shift end times, including on-site and through after-hours work-related communications and other work requirements.

Defendants followed similar unlawful practices, upon information and belief, in connection with other Employees in a concerted effort to limit and restrict regular and overtime hours earned by and owing to Plaintiff and the other Aggrieved Employees. Time worked off the clock also caused Plaintiff and other Aggrieved Employees to work beyond eight hours in a shift. As a result of the above-described off the clock work, Defendants failed to pay Plaintiff and Aggrieved Employees overtime for several minutes at the end of work shifts which Defendants did not record in any timekeeping or payroll records.

Plaintiff was therefore not paid for all his hours worked at the required minimum, overtime, and double time wage rates due to Defendants' policy and practice of requiring him to work off the clock and without pay. With work shifts generally scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiff and the Aggrieved Employees working past eight hours



on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiff and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and work policies which Defendants required them to follow and endured similar violations at Defendants' hands as Plaintiff.

Moreover, Defendants paid Plaintiff and the similarly situated Aggrieved Employees non-discretionary bonuses during their pay periods. These included new hire bonuses, cash bonuses, and gift cards among others. On information and belief, if and when Defendants paid overtime premium wages or sick pay, they did so at a rate of 1.5 times Plaintiffs' regular rate of pay without including these bonuses paid in the regular rate used to calculate and pay overtime. Upon information and belief, to the extent Defendants paid any other bonuses or other forms of remuneration for hours worked in a pay period, Defendants also failed to include that in the regular rate of pay used to calculate and pay overtime wages and sick pay.

Defendants have either failed to maintain timekeeping records for Plaintiff that would permit Plaintiff to discover the nature and extent of the off the clock work Defendants' required and the actual hours Plaintiff worked, or have otherwise declined to produce them to Plaintiff in response to a timely and lawful request. By failing to pay for all hours worked, Defendants have committed knowing and intentional ongoing violations of the record keeping requirements under the Labor Code §§ 226 and 1174.

As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and Aggrieved Employees incurred overtime hours worked for which they were not adequately and completely compensated, in addition to the hours they were required to work off the clock at their regular rates.

The failure to pay for all hours worked and underpayment of wages to Plaintiff and the Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which upon information and belief applied uniformly to the Aggrieved Employees working at Defendants' locations and facilities. As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked and pay wages at the correct rates, the failure to compensate employees for time under Defendants' control and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week.



Therefore, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wages for all time worked, as required by California law. Also, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants paid Plaintiff and the Aggrieved Employees bonuses and shift differentials and other forms of remuneration above and beyond their hourly pay, upon information and belief Defendants miscalculated and therefore underpaid any overtime they paid during these pay periods by failing to include all forms of remuneration in the regular rate used to calculate and pay overtime.

Defendants also failed to provide Plaintiff and the Aggrieved Employees with their required meal periods and the at least two ten-minute rest breaks required for scheduled shifts of eight hours. Demanding workloads contributed to Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Aggrieved Employees, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to authorize and permit Plaintiff and the Aggrieved Employees to take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

More specifically, Plaintiff worked shifts that entitled him to at least one meal period, but Defendants' managers required Plaintiff and the Aggrieved Employees to prioritize work over taking lawful meal periods. Meal periods were not scheduled, and Employees were not permitted to unilaterally take their meal periods unless excused. Constant short-staffing led to systematically late meal periods, and on-duty meal periods that were incessantly interrupted by customer and management demands and required job duties and tasks. The heavy workload and management expectations also contributed to Employees working through meal periods or not taking them or taking them late so work could be accomplished or they were otherwise required to remain under Defendants' control during meal periods.

Therefore, meal period violations systematically occurred throughout all of Plaintiff's work shifts where Defendants both failed to provide a lawful meal period and meal premium payment. To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to include all forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour premium payment. Upon information and belief, the other Aggrieved Employees were subjected to similar unlawful policies and practices and endured similar violations as Plaintiff.

