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Attorneys for Plaintiff LUIS RAMIREZ,
on behalf of himself, all others similarly situated,
and on behalf of the general public.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

LUIS RAMIREZ on behalf of himself, all others similarly situated, and on behalf of the general public, Plaintiff, v. ARGUS PROFESSIONAL STORAGE MANAGEMENT, LLC; and DOES 1-100, Defendants.	Case No.: 24CV005325 [Consolidated with Case No. 24CV009992] **DECLARATION OF DAVID MARA, ESQ. IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE** Date: June 6, 2025 Time: 9:00 a.m. Dept.: 23 Reservation No.: A-05325-001

I, DAVID MARA, declare as follows:

1. I am President of Mara Law Firm, PC, and counsel of record for the Class in this matter. I am duly admitted to practice before all the courts of the state of California. The following facts are within my personal knowledge and, if called to testify, I could and would competently testify thereto.
2. I graduated from California Western School of Law and was admitted to practice law in California in May 2004.
3. I extensively handle employment cases which involve violations of the California Labor Code and Industrial Welfare Commission Wage Orders, such as wage and hour class actions and cases alleging violations of the Private Attorneys General Act of 2004 ("PAGA"). I have litigated over three hundred and fifty (350) class action and PAGA lawsuits over the course of nearly 20 years.
4. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County Superior Court, Case No. GIC834348) which was the underlying case in the California Supreme Court's landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, in which the California Supreme Court delineated the scope of employer obligations to provide, and employee rights to receive, meal and rest periods under California law.
5. I am frequently called upon to author Amicus Curiae briefs on behalf of Consumer Attorneys of California ("CAOC"). For example, I authored the Amicus Curiae briefs on behalf of CAOC in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, (The California Supreme Court ruling that, like meal periods, employers must relieve employees of all duty and relinquish all control to satisfactorily discharge its obligation to authorize and permit rest periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The California Supreme Court ruling that the time spent on the employer's premises waiting for, and undergoing, required exit searches of packages, bags, or personal technology devices voluntarily brought to work is compensable hours worked within the meaning of the Wage Orders.); *Oliver v. Superior Court* (2021) California Court of Appeal Case No. H049185 (A brief asking the California Court of Appeal for the Sixth Appellate District to determine whether mandatory drive time of personal vehicles should be considered hours worked within the meaning of the Wage Orders' suffered or permitted test.). *Davidson v. O'Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No. 18-56188) (a brief seeking Review *En Banc* of an order denying class certification in a wage and hour matter). I am also a member of CAOC's Amicus Committee that determines the cases in which the organization will agree to provide

amicus support.

6. My firm has been named as class counsel in a number of wage and hour class actions in which the Court granted the plaintiff's motion for class certification. For example, my firm has been named class counsel: *Mario Norona v. B&G Delivery System, Inc.* (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald Schroeder v. YRC, Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH); *John Martin v. Sysco Corporation, et al.* (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB); *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.* (District of Nebraska, Case No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San Diego County Superior Court, Case No. 37-2014-00016621-CU-OE-CTL); *Eric Mendez v. M&N Consulting, Inc. dba A-Line Messenger Service* (San Bernardino County Superior Court, Case No. CIVDS1923624); *Denson Sales v. Professional Auto Transport, Inc. et al.* (San Bernardino County Superior Court, Case No. CIVDS2010153); *Sonny Williams v. Hansen and Adkins Auto Transport, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVDS2020832); *Bobby Williams v. Mohsen Transport, Inc.* (San Diego County Superior Court, Case No. 37-2019-00063361-CU-OE-CTL); and *Ashton Harden vs. Mushiana Transport Inc.* (Sacramento County Superior Court, Case No. 34-2021-00301950-CU-OE-GDS).

7. My firm has also been named as class counsel in numerous cases during the settlement process. Here is a non-exhaustive list of cases where my firm has been named as class counsel in cases during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Jaime Ruiz v. Altura Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577); *George Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court, Case No. RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria Healthcare Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District of California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.* (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy Spikes, et al. v. Bear*

Trucking, Inc., et al. (San Bernardino County Superior Court, Case No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County Superior Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San Mateo County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron, LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v. California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No. CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside County Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO); *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); *Joshua Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County Superior Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

8. I have also lectured as a panelist for California Employment Lawyers Association regarding a host of wage and hour issues.

9. Defendant operates as a third-party management company, assisting its customers in running and managing self-storage operations in California. In order to carry out its business, Defendant employs hourly non-exempt employees, like Plaintiff.

10. Plaintiff filed a class action complaint on March 20, 2024, in Sacramento County Superior Court (Case No. 24CV005325). The Class Action alleges the following causes of action against Defendant: 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Rest Periods; 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; 6) Failure to Pay all Wages Due at the Time of Termination of Employment; (7) Failure to Reimburse/Illegal Deductions; and 8) Violation of Unfair Competition Law, on behalf of Plaintiff and those similarly situated.

11. On March 14, 2024, Plaintiff sent notice to the LWDA of his intent to pursue various wage and hour claims against Defendant on behalf of similarly situated aggrieved employees. Shortly thereafter, a representative action pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA") complaint against Defendant was filed by Plaintiff (as an agent of the LWDA) in the Superior Court of California, County of Sacramento on May 21, 2024 (Case No. 24CV009992). The PAGA Action sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: 1) Failure to Pay All Straight, Regular Rate Wages for All Work Performed; 2) Failure to Pay All Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Provide Rest Periods; 5) Failure to Pay Wages Due at Termination and During Employment; 6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements; 7) Failure to Employees Two Times Per Month; and 8) Failure to Reimburse Business Expenses Incurred in Discharging Duties.

12. On or around January 10, 2025, the Court ordered the Class Action and PAGA Action consolidated. The Court designated the Class Action, Case No. 24CV005325, as the lead case.

13. Defendant denies the allegations of the action in its entirety, deny any liability or wrongdoing of any kind associated with the claims alleged in this action, and further deny that, for any purpose other than settling this action, this matter is appropriate for class treatment. Defendant further contends that they have complied with all applicable California laws, the California Labor Code, the applicable California Wage Order(s), and the Unfair Competition Law. Defendant finally contends that, if this matter were to be litigated further, they would have strong defenses to oppose class certification and succeed on the merits of Plaintiff's causes of action.

14. Through discovery, Plaintiff sought numerous documents and substantial amounts of data that were needed to evaluate the case. These documents included requests for time and wage records for the Class, employee handbooks, policies, and practices in place during the class period, as well as data surrounding the number of current and former employees.

15. This discovery, in conjunction with the Parties' meet and confer efforts, resulted in the production of a number documents, including Defendant's employee policies and practices, and a sampling of wage and time records for Plaintiff and Class Members. Using the time and wage records for the Class provided and the data surrounding the number of current and former employees, Plaintiff was able to establish a potential exposure model in preparation for mediation.

16. Plaintiff contends that, here, the time records Defendant maintains for class members evidence a significant amount of non-compliant meal periods. In these shifts, under *Donohue*, Plaintiff contends that it is presumed that meal period violations occurred, and argues that Defendant will be unable to provide sufficient evidence to rebut this presumption.

17. Defendant argues its meal period policy is facially lawful, that it provides employees with meal periods in compliance with California law, and that Defendant would be able to provide declarations from employees stating that they were able to take compliant meal periods without any interference from Defendant. As such, any records reflecting non-complaint meal periods would be insufficient to demonstrate any purported violations, and Defendant would be able rebut the presumption under *Donohue v. AMN Services, LLC* for meal periods and defeat Plaintiff's claim both at class certification and on the merits.

18. Plaintiff contends that Defendant does not have a written rest period policy and that Defendant unlawfully forces employees to combine their rest periods with their first meal period, providing them with a single one-hour meal period. The IWC Wage Orders require employers to provide rest periods separately "in the middle of each work period," and combining them with meal periods simply because it is "advantageous to the employer" violates California law.

19. Defendant argues that despite having no written rest period policy, which Defendant notes is *not* a requirement under California law, Defendant informs each and every employee that they are entitled to take a 10 minute rest periods for every four hours worked or major fraction thereof, that they are not under Defendant's control and command during rest periods, and that they can use this time to do whatever they choose. Defendant further claims it has spoken to numerous employees who say they were able to take compliant rest periods, which both refutes Plaintiff's claim and creates individualized issues that would predominate and any trial would be rendered unmanageable. Based on the foregoing, Defendant contends that Plaintiff's rest period claims cannot be certified and will not succeed on the merits.