Defendants thus failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants or otherwise remain under Defendants' control for more than five hours during a shift, or ten hours in a shift, but were often required to do so without receiving a lawful, timely, and duty-free 30-minute meal breaks. Additionally, as addressed above, Defendants followed a practice of requiring off the clock



work, in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

As a result, Defendants' failure to provide Plaintiff and the Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Employees "premium pay," i.e. one hour of wages at each Employee's effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided. Upon information and belief, if and when Defendants did pay any meal period premiums, they failed to include all forms of remuneration in the regular rate used to calculate and pay it.

Therefore, Plaintiff and the Aggrieved Employees were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required meal breaks due to Defendants' policies and practices. On the occasions when Plaintiff and the Aggrieved Employees were provided with a meal period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.

Defendants also failed to authorize and permit Plaintiff and the Aggrieved Employees to take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction thereof. There were similar issues with the required net ten-minute rest breaks that Plaintiff and the Aggrieved Employees were unable to take as with meal periods. Defendants made no efforts or provided no emphasis on authorizing and permitting Employees to take net ten-minute rest breaks for every four hours of work.

Given the constant and ongoing job demands he faced and Defendants' failure to adequately staff its facilities to permit employees to take breaks, Plaintiff was compelled to remain on the premises performing job-related duties while also remaining under Defendants' control during times when he was supposed to be enjoying a duty-free rest break. By uniformly requiring Plaintiff and the other similarly situated co-workers to remain under Defendants' control and on premises during rest breaks, Defendants committed systematic and ongoing rest break violations. To the extent Defendants paid any rest break premium payments under Labor Code § 226.7 to Plaintiff or Aggrieved Employees these payments failed to include all forms of remuneration, including shift differentials and bonuses and premium payments to Plaintiff, in the regular hourly rate at which they paid the rest break premiums.

Defendants' management did not emphasize the requirement to provide at least one ten-minute duty-free rest period for each four-hour duty period, or major fraction thereof. If and when Plaintiff was permitted to take a ten-minute rest break on a shift, he was not permitted to take a second one or a third one or any breaks were untimely or impermissibly shortened. Further violations occurred as Plaintiff and the Aggrieved Employees were required to remain under Defendants' control by Defendants' requirement that they remain ready to respond to work requirements and job demands.



Therefore, Defendants failed to authorize and permit Aggrieved Employees to take all their required rest breaks. Plaintiff and the other similarly situated Aggrieved Employees were either not authorized permitted the opportunity to take a rest break, or were required to remain under Defendants' control and respond to instructions and job demands. Defendants also failed to authorize and permit Employees to leave the property premises during rest breaks, or else prevented them from doing so, thus further evidencing Defendants' policy and practice of requiring Plaintiff and the Aggrieved Employees to remain under their control during required off-duty rest breaks.

Defendants' policies and practices thus systematically deny and denied Plaintiff and the Aggrieved Employees full, duty-free ten-minute rest periods and thirty-minute, duty-free meal periods. The California Supreme Court has instructed that the rest period requirement obligates employers to permit and authorize employees to take-off-duty rest periods. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. Plaintiff and the Aggrieved Employees were and are under Defendants' control when they are working through rest breaks, and Defendants failed to schedule or account for required first, second, and third rest breaks during the shifts Plaintiff and the Aggrieved Employees generally worked.

Plaintiff and the Aggrieved Employees were not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks, and were not provided with one hour's wages in lieu thereof. They were required to remain on duty during breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and they were also prevented from leaving the premises during rest breaks under Defendants' policies and practices.

Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by requiring off the clock work during breaks and before and after work shifts and by miscalculating the regular rate and accordingly underpaying overtime wages and meal and rest break premiums. By not compensating Employees for all hours worked and under Defendants' control at the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiff and the Aggrieved Employees, in violation of Labor Code § 221.