20. Here, Defendant has employees clock in via a computer system. Employees are required to visit a website and attempt to log in. This entire process takes several minutes, and Plaintiff contends that this time is compensable under California law.

21. Defendant argues that beyond the limited accusations of Plaintiff, there is no evidence that employees performed *any* work-related tasks for which they were not compensated, and that

Defendant has uniform practices and policies *forbidding* employees from working off the clock. Defendant claims that Plaintiff's "investigation" is wholly inaccurate, and that employees are instructed to clock in before performing any work related tasks, and that they are trained on how to accurately log their time so that they can be paid for all time worked. Defendant further argues that the Court would have to ask each employee if this purported unlawful practice existed, and that individualized issues would predominate as a result, rendering the matter unsuitable for class certification.

22. Plaintiff argues that employees must use their personal cell phones to clock in for their shifts. As such, Defendant is liable for a reasonable percentage of their cell phone bills under § 2802.

23. Defendant contends that it has never required employees to use their personal cell phone for business purposes. Defendant further contends if employees decide to use their personal cell phones for business purposes, that it was solely that employee's choice, and not the result of any purported mandate by Defendant.

24. The Parties agreed to attend mediation with mediator Brandon McKelvey on January 7, 2025. After a full day of mediation, a mediator's proposal was issued, which the Parties ultimately accepted. Since then, the Parties have met and conferred regarding all the terms of the settlement and finalized their agreement in the Parties' Settlement Agreement. The Parties seek preliminary approval of the Settlement Agreement in the instant motion.

25. In addition to being able to discover the strengths and vulnerabilities associated with Plaintiff's claims, Defendant provided Plaintiff with information and data points which Plaintiff used to establish a representative damage model, as explained below.

26. Plaintiff argues that Defendant fails to provide Class Members with duty-free 30-minute meal periods before the fifth hour of work in compliance with California law. Approximately 20.37% of employee shifts over five (5) hours in length in the time records provided by Defendant indicate an instance where Defendant failed to provide a meal period in compliance with California law, whether it be an untimely meal period, a short meal period, or the failure to provide a meal period at all. Under *Donohue*, these are presumed to be meal period violations for which Defendant must compensate Class Members. Accordingly, Defendant's ***maximum*** exposure under Plaintiff's meal period claim is $79,365 (Approximately 4,397 shifts with presumed meal period violations x $18.05 average hourly rate = $79,365).

27. Plaintiff had to discount the maximum exposure of these claims to account for the viability of Defendant's counter arguments. Defendant argues that its meal period policy is facially lawful, that it provides employees with meal periods in compliance with California law, and that Defendant would be able to provide declarations from employees stating that they were able to take these meal periods without any interference from Defendant. Defendant claims this evidence would be more than sufficient to rebut the presumption under *Donohue*, both at class certification and on the merits of the claim.

28. Plaintiff also contends that Defendant has failed to provide Class Members with lawful rest periods. Plaintiff argues that Defendant unlawfully forces Class Members to combine their rest periods with their meal periods. Accordingly, Defendant's ***maximum*** exposure under Plaintiff's rest period claim is $389,627 (Approximately 21,586 shifts x $18.05 average hourly rate = $389,627).

29. Plaintiff had to discount the maximum exposure of these claims to account for the viability of Defendant's counter arguments. Defendant argues that despite it has no written rest period policy, which Defendant notes is *not* a requirement under California law, Defendant informs each and every employee that they are entitled to take 10 minute rest periods for every four hours worked or major fraction thereof, that they are not under Defendant's control and command during rest periods, and that they can use this time to do whatever they choose. Defendant further claims it has spoken to numerous employees who say they were able to take compliant rest periods, which both refutes Plaintiff's claim and creates individualized issues that would predominate and any trial would be rendered unmanageable.

30. In addition, Plaintiff claims that Defendant does not pay Class Members for all time worked. Plaintiff alleges that it takes Class Members approximately five (5) minutes to clock in at the start of their shifts, and that they are not paid for this time. If Plaintiff were to prevail on this claim, Plaintiff and the Class Members would be entitled to the following ***maximum*** potential damages: $32,875 (21,586 shifts x $18.05 average hourly rate x 5 minutes = $32,875).

31. Further, if Plaintiff were to prevail on his unpaid wages claim, she may also be entitled to waiting time penalties. Plaintiff calculates the potential ***maximum*** exposure under the waiting time penalties cause of action as $155,952 (36 former employees x 30 days x 8 hours x $18.05 average hourly rate = $155,952).

32. Additionally, if Plaintiff were to prevail on her unpaid wages claim, she may also be entitled to wage statement penalties. Plaintiff calculates the potential ***maximum*** exposure under the wage statement cause of action as $84,000 ($4,000 maximum penalty x 21 current employees = $84,000).

33. Plaintiff had to discount the maximum exposure of these claims to account for the viability of Defendant's counter arguments. As discussed above, Defendant contends that there is zero exposure for this claim because there is no evidence that employees performed any work-related tasks for which they were not compensated, and that the Court would have to ask each employee if this purported unlawful practice existed, creating individualized issues unsuitable for class certification. Further, as Plaintiff's claims for waiting time and wage statement penalties are derivative of his wage claims, Defendant argues that they would not be liable for these either. Should the Court agree with Defendant's arguments, Plaintiff and Class Members would be entitled to no recovery under these causes of action.

34. Furthermore, Plaintiff claims that Defendant has required Plaintiff and Class Members to incur business expenses during their employment without receiving any reimbursement from Defendant. Specifically, Plaintiff contends that Class Members are required to use their personal cell phones to clock in for their shifts. If Plaintiff were to prevail on his reimbursement cause of action, Class Members would be entitled to reimbursement for a reasonable percentage of their costs associated with their personal cell phones. Therefore, the ***maximum potential exposure*** under this theory of liability would be $11,970 (Approximately 57 months during the relevant time period x $10, or 10% of a $100 monthly phone bill x 21 current employees = $11,970).

35. Plaintiff alleges that Defendant has four (4) core violations –failure to pay all time worked, failure to provide meal periods, failure to provide rest periods, and failure to reimburse business expenses – of the Labor Code sections which give rise to PAGA penalties. The statute of limitations for PAGA violations goes back one year. As there were approximately 868 pay periods in the statutory period at the time of mediation, Plaintiff calculated Defendant's potential maximum exposure under PAGA as follows:

$100 x 4 PAGA violations x 1,114 pay periods = $445,600

36. <u>Not taking into account any of their defenses or arguments</u>, Defendant's total exposure if Plaintiff was successful in his core claims would be approximately $513,837 [$79,365 (meal

period exposure) + $389,627 (rest period exposure) + $32,875 (unpaid wages exposure) + $11,970 (reimbursement exposure)]. If Plaintiff is successful in their unpaid wage claims, she may also be entitled to damages for waiting time and wage statement penalties in the amount of $155,952 and $84,000, respectively. If all of Plaintiff's claims are successful, she may also be entitled to PAGA penalties in the maximum amount of $445,600.

37. In light of the risks Plaintiff's claims faced, Plaintiff and her Counsel believe that the settlement amount of $273,500 – **with an average settlement share amount estimated at $2,163.74** – is a reasonable and fair settlement amount. This amounts to 53.23% of the total exposure of Plaintiff's core claims and 22.80% of the maximum exposure.

38. Pursuant to Local Rule 2.99.05(C), I have reviewed the "CHECKLIST FOR APPROVAL OF CLASS ACTION AND/OR PRIVATE ATTORNEYS GENERAL ACT ("PAGA") SETTLEMENTS." Plaintiff's Motion for Preliminary Approval and all supporting documents were prepared as to be in compliance with the checklist

39. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 1.** A true and correct copy of the proposed Class Notice is attached to **Exhibit 1** as **Exhibit A.**

40. A true and correct copy of the "Costs Summary" reflecting current and future litigation costs incurred is attached hereto as **Exhibit 2**. These costs were all reasonable and necessary to the prosecution of this case and the results achieved, and are fair and reasonable.

41. A true and correct copy of Plaintiff's notice to the LWDA dated, March 14, 2024, is attached hereto as **Exhibit 3**.

42. A true and correct copy of the filing receipt from Plaintiff's upload of their preliminary approval motion and supporting documents to the LWDA's website is attached as **Exhibit 4**.

43. A true and correct copy of the confirmation that the upload of Plaintiff's preliminary approval motion was received by the LWDA is attached as **Exhibit 5**.

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

Dated: May 14, 2025

____

David Mara

Exhibit 1

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this settlement agreement is made between Plaintiff Luis Ramirez (hereinafter "Plaintiff") on behalf of himself and the Class and Defendant Argus Professional Storage Management, LLC (hereinafter "Defendant") (collectively Plaintiff and Defendant are referred to in this Agreement as the "Parties"). This agreement is intended to settle the cases entitled *Luis Ramirez v. Argus Professional Storage Management, LLC*, Sacramento County Superior Court, Case No. 24CV005325 (the "Class Action") and *Luis Ramirez v. Argus Professional Storage Management, LLC*, Sacramento County Superior Court, Case No. 24CV009992 (the "PAGA Action") (collectively the Class Action and PAGA Action are referred to in this Agreement as the "Complaints" or "Actions").

I. DEFINITIONS

In addition to the other terms defined in this agreement, the terms below have the following meaning:

1. **Administration Costs**: The costs incurred by the Settlement Administrator, Apex Class Action LLC, to administer this Settlement, which shall not exceed $6,500. All Administration Costs shall be paid from the Gross Settlement Amount. If the actual administration costs are less than the amount allocated in this agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.

2. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled "Joint Stipulation and Settlement Agreement."

3. **Aggrieved Employees**: All current or former hourly non-exempt employees who worked for Defendant in the State of California from March 17, 2023, through the earlier of March 15, 2025, or the date of preliminary approval of the Parties' settlement agreement by the Court.

4. **Attorneys Fee Award**: The amount of attorneys' fees approved of by the Court and awarded to Class Counsel. This amount shall not exceed 33 1/3% of the Gross Settlement Amount. 33 1/3% of the Gross Settlement Amount is currently $91,166.66. The Attorneys Fee Award shall be paid from the Gross Settlement Amount. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

5. **Class**: All current and former hourly non-exempt employees who worked for Defendant in California from March 20, 2020, through the earlier of March 15,

2025, or the date of preliminary approval of the Parties' settlement agreement by the Court.

6. **Class Counsel**: David Mara and Matthew Crawford of Mara Law Firm, PC.

7. **Class Data**: The electronic database Defendant shall deliver to the Settlement Administrator which will list the following information for each Class Member: (1) first and last name; (2) last known mailing address; (3) social security number; (4) telephone number; and (5) his or her dates of employment and/or weeks worked during the Class Period. The Class Data shall be based on Defendant's payroll, personnel, and other business records.

8. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above.

9. **Class Notices**: The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.

10. **Class Period**: March 20, 2020, through the earlier of March 15, 2025, or the date of preliminary approval of the Parties' settlement agreement by the Court.

11. **Class Representative or Plaintiff:** Luis Ramirez.

12. **Class Representative Enhancement Payment**: The amount the Court awards to Plaintiff, which will not exceed $7,500. This payment shall be paid from the Gross Settlement Amount. This payment is being offered in consideration for Plaintiff executing a general release of claims against Defendant, a release that is broader than any Participating Class Member will provide in consideration for a settlement share. This payment is also offered in consideration for the Plaintiff's actions in conferring a benefit upon the State of California and the Class, and the time and effort Plaintiff put into pursuing the litigation. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.

13. **Cost Award**: The amount that the Court orders Defendant to pay Class Counsel for payment of actual litigation costs, which shall not exceed $15,000. The Cost Award will be paid from the Gross Settlement Amount and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the actual costs incurred are less than the amount allocated in this Agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this Agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.

14. **Counsel for Defendant**: Shannon B. Nakabayashi and Dahn A. Levine of Jackson Lewis P.C.

15. **Court**: Superior Court of California for the County of Sacramento.

16. **Defendant**: Argus Professional Storage Management, LLC.

17. **Disbursement of the Settlement:** Within ten (10) business days after the Settlement Administrator's receipt of the Gross Settlement Amount, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to Aggrieved Employees; (3) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (5) the Administration Costs, as approved by the Court; and (6) the LWDA Payment to the LWDA.

18. **Effective Final Settlement Date:** The effective date of this Settlement will be when the final approval of the settlement can no longer be appealed, or, if there are no objectors and no plaintiffs in intervention at the time the court grants final approval of the settlement, the date the court enters judgment granting final approval of the settlement.

19. **Employer Taxes**: Defendant's portion of payroll taxes as the Class Members' current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) owed to the appropriate local, state, and federal taxing authorities. Defendant will pay its portion of employer payroll taxes separate and apart from the Gross Settlement Amount.

20. **Final Judgment or Final Approval**: The final order entered by the Court approving this Agreement.

21. **Funding of Settlement**: Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than ten (10) business days after the Effective Final Settlement Date.

22. **Gross Settlement Amount or GSA**: The total value of the Settlement is a non-reversionary amount of $273,500. This is the gross amount Defendant can be required to pay under this Settlement Agreement, with the exception of its obligation to pay Employer Taxes and any additional amounts owed pursuant to the Escalator Provision. The Gross Settlement Amount includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Aggrieved Employees, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer will be paid outside of and in addition to the Gross

Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

23. **Individual Class Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Class Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Class Settlement Share automatically, without the return of a claim form.

24. **Individual PAGA Settlement Share(s)**: The amount payable to each Aggrieved Employee under the terms of this Settlement Agreement. Aggrieved Employees are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement. Also, even if an Aggrieved Employee requests exclusion from the Class Settlement as described in this Agreement, the Aggrieved Employee will receive an Individual PAGA Settlement Share. Therefore, Aggrieved Employees will receive an Individual PAGA Settlement Share automatically, without the return of a claim form and regardless of whether they request to be excluded from the Class Settlement.

25. **LWDA**: California Labor and Workforce Development Agency ("LWDA"). The LWDA is empowered to enforce the Labor Code Private Attorneys General Act, California Labor Code section 2698, *et seq.*, and has delegated such authority to Plaintiff with regard to the claim in the PAGA Action through the procedural mechanisms provided for by statute.

26. **LWDA Payment**: Refers to the $22,500, seventy-five percent (75%) of the PAGA Payment of $30,000, that is to be paid to the LWDA as described in this Settlement.

27. **Net PAGA Settlement Amount or NPSA**: The total amount of money for payout to Aggrieved Employees, which is the PAGA Payment less the LWDA Payment.

28. **Net Settlement Amount or NSA**: The total amount of money available for payout to Participating Class Members, which is the GSA less the Attorneys Fee Award, Cost Award, Class Representative Enhancement Payment, the PAGA Payment, and Administration Costs. In other words, the NSA is the portion of the GSA that will be distributed to Participating Class Members. The payment of employee-side taxes on the portion of the settlement shares earmarked as wages shall be paid out of the Net Settlement Amount. Thus, the Individual Settlement Shares that are paid out of the Net Settlement Amount shall be reduced by the employee's tax liability for the share for the portion of the settlement shares allocated as wages.

29. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Cal.

Labor Code §§ 2698 *et seq.*).

30. **PAGA Data**: The electronic database Defendant shall deliver to the Settlement Administrator which will list the following information for each Aggrieved Employee: (1) first and last name; (2) last known mailing address; (3) social security number; (4) telephone number; and (5) his or her dates of employment and/or the total number of pay periods during which the Aggrieved Employee performed work during the PAGA Period as a member of the Aggrieved Employees. The PAGA Data shall be based on Defendant's payroll, personnel, and other business records.

31. **PAGA Payment**: Refers to the $30,000 the Parties have agreed to settle the PAGA claims. 75% of this amount, or $22,500, shall be paid to the LWDA. The remaining 25%, or $7,500, shall become part of the Net PAGA Settlement Amount payable to Aggrieved Employees.

32. **PAGA Period**: March 17, 2023, through the earlier of March 15, 2025, or the date of preliminary approval of the Parties' Settlement Agreement by the Court.

33. **PAGA Settlement**: Refers to the settlement of claims included in the Released PAGA Claims, for which Aggrieved Employees will receive an Individual PAGA Settlement Share payment.

34. **Participating Class Members**: All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.

35. **Parties**: Plaintiff Luis Ramirez, as an individual and as Class Representative, and Defendant Argus Professional Storage Management, LLC.

36. **Preliminary Approval or Preliminary Approval Order**: The Court's order preliminarily approving the Class Settlement.

37. **Released Class Claims**: All claims alleged or that reasonably could have been alleged based on a reasonable interpretation of the facts alleged in the Class Action. All Released Class Claims are limited to the Class Period.

38. **Released PAGA Claims**: Plaintiff, or such other designee who has properly exhausted administrative requirements, acting in the capacity of a representative of the State of California, and on behalf of the group of Aggrieved Employees, shall agree to release any and all claims for civil penalties that could have been asserted by the Labor Commissioner against Defendant under the PAGA during the PAGA Period, Cal. Lab. Code § 2698, *et seq*. to the extent such claims are predicated on claims alleged or reasonably could have been alleged based on a reasonable interpretation of the facts in the PAGA Action and Plaintiff's notice to the LWDA. All Released PAGA Claims are limited to the PAGA Period.

39. **Released Parties**: Defendant and its past, present and/or future, direct and/or indirect, officers, directors, employees, representatives, administrators, attorneys, agents, parent companies, subsidiaries and affiliated corporations and entities, consultants, members, shareholders, joint ventures, predecessors, successors, and/or assigns.

40. **Response Deadline**: Sixty (60) calendar days from the initial mailing of the Class Notices.

41. **Settlement Administration**: The Settlement Administrator will use the National Change of Address Database to obtain updated addresses for Class Members. The Settlement Administrator will mail the Class Notices by first class U.S. Mail to all Class Members at the address resulting from the search of the National Change of Address Database. The Class Notices will inform Class Members that they have until the Response Deadline to either object to the Settlement or to opt-out of the Settlement. Any Class Member who does not receive notice after the steps outlined above have been taken will still be bound by the Settlement and/or judgment.

42. **Settlement Administrator**: The third-party administrator agreed upon by Parties to administer this Settlement is Apex Class Action LLC ("Apex").

II. RECITALS

43. Plaintiff filed a class action complaint on March 20, 2024, in Sacramento County Superior Court (Case No. 24CV005325). The Class Action alleges the following causes of action against Defendant: 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Rest Periods; 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; 6) Failure to Pay all Wages Due at the Time of Termination of Employment; (7) Failure to Reimburse/Illegal Deductions; and 8) Violation of Unfair Competition Law, on behalf of Plaintiff and those similarly situated.

44. Plaintiff submitted his Notice of Labor Code Violations to the LWDA on March 14, 2024. Thereafter, a PAGA representative action complaint against Defendant was filed by Plaintiff (as an agent of the LWDA) in the Superior Court of California, County of Sacramento on May 21, 2024 (Case No. 24CV009992). The PAGA Action sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: 1) Failure to Pay All Straight, Regular Rate Wages for All Work Performed; 2) Failure to Pay All Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Provide Rest Periods; 5) Failure to Pay Wages Due at Termination and During Employment; 6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements; 7)

Failure to Employees Two Times Per Month; and 8) Failure to Reimburse Business Expenses Incurred in Discharging Duties.

45. On or around January 10, 2025, the Court ordered the Class Action and PAGA Action consolidated. The Court designated the Class Action, Case No. 24CV005325, as the lead case.

46. The parties met and conferred regarding the case on multiple occasions and then agreed to attend a mediation. Prior to the mediation, Defendant provided class-wide data, documents, and information permitting Plaintiff and his lawyers to fully evaluate class-wide exposure.

47. On January 7, 2025, the parties participated in a full-day mediation with respected wage and hour mediator, Brandon McKelvey, which ultimately resulted in the settlement that is reflected in this Agreement.

48. **Benefits of Settlement to Class Members**. Plaintiff and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel have conducted extensive settlement negotiations. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.

49. **Defendant's Reasons for Settlement**. Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendant have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

50. **Defendant's Denial of Wrongdoing**. Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Nothing in this Agreement shall be constructed as an admission by Defendant of any liability or wrongdoing as to

Plaintiff, Class Members, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. Moreover, it is not, and it should not be construed as, any admission of fact or law in this matter or any other matter that a class action is appropriate. The Parties have entered into this Settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience, expenses and risks. Defendant agrees to certification of this class solely for purposes of this settlement. It is not an admission that class certification is proper. Should any part of this settlement not be approved or be terminated, the settlement class (if certified) will be decertified and the conditional agreement to class certification will be inadmissible and have no effect on any future actions related to this litigation.

51. **Plaintiff's Claims**. Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. However, in the event that this Settlement is finally approved by the Court, the Plaintiffs, Participating Class Members, and Class Counsel will not oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Participating Class Members have resolved and are forever barred from re-litigating the claims released under this Agreement.

52. Whether or not there is a Final Judgment, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiff or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

53. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

III. SETTLEMENT TERMS AND CONDITIONS

54. **Gross Settlement Amount**. Subject to the terms and conditions of this

Agreement, the maximum Gross Settlement Amount that Defendant is obligated to pay under this Settlement Agreement, with the exception of its obligation to pay Employer Taxes and any additional amounts owed pursuant to the Escalator Provision, is $273,500. The Gross Settlement Amount includes, but is not limited to: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

A. **Escalator Provision**: This Settlement is based on Defendant's representation that the Class Members will have worked a total of approximately 4,954 workweeks during the Class Period. Should the number of workweeks worked during the Class Period exceed more than 10% of the amount represented (*i.e.* by more than 495 workweeks, or in other words, if the workweeks worked by Class Members during the Class Period exceeds 5,449 workweeks), Defendant, at its option, can either choose to: (1) cut off the Class Period and PAGA Period as of the date on which the number of workweeks reaches 5,449; or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of workweeks worked by the Class Members above the 10% amount (*i.e.* if there was a 11% increase in the number of workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%).

55. **Class Certification**. Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the Class as defined in this Agreement.

56. **Conditional Nature of Stipulation for Certification**. The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Action or in any other lawsuit. If the Settlement does not become effective, Defendant reserves the right to contest any issues relating to class certification and liability.

57. **Appointment of Class Representative**. Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff Luis Ramirez shall be appointed as representative for the Class.

58. **Appointment of Class Counsel**. Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.

59. **Individual Class Settlement Share**. Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Class Settlement Share from the Net Settlement Amount to each Participating Class Member.

A. **Calculation**.

i. **Individual Class Settlement Share Calculation.** Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members during the Class Period based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week for Defendant will be credited as a work week for purposes of this calculation. Therefore, the value of each Class Member's Individual Settlement Share ties directly to the amount of weeks that he or she worked for Defendant in California.

B. **Tax Withholdings**. Each Class Member's Individual Settlement Share will be apportioned as follows: 20% wages, 40% penalties, and 40% interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Only the employee share of payroll tax withholdings shall be paid from each Class Member's Individual Settlement Share. The employer share of payroll tax withholdings shall be paid separate from and in addition to the Gross Settlement Amount.

60. **Individual PAGA Settlement Share**. Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual PAGA Settlement Share from the Net PAGA Settlement Amount to each Aggrieved Employee.

A. Calculation.

i. **Individual PAGA Settlement Share Calculation**. Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of pay periods he or she worked for Defendant during the PAGA Period based on the PAGA Data provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period based on the same PAGA data, which is then multiplied by the Net PAGA Settlement Amount. One day worked for Defendant in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of pay periods that he or she worked during the PAGA Period for Defendant in California.

B. Tax Withholdings. Each Aggrieved Employee's Individual PAGA Settlement Share will be apportioned as 100% penalties. The Individual PAGA Settlement Shares shall therefore be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

61. Constituents of Gross Settlement Amount Disbursement. Subject to the terms and conditions of this Agreement, the Settlement Administrator shall disburse the Gross Settlement Amount as directed later on herein to the following:

A. To the Named Plaintiff: In addition to his Individual Settlement Shares, and subject to the Court's approval, the named Plaintiff Luis Ramirez, will receive up to $7,500 in consideration for providing Defendant a General Release, a release that is broader than the claims released by Participating Class Members. Defendant shall not oppose this request. The Settlement Administrator will pay the Class Representative Enhancement Payment out of the Gross Settlement Amount. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payment. An IRS Form 1099 will be issued to Plaintiff with respect to his Class Representative Enhancement Payment.

B. To Class Counsel. At the Final Approval Hearing, Class Counsel will apply to the Court for an Attorneys Fee Award not to exceed 1/3 of the GSA (which currently equates to $91,166.66) and a Cost Award not to exceed $15,000. Defendant shall not oppose this request. The Settlement Administrator will pay the Court approved amounts for the Attorneys Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator may, at the request of Class Counsel, purchase an annuity to utilize U.S. treasuries and bonds or other attorneys fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorneys Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to the Attorneys Fee Award. In the event the Court does not approve the entirety of the application for the Attorneys Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorneys Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Participating Class Members.

C. **To the Responsible Tax Authorities**. The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each Class Member's Individual Settlement Share. Defendant's portion of payroll taxes as the current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) will be paid outside of and in addition to the GSA. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll withholding taxes and will forward the amount of the Participating Class Members' portion of normal payroll withholding taxes to the appropriate taxing authorities.

D. **To the Settlement Administrator**. The Settlement Administrator – Apex – will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed $6,500. This will be paid out of the Gross Settlement Amount. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and be available for distribution to Participating Class Members.

E. **To the LWDA and Aggrieved Employees**. The Settlement Administrator will pay $22,500 of the PAGA Payment to the LWDA. This is 75% of the $30,000 allocated to satisfy the PAGA penalties claim. The remaining 25% of the PAGA Payment (which equates to $7,500) shall become part of the Net PAGA Settlement Amount payable to Aggrieved Employees.

F. **To Participating Class Members**. The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members and Aggrieved Employees shall be made from the Gross Settlement Amount.

62. **Appointment of Settlement Administrator**. Solely for the purposes of this

Settlement, the Parties stipulate and agree that Apex shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and mailing the Class Notice to Class Members and Aggrieved Employees; performing skip traces and remailing notices to Class Members and Aggrieved Employees; calling Class Members and Aggrieved Employees with undeliverable notices to obtain accurate addresses; keeping track of any objections or requests for exclusion from Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's and Aggrieved Employee's Individual Settlement Share; maintaining a website which will include settlement documents; providing weekly status reports to Defendant's Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing and remailing Individual Settlement Shares to Participating Class Members and Aggrieved Employees; calculating and mailing the LWDA Payment to the LWDA; distributing the Attorneys Fee Award and Cost Award to Class Counsel; printing and providing Participating Class Members, Aggrieved Employees, and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Court upon the completion of the Settlement; providing any funds remaining as a result of uncashed checks to the State Controller's Office in the name of the Participating Class Member, in the amounts directed per this Settlement, including the administration of related tax reimbursements; and for such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in Apex or otherwise have a relationship with Apex that could create a conflict of interest.

63. Procedure for Approving Settlement.

A. Cooperation. All Parties and their counsel shall support the Settlement and take such steps as are reasonably necessary to effectuate the Settlement.

B. Motion for Preliminary Approval and Conditional Certification.

i. Plaintiff will move for an order: (1) conditionally certifying the Class for settlement purposes only; (2) granting Preliminary Approval of the Settlement; (3) setting a date for the Final Approval hearing; and (4) approving the Class Notice.

ii. At the same time that Plaintiff files his Motion for Preliminary Approval, Plaintiff shall send a copy of the Agreement to the LWDA pursuant to the 2016 amendments to PAGA.

iii. At the Preliminary Approval hearing, Plaintiff will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representative, Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval hearing.

iv. **Effect of Denial of Preliminary Approval**. Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Settlement Agreement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement Agreement. Any order or proceeding relating to an application for the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment.

C. **Notice to Class Members and Aggrieved Employees**. After the Court enters its Preliminary Approval Order, every Class Member and Aggrieved Employee will be provided with the Class Notice in accordance with the following procedure:

i. **Delivery of Class and PAGA Data**. Within ten (10) business days after entry of the Preliminary Approval Order, Defendant shall deliver to the Settlement Administrator an electronic database, which will list the Class and PAGA Data. The Settlement Administrator will use the National Change of Address Database to obtain updated addresses for Class Members. The Class Data and PAGA Data shall be based on Defendant's payroll, personnel, and other business records. The Settlement Administrator shall maintain the Class and PAGA Data and all information contained within the Class and PAGA Data as private and confidential.

ii. **Preparation of Class Notices**. Based on the information in the Class and PAGA Data and the formulae set forth in Paragraph 59(A)(i) and 60(A)(i), above, the Settlement Administrator shall promptly calculate the estimated Individual Settlement Share and

Individual PAGA Settlement Share for every Class Member and Aggrieved Employee, to be included in the individualized Class Notices to be sent to that Class Member and/or Aggrieved Employee, and shall prepare and mail a spreadsheet setting forth those calculations to Class Counsel and Defense Counsel no fewer than five (5) days before mailing the Class Notices to Class Members and Aggrieved Employees. The Class Notices will inform each Class Member of his/her right to do nothing, dispute the number of workweeks worked, opt out of the Settlement, or object to the Settlement. It will also inform Class Members that if they first request exclusion from the Settlement and then object, the objections would not be considered valid. In addition, if the Class Members object and then request exclusion from the Class Settlement, the Class Members would be deemed to have waived their objection.

iii. **Mailing of Class Notices**. Within ten (10) business days after receipt of the Class and PAGA Data, the Settlement Administrator will mail via first-class regular U.S. Mail the Class Notice to all identified Class Members and Aggrieved Employees using the mailing address information provided by Defendant and the results of the search of the National Change of Address Database on all Class Members and Aggrieved Employees.

iv. **Returned Notices**. If a Class Notice is returned because of an incorrect address, within five (5) business days from receipt of the returned notice, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail, performing address searches for all mail returned without a forwarding address, and promptly re-mailing to Class Members for whom new addresses are found. Class Members to whom Notices are re-mailed after having been returned to the Settlement Administrator shall have an additional fifteen (15) calendar days beyond the Response Deadline to dispute the number of work weeks worked, opt out of the Settlement, or object to the Settlement.

v. **Weekly Status Reports**. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Notices mailed, the number of Notices returned as undeliverable, the number of Notices re-mailed, and the number of requests for exclusion or objections received.

vi. **Settlement Administrator's Declaration**. No later than fifteen (15) calendar days after the Response Deadline, or on a date mutually agreed upon by the Parties and the Settlement Administrator, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel at the same time as the final approval motion is filed. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

D. **Objections to Settlement**. The Class Notice will provide that the Class Members who wish to object to the Settlement must do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline. The timeframe to submit an objection will not be increased for returned mailings.

i. **Format**. Any Objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.

ii. **Notice of Intent to Appear**. Objecting Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel. Objecting Class Members are permitted to appear regardless of whether they submitted a written objection.

E. **Request for Exclusion from the Settlement ("Opt-Out")**. The Class Notice will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator a written request for exclusion. The written request for exclusion must: (a) state the Class Member's name, address, telephone number, and the last four digits of the Class Member's social security number or employee identification number; (b) state the Class Member's intention to exclude themselves from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator; (d) be signed by the Class Member or his or her lawful representative; and (e) be postmarked no later than the Response Deadline.

i. **Effect of "Opt-Out."** Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Settlement Share or any benefit of this Settlement. If the Class Member is also an Aggrieved Employee as defined in this Agreement, however, he or she will still receive an Individual PAGA Settlement Share payment as approved by the Court. Aggrieved Employees have no right to opt-out of the PAGA Settlement.

ii. **Confirmation of Authenticity**. If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely request for exclusion will automatically be included in the Settlement, will receive an Individual Class Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the subsequent judgment, regardless of whether he or she has objected to the Settlement.

iii. **Report**. No later than five (5) business days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

F. **Class Member and Aggrieved Employee Disputes**. If a Class Member or Aggrieved Employee who receives a Class Notice wishes to dispute the number of work weeks listed on the Class Notice, the Class Member or Aggrieved Employee may notify the Settlement Administrator by mail or telephone no later than the Response Deadline and should produce any available supporting evidence, such as wage statements, offers of employment, termination letters, and/or other employment records, to the Settlement Administrator. The documentation should provide evidence of the dates the Class Member or Aggrieved Employee contends he or she worked for Defendant during the Class or PAGA Period. The Settlement Administrator shall then provide the documentation provided by the Class Member or Aggrieved Employee to Defendant. Defendant shall review their records, the documentation provided by the Class Member or Aggrieved Employee, and shall provide information to the Settlement Administrator in response to any such disputed claim. Defendant's records shall be presumed to be determinative, but the Settlement Administrator shall evaluate the evidence submitted by the Class Member or Aggrieved Employee and make the decision as to which dates should be applied. The determination by the Settlement Administrator shall be final and binding.

G. **No Solicitation of Objection or Requests for Exclusion**. Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.

H. **Motion for Final Approval**.

i. Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorneys Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement Payment; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Class and PAGA Claims of the Participating Class Members and LWDA.

ii. **Denial or Appeal of Final Approval**. If the Court does not grant Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement Payment, Attorneys Fee Award, Cost Award, and Administration Costs award will not constitute a material modification to the Settlement within the meaning of this paragraph.

iii. **Proposed Order and Judgment**. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving of the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-judgment matters as may be appropriate under Court rules and applicable law.

I. **Waiver of Right to Appeal**. Provided that the judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.

J. **Vacating, Reversing, or Modifying Judgment on Appeal**. If, after a notice of appeal, the reviewing Court vacates, reverses, or modifies the judgment such that there is a material modification to the Settlement Agreement, and that Court's decision is not completely reversed and the judgment is not fully affirmed on review by a higher Court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Share.

K. **Disbursement of Settlement Shares and Payments**. Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order and Judgment. The Settlement Administrator shall keep Defendant's Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendant's Counsel and Class Counsel. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.

i. **Funding the Settlement**: Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount and Employer Taxes no later than ten (10) business days of the Effective Final Settlement Date.

ii. **Disbursement**: Within ten (10) business days after the Defendant provides the GSA to the Settlement Administrator, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to be Paid to Aggrieved Employees; (3) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (5) the Administration Costs, as approved by the Court; (6) the LWDA Payment to the LWDA; and (7) Defendant's portion of payroll taxes as the Class Members' current or former employer.

iii. **Qualified Settlement Fund or QSF**: The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.4168B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

L. **Settlement Administrator's Final Report**. Within ten (10) business days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds. The Parties shall file this declaration with the Court. The Settlement Administrator will provide any supplemental declaration required by the Court or the Parties.

M. **Uncashed Checks**. Participating Class Members and Aggrieved Employees must cash or deposit their Individual Settlement Share checks within one hundred and eighty (180) calendar days after the checks are mailed to them.

i. **Reminder Postcard**. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced.

ii. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, cancel the checks. All funds associated with the Individual Settlement Share checks returned as undeliverable and funds associated with those Individual Settlement Share checks remaining un-cashed, shall be transmitted by the Settlement Administrator to the California State Controller – Unclaimed Property Division, with the identity of the Participating Class Member to whom the funds belong. The funds shall be held by the California State Controller – Unclaimed Property Division in the name of the Participating Class Member.

N. **Defendant's Legal Fees**. Defendant is responsible for paying for all of Defendant's own legal fees, costs, and expenses incurred in this Action outside of the Gross Settlement Amount.

64. **Release of Class Claims**. As of the date the Gross Settlement Amount is provided by Defendant to the Settlement Administrator, Class Members who do not submit a timely and valid request for exclusion release the Released Parties from the Released Class Claims. Participating Class Members agree not to sue or otherwise make a claim against any of the Released Parties for any of the Released Class Claims.

65. **Release of PAGA Claims**. As of the date the Gross Settlement Amount is provided by Defendant to the Settlement Administrator, Plaintiff, or such other designee who has properly exhausted administrative requirements, acting in the capacity of a representative of the State of California, and on behalf of the group of the Aggrieved Employees, will release the Released Parties from the Released PAGA Claims. Aggrieved Employees may not opt out of the PAGA Settlement.

66. **Plaintiff's Release of Claims and General Release**. As of the date the Gross Settlement Amount is provided by Defendant to the Settlement Administrator, and in exchange for the Class Representative Enhancement Payment to the named Plaintiff in an amount not to exceed $7,500, Plaintiff Luis Ramirez shall give the following general release of claims for himself and his respective spouse, heirs, successors and assigns, forever release the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, from the beginning of time through the date of his signature on this Agreement, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to his employment with Defendant or the remuneration for, or termination of, such employment. Plaintiff's Release of Claims also includes a waiver of California Civil Code section 1542, which provides as follows:

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.

This release excludes any claims that may not be released as a matter of law.

67. Miscellaneous Terms

A. **No Admission of Liability**. Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).

B. **No Effect on Employee Benefits**. The Class Representative Enhancement Payment and/or Individual Settlement Shares paid to Plaintiff and Participating Class Members and/or Aggrieved Employees shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiff or the Participating Class Members or Aggrieved Employees. The Parties agree that any Class Representative Enhancement Payment and/or Individual Settlement Share paid to Plaintiff or the Participating Class Members and/or Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiff's or Participating Class Members' and/or Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Class Representative Enhancement Payment shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

C. **Integrated Agreement**. After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

D. **Authorization to Enter Into Settlement Agreement**. Class Counsel and Defendant's Counsel 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 under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.

E. **Exhibits and Headings**. The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

F. **Interim Stay of Proceedings**. The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.

G. **Amendment or Modification of Agreement**. This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.

H. **Agreement Binding on Successors and Assigns**. This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.

I. **No Prior Assignment**. Plaintiff hereby represents, covenants, and warrants that he has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.

J. **Applicable Law**. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

K. **Fair, Adequate, and Reasonable Settlement**. The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

L. **No Tax or Legal Advice**. The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members and Aggrieved Employees will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members and Aggrieved Employees shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member or Aggrieved Employee, such Class Member assumes all responsibility for the payment of such taxes.

M. **Jurisdiction of the Court**. The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.

N. **Invalidity of Any Provision; Severability**. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

O. 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.

P. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 3/7/2025

LUIS RAMIREZ

Signed by:
Luis Ramirez
F38D6D833DAD4F8...

Dated: 3/24/2025

ARGUS PROFESSIONAL STORAGE MANAGEMENT, LLC

Korey L. Hanson

Name: Korey L. Hanson
Title: President & COO

Dated: 3/7/2025

MARA LAW FIRM, PC

DocuSigned by:
David Mara
4579A5166C10447...

David Mara, Esq.
Matthew Crawford, Esq.
Attorneys for Plaintiff, on behalf of himself, and the Settlement Class

Dated: 3/13/2025

JACKSON LEWIS P.C.

Shannon Nakabayashi

Shannon B. Nakabayashi, Esq.
Dahn A. Levine, Esq.
Attorneys for Defendant

Exhibit A

CALIFORNIA SUPERIOR COURT, COUNTY OF SACRAMENTO
Luis Ramirez, on behalf of himself, all others similarly situated, and on behalf of the general public, Plaintiff, vs. Argus Professional Storage Management, LLC, Defendant
Case Nos. 24CV005325 and 24CV009992

NOTICE OF CLASS ACTION SETTLEMENT

A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don't act.

TO: All current and former hourly non-exempt employees who worked for Defendant in California from March 20, 2020, through March 15, 2025.

The Superior Court for the County of Sacramento has granted preliminary approval to a proposed settlement ("Settlement") of the above-captioned action ("the Lawsuit"). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement ("Notice") carefully.

The Court has certified the following class for settlement purposes ("Class" or "Class Members"):

> All current and former hourly non-exempt employees who worked for Defendant in California from March 20, 2020, through March 15, 2025.

The purpose of this Notice is to provide a brief description of the claims alleged in the Lawsuit, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice?

Argus Professional Storage Management, LLC's (hereinafter referred to as "Defendant") records indicate that you may be a Class Member. The settlement will resolve all Class Members' Released Claims, as described in Section No. 9 below, from March 20, 2020, through March 15, 2025 (the "Class Period").

A Preliminary Approval Hearing was held on INSERT, in the California Superior Court, County of Sacramento.

The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [final approval date] at [time], before Honorable Jill H. Talley in Department 23, located at 720 9th Street, Sacramento, CA 95814.

2. What Is This Case About?

Plaintiff Luis Ramirez filed a class action complaint on March 20, 2024, in Sacramento County Superior Court (Case No. 24CV005325). The Class Action alleges the following causes of action against Defendant: 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Rest Periods; 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; 6) Failure to Pay all Wages Due at the Time of Termination of Employment; (7) Failure to Reimburse/Illegal Deductions; and 8) Violation of Unfair Competition Law, on behalf of Plaintiff and those similarly situated.

Plaintiff submitted a Notice of Labor Code Violations to the LWDA on March 14, 2024. Thereafter, a PAGA representative action complaint against Defendant was filed by Plaintiff (as an agent of the LWDA) in the Superior Court of California, County of Sacramento on May 21, 2024 (Case No. 24CV009992). The PAGA Action sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: 1) Failure to Pay All Straight, Regular Rate Wages for All Work Performed; 2) Failure to Pay All Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Provide Rest Periods; 5) Failure to Pay Wages Due at Termination and During Employment; 6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements; 7) Failure to Employees Two Times Per Month; and 8) Failure to Reimburse Business Expenses Incurred in Discharging Duties.

On or around January 10, 2025, the Court ordered the Class Action and PAGA Action consolidated. The Court designated the Class Action, Case No. 24CV005325, as the lead case.

The Court has not made any determination as to whether the claims advanced by the Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendant; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that they violated the law and further deny any liability whatsoever to Plaintiff or to the Class. Defendant maintains that at all times its policies and practices were compliant with California law.

3. Am I A Class Member? Am I An Aggrieved Employee?

You are a Class Member if you worked for Defendant in the State of California as an hourly non-exempt employee at any time from March 20, 2020, through March 15, 2025.

If you worked for Defendant in the State of California as a Class Member from March 17, 2023, through March 15, 2025, you are also an Aggrieved Employee under the settlement.

4. How Does This Class Action Settlement Work?

Plaintiff Luis Ramirez brings this action on behalf of himself and all other similarly situated employees who were employed by Defendant as hourly non-exempt employees in California at any time during the Class Period. Plaintiff and these other current and former employees comprise a "Class." The settlement of this Lawsuit resolves the Released Class Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

The Court must review the terms of the settlement and determine if it is fair and reasonable to the Class. The Court file has the settlement documents, which explain the settlement in greater detail. The pleadings and other records in this litigation may be examined online on the Sacramento County Superior Court's website, the "Public Case Access System," at https://services.saccourt.ca.gov/PublicCaseAccess/Civil

To access these records, you will need to create an account. Click the "Click here to get started…" button in the middle of the screen. On the next page, click the "I'm ready to Create My New Account" in the middle of the screen. Select the "Public User" option, enter your information, check the box at the bottom of the page marked "I agree with these terms," and then click the "Create new account" button.

Once you have created your account and have logged in, click the "Search" tab at the top of the page, then select the "Case Number Search" link. Enter the case number, 24CV005325, select "Unlimited Civil" in the "Case Type" search field, and click the "Search" button. You may also contact Plaintiff's counsel, whose contact information is below, and they will provide you with a copy free of charge.

5. Who Are the Attorneys Representing the Parties?

Attorneys for Plaintiff and the Class	Attorneys for Defendant
MARA LAW FIRM, PC David Mara Matthew Crawford 2650 Camino Del Rio North, Suite 302 San Diego, California 92108 Telephone: (619) 234-2833 Facsimile: (619) 234-4048	**JACKSON LEWIS P.C.** Shannon B. Nakabayashi Dahn A. Levine 50 California Street, 9th Floor San Francisco, California 94111 Telephone: (415) 394-9400 Facsimile: (415) 394-9401

The Court has decided that Mara Law Firm, PC is qualified to represent you and all other Class Members together.

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. What Are My Options?

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

***Important Note*: Defendant will not retaliate against you in any way for either participating or not participating in this Settlement.**

- **Do Nothing:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **Opt Out:** If you do not want to participate as a Class Member, you may "opt out," which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendant and the Released Parties for the Released Class Claims..
- **Object:** You may file a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment and will be deemed to have released the PAGA Claims regardless of whether you opt-out of the settlement.

7. How Do I Opt Out Or Exclude Myself From This Settlement?

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state your name, address, telephone number, and social security number or employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [address]; (d) be signed by you or your lawful representative; and (e) be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not request exclusion from the Settlement, the Judgment will bind you to the terms of the Settlement. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.

8. How Do I Object To The Settlement?

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than [the Response Deadline]. The objection must state: (a) your full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) you intend to offer at the Final Approval hearing. The objection will not be valid if it objects only to the appropriateness of the actions or their merits.

Class Members may appear at the Final Approval Hearing, either in person or through the objector's own counsel, regardless of whether they submitted a written objection. You can appear remotely via Department 23's zoom link or phone number below:

- To join by Zoom link: https://saccourt-ca-gov.zoomgov.com/my/sscdept23

- To join by phone: (833) 568-8864 / ID: 16108301121

If the Court rejects the objection, he/she will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

9. How Does This Settlement Affect My Rights? What are the Released Claims?

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court's Final Judgment and will release Defendant and the Released Parties[1] from the Released Class Claims. The Released Class Claims are:

> All claims alleged or that reasonably could have been alleged based on a reasonable interpretation of the facts alleged in the Class Action. All Released Class Claims are limited to the Class Period.

If you are an Aggrieved Employee, you will be bound by the Final Judgment as to the Released PAGA Claims, even if you opt-out of the settlement. The Released PAGA Claims include any and all claims for civil penalties that could have been asserted by the Labor Commissioner against Defendant under the PAGA during the PAGA Period, Cal. Lab. Code § 2698, *et seq*. to the extent such claims are predicated on claims alleged or reasonably could have been alleged based on a reasonable interpretation of the facts in the PAGA Action and Plaintiff's notice to the LWDA. All Released PAGA Claims are limited to the PAGA Period.

10. How Much Can I Expect to Receive From This Settlement?

The total maximum amount that Defendant could be required to pay under this Agreement shall be up to but no more than $273,500 ("Gross Settlement Amount" or "GSA").

A. Deductions from the Settlement

The "Net Settlement Amount" or "NSA" means the portion of the GSA, available for distribution to Class Members after the deduction of (1) the Class Representative Enhancement Payment to the named Plaintiff in an amount up to $7,500, for prosecution of the Lawsuit, risks undertaken for the payment of attorneys' fees and costs, and a general release of all claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed $6,500; (3) a payment of $30,000 allocated to the PAGA claims; and (4) payment to Class Counsel in an amount not to exceed $91,166.66 (33 1/3% of the GSA) for attorneys' fees and an amount not to exceed $15,000 for litigation costs. All of these payments are subject to court approval.

B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount will be proportionately distributed amongst all Class Members who have not opted out. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant in California, based on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this

[1] "Released Parties" means Defendant and its past, present and/or future, direct and/or indirect, officers, directors, employees, representatives, administrators, attorneys, agents, parent companies, subsidiaries and affiliated corporations and entities, consultants, members, shareholders, joint ventures, predecessors, successors, and/or assigns.

calculation. Therefore, the value of each Class Member's Individual Class Settlement Share ties directly to the amount of weeks that he or she worked.

C. How Aggrieved Employees' Settlement Payments are Calculated

If you are an Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of $22,500 (75% of the $30,000 total PAGA Payment). The remaining $7,500 is the "Net PAGA Settlement Amount" or "NPSA" and will be proportionately distributed amongst all Aggrieved Employees. Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of pay periods he or she worked for Defendant in California, based on the Class Data provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees based on the same Class Data, which is then multiplied by the Net PAGA Settlement Amount. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Eligible Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of pay periods that he or she worked.

D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: $______________, less taxes. This is based on the Class Data which shows you worked ___ workweeks during the Class Period. The maximum number of workweeks any Class Member may have is ___.

If you are also an Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: $______________. This is based on the PAGA Data which shows you worked ___ pay periods during the PAGA Period. The maximum number of pay periods any Aggrieved Employee may have is ___.

E. Tax Treatment of Your Settlement Payments

Each Class Member's Individual Class Settlement Share will be apportioned as follows: 20% wages, 40% penalties, and 40% interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Only the employee share of payroll tax withholdings shall be from each Class Member's Individual Class Settlement Share. The employer share of payroll tax withholdings shall be paid separate from and in addition to the Gross Settlement Amount.

If you are an Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

Nothing in this Notice is intended to constitute legal advice relating to the tax liability of any Class Member or Aggrieved Employee. To the extent that this Notice is interpreted to contain or constitute advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties.

F. <u>What Happens If You Don't Cash Your Check?</u>

It is strongly recommended that upon receipt of your check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period, the Settlement Administrator will pay over the amount represented by the check to California State Controller – Unclaimed Property Division in the name of the Class Member.

11. How Will the Attorneys for the Class and the Class Representative Be Paid?

The attorneys for Plaintiff and the Class will be paid from the GSA. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed 33 1/3% of the GSA ($91,166.66) for attorney fees and $15,000 for litigation costs. Defendant has paid all of their own attorneys' fees and costs.

Plaintiff will also be paid, subject to Court approval, an amount not to exceed $7,500, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a general release of all claims.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting [administrator website], a website maintained by the Settlement Administrator. Please refer to the Meadows at Country Place Class Action Settlement.

This Notice does not contain all of the terms of the proposed settlement or all of the details of these proceedings. For more detailed information, you may obtain the underlying documents and papers on file with the Court online on the Sacramento County Superior Court's website, the "Public Case Access System," at https://services.saccourt.ca.gov/PublicCaseAccess/Civil

To access these records, you will need to create an account. Click the "Click here to get started…" button in the middle of the screen. On the next page, click the "I'm ready to Create My New Account" in the middle of the screen. Select the "Public User" option, enter your information, check the box at the bottom of the page marked "I agree with these terms," and then click the "Create new account" button.

Once you have created your account and have logged in, click the "Search" tab at the top of the page, then select the "Case Number Search" link. Enter the case number, 24CV005325, select "Unlimited Civil" in the "Case Type" search field, and click the "Search" button. You may also contact Plaintiff's counsel, whose contact information is below, and they will provide you with a copy free of charge.

<u>IMPORTANT</u>

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date will be printed on the check.
- If your check is lost or misplaced, please contact the Settlement Administrator to request a replacement.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

Exhibit 2

Luis Ramirez v. Argus Professional Storage Management, LLC
Superior Court of Sacramento Case No. 24CV005325

Costs Summary

Attorney Service:	$	41.18
Court Fees:	$	3,569.47
Mediation:	$	9,000.00
Legal & Factual Investigation	$	37.21
Postage:	$	21.27
TOTAL COSTS	**$**	**12,669.13**

*Plaintiff also anticipates incurring $190.00 in further costs not included in the above total: $85.00 for the filing of the Preliminary Approval Motion; $85.00 for the filing of the Final Approval Motion; and $20.00 for the filing of a post distribution report following the close of the check cashing period.

Exhibit 3

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March 14, 2024

Via Upload to the LWDA Website and U.S. Certified Mail

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION 2699.3

TO: California Labor and Workforce Development Agency; Argus Professional Storage Management, LLC

Luis Ramirez, on behalf of himself, others similarly situated, and the general public v. Argus Professional Storage Management, LLC

Factual Statement and Theories of Labor Code Violations

Luis Ramirez was employed by Argus Professional Storage Management, LLC ("Argus") as a non-exempt hourly employee based in Sacramento, California, with the job title of assistant manager. Mr. Ramirez's employment with Argus ended on or around January 30, 2024.

Mr. Ramirez gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for Argus' failure to comply with California's wage and hour requirements on behalf of himself and similarly aggrieved employees.

I. Argus Fails to Pay All Straight Time and Minimum Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

Argus has a continuous policy of not paying Mr. Ramirez and the aggrieved employees for all hours worked. Specifically, Argus has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Ramirez and the aggrieved employees are not paid for this time.

For example, Argus has a continuous policy or practice that instructs Mr. Ramirez and the aggrieved employees to show up several minutes prior to the start of their shifts. This is because the clock in process can take several minutes, and Argus expects Mr. Ramirez and the aggrieved employees to start their shifts on time. However, Argus fails to pay Mr. Ramirez and the aggrieved employees for this time. Further, Argus requires Mr. Ramirez and the aggrieved employees to review and fill out post hire paperwork prior to working the first shift of their employment with Argus but fails to compensate them for this time.

Furthermore, when Mr. Ramirez and the aggrieved employees are able to take meal periods, Mr. Ramirez and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. Specifically, Mr. Ramirez and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Argus, thereby denying them the right to be completely free from employer control under California law. Additionally, Mr. Ramirez and the aggrieved employees are regularly interrupted during their meal periods by calls and messages from Argus to which Mr. Ramirez and the aggrieved employees must respond.

Mr. Ramirez and the aggrieved employees are informed and believe and thereon allege that Argus breached the legal duty to pay full wages to Mr. Ramirez by failing to pay Mr. Ramirez and similarly aggrieved employees for time when Mr. Ramirez and the aggrieved employees were not relieved of all duties and/or employer control.

Argus committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. Ramirez and the aggrieved employees. Argus acted with malice or in conscious disregard of Mr. Ramirez's and the aggrieved employees' rights.

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 1194, 1194.2, 1197.1, and 1199.

II. <u>Argus Fails to Pay All Overtime Wages Owed</u>

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

California Labor Code section 510 dictates that any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than two (2) times the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than two (2) times the regular rate of pay of an employee.

Argus failed to pay overtime when Mr. Ramirez and the aggrieved employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week.

Mr. Ramirez and the aggrieved employees were deprived of wages for overtime hours worked because Argus failed to pay them overtime wages for all overtime hours worked. This resulted in Mr. Ramirez and the aggrieved employees not being paid all overtime wages owed to them.

Argus also failed to pay Mr. Ramirez and the aggrieved employees for all hours worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week, thus depriving Mr. Ramirez and the aggrieved employees of overtime wages.

Argus has a continuous policy of not paying Mr. Ramirez and the aggrieved employees for all hours worked. Specifically, Argus has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Ramirez and the aggrieved employees are not paid for this time, and when Mr. Ramirez and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate.

For example, Argus has a continuous policy or practice that instructs Mr. Ramirez and the aggrieved employees to show up several minutes prior to the start of their shifts. This is because the clock in process can take several minutes, and Argus expects Mr. Ramirez and the aggrieved employees to start their shifts on time. However, Argus fails to pay Mr. Ramirez and the aggrieved employees for this time. Further, Argus requires Mr. Ramirez and the aggrieved employees to review and fill out post hire paperwork prior to working the first shift of their employment with Argus but fails to compensate them for this time. By failing to pay for this time when Mr. Ramirez and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate.

Furthermore, when Mr. Ramirez and the aggrieved employees are able to take meal periods, Mr. Ramirez and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. Specifically, Mr. Ramirez and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Argus, thereby denying them the right to be completely free from employer control under California law. Additionally, Mr. Ramirez and the aggrieved employees are regularly interrupted during their meal periods by calls and messages from Argus to which Mr. Ramirez and the aggrieved employees must respond. When Mr. Ramirez and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate.

Mr. Ramirez and the aggrieved employees are informed and believe and thereon allege that Argus breached the legal duty to pay full wages to Mr. Ramirez by failing to pay Mr. Ramirez and similarly aggrieved employees for time when Mr. Ramirez and the aggrieved employees were not relieved of all duties and/or employer control. By failing to pay for this time when Mr. Ramirez and the aggrieved employees work over eight (8) hours in a shift and forty (40) hours in a week, these unpaid hours must be compensated at an overtime rate.

Mr. Ramirez and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

III. Argus Failed to Provide Lawful Meal Periods

Under *California Labor Code* section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

Argus breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Mr. Ramirez and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by Argus, thereby denying Mr. Ramirez and the aggrieved employees of the right to be completely free from employer control under California law.

When Mr. Ramirez and the aggrieved employees are able to take a meal period, Mr. Ramirez and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Mr. Ramirez and the aggrieved employees are regularly interrupted during their meal periods by calls and messages from Argus to which Mr. Ramirez and the aggrieved employees must respond.

Further, Argus instituted a consistent