Defendants also violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246 provides that an Employee who "works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Paid sick time for nonexempt employees shall be calculated in the same manner as the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and earned sick days paid at the correct rate of pay, in violation of Labor Code § 246. Additionally and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to the Aggrieved Employees during the relevant time period, including by failing to provide two



work weeks of COVID-19 supplemental paid sick leave paid at the correct rates as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: “If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.” Plaintiff accordingly seek this relief available for Defendants’ failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Upon information and belief, Defendants also failed to provide Employees such as Plaintiff at the time of his employment and thereafter with written notice complying with all the requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing” specifically required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to provide Plaintiff and the Aggrieved Employees certain specific information upon hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with any such information when he was hired, or have failed to produce it, and upon information and belief, Defendants committed similar violations in connection with similarly situated Aggrieved Employees.

Defendants have failed to comply with Labor Code § 226(a) by inaccurately listing the name and address of the legal entity that is the employer. On information and belief, until approximately October 2022, Defendants have listed TENFOLD SENIOR LIVING LLC – PCL on wage statements issued to Plaintiff and Aggrieved Employees. Plaintiff is confounded by the fact that the address listed on the wage statements is attributable to TENFOLD SENIOR LIVING LLC. Defendants’ failure to accurately name the legal entity employing Plaintiff and Aggrieved Employees on wage statements issued to them has caused confusion over the entity responsible for addressing the Labor Code violations alleged by Plaintiff, including those under section 226(a)(8).

Defendants have also consistently failed to provide Aggrieved Employees with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off the clock work, failure to pay all overtime and double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff and the Aggrieved Employees, during the liability period,



including because they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were not maintained or were not accurately maintained for work shifts and meal periods. Defendants also failed to accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff and the Aggrieved Employees, including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

Defendants also provided Plaintiff and the Aggrieved Employees with wage statements that failed to accurately report all hours worked and applicable hourly rates for all hours worked. For the same reasons as explained above, Plaintiff and the Aggrieved Employees were provided with unlawful wage statements that failed to reflect all hours worked and failed to pay for all overtime hours or failed to pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and rest break premiums, and sick time if and when they did pay them. Defendants followed this unlawful policy and practice even though both Plaintiff and Defendants were aware that Plaintiff and the Aggrieved Employees worked more total hours than were reflected on the wage statements, including overtime hours, and were underpaid by regular rate miscalculation. Plaintiff and the Aggrieved Employees were unable to discern from their wage statements alone the actual hours they worked in total during a pay period and the rates they were paid for those hours worked.

Defendants have thus also failed to comply with Labor Code § 226(a) by inaccurately reporting total hours worked and total wages earned by Plaintiff and the Aggrieved Employees, along with the appropriate applicable rates, among other requirements. Plaintiff and Aggrieved Employees are therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked.

Defendants also required Plaintiff and the Aggrieved Employees to work hours off the clock for which they were not compensated. They were also required to endure off the clock work addressed above during interrupted or otherwise on-duty meal and rest periods and were not provided with sick pay and supplemental sick leave and were subjected to systematic off the clock work. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore, Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to Plaintiff and other similarly situated Employees at the time of their termination or within seventy-two hours of their resignation, as required by California wage-and-hour laws, including under Labor Code § 203.



Defendants have regularly required Plaintiff and the Aggrieved Employees to incur necessary business expenses in the course of performing their required job duties without reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to communications from management on his personal phone and clocking in/out on the Smartlink app. Plaintiff and the Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802, and Defendants systematically failed to do so.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees the minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants’ control during breaks and due to the work demands placed upon them by Defendants’ management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Aggrieved Employees, including by requiring systematic off the clock work. Defendants’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the foregoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the



Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement.

Defendants have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties or remain under Defendant's control. When considered in combination with the unlawful rounding to their detriment, Aggrieved Employees were not properly compensated, nor were they paid overtime rates or the correct overtime rate (addressed above) for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the foregoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as



the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code § 226.7 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods due to the work demands placed upon them by Defendants' management, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks due to Defendants' policies and practices.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e., one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants generally failed to authorize and permit any rest breaks, or provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond job requirements or simply failed to authorize and permit them at all.



Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest break not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unlawfully Collecting or Receiving Wages in Violation of Labor Code § 221

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." As discussed above, Defendants have consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock work and unlawful rounding and overtime miscalculation. By not compensating Employees for all hours worked, Defendant unlawfully deducted wages earned by and owed to Aggrieved Employees, in violation of Labor Code § 221.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558. Under the PAGA, and following exhaustion of the notice period, Plaintiff seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other



things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees inaccurately list the name and address of the legal entity that is the employer and failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above, and failed to list accurate rates of pay due to miscalculations of overtime and premium pay. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods and by rounding. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday, or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely



basis, resulting in Defendants' systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees, and costs pursuant to Labor Code §§ 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).



Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the foregoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave

Defendants violated California Labor Code § 246 by not providing all required paid sick days to Plaintiff and the Aggrieved Employees. Labor Code § 246 provides that an Employee who "works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their required and earned sick days, in violation of Labor Code § 246. Defendants have also failed to provide COVID-19 supplemental sick leave to the Aggrieved Employees during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty."

Plaintiff accordingly seeks this relief available for Defendants' failure to provide Aggrieved Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs by Labor Code § 2699(g)(1).

Failure to Provide Information Upon Hiring Pursuant to Labor Code § 2810.5:

Labor Code § 2810.5 provides that: "At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing" specific required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved



Employees as required under Labor Code § 2810.5. Under the PAGA, and following exhaustion of the notice period, Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2810.5, 1198, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work-related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred in responding to communications from management on his personal phone and clocking in/out on the Smartlink app. Defendants thus uniformly failed to reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees.

Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 351, 354, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2810.5, 2698, and 2699, *et seq.*; including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime



premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Unlawful Deductions and Failure to Reimburse Business Expenses: For Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);



(f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants' failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code § 2810.5, and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Tenfold Senior Living, LLC and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,
D.LAW, INC.

Alvin B. Lindsay

a.lindsay@d.law

Tania Fonseca

t.fonseca@d.law

Cc: Tenfold Senior Living, LLC by Certified Mail

EXHIBIT 3

Ramirez v. Tenfold Senior Living LLC
Litigation Costs

Details	Provider	Service Date	Amount
PAGA Letter	LWDA	2/22/24	\$ 75.00
Summons and Complaint	Rapid Legal	2/22/24	\$ 1,492.42
PAGA Letter Postage	USPS	2/22/24	\$ 21.02
Proof of Service of Summons	Rapid Legal	2/26/24	\$ 14.37
Process of Service - Summons and Complaint	Rapid Legal	2/26/24	\$ 87.55
Notice of Complex Determination	Rapid Legal	3/4/24	\$ 14.37
Notice of CMC (10.25.24) & Case Management Order	Rapid Legal	3/22/24	\$ 14.37
Ntc Posting Jury Fees, Joint Stip to File FAC w Exh A; [PJO	Rapid Legal	5/9/24	\$ 189.47
First Amended Complaint	Rapid Legal	5/17/24	\$ 14.37
Notice & Acknowledgment of Receipt - First Amended Complaint	Rapid Legal	5/20/24	\$ 14.37
Ntc of Disassociation/Associations, Ntc of Change of Address	Rapid Legal	10/2/24	\$ 14.94
Mediation Fee (10.10.24)	David Lowe Mediator	10/3/24	\$ 10,000.00
Stipulation and Order	Rapid Legal	10/17/24	\$ 35.54
Expert Fee	Berger Consulting Group	10/24/24	\$ 7,480.00
Stipulation and Order	Rapid Legal	12/20/24	\$ 35.54
Joint Case Management Statement; Association of Attorney	Rapid Legal	5/2/25	\$ 14.94
Motion for Preliminary Approval	Rapid Legal	6/17/25	\$ 85.00
Motion for Final Approval	Rapid Legal	FUTURE	\$ 85.00
Decl of Class Admin re Final Disbursement	Rapid Legal	FUTURE	\$ 16.00
Ntc of Entry of Final Order & Judgment	Rapid Legal	FUTURE	\$ 16.00

Total	\$ 19,645.27
--------------	---------------------

EXHIBIT 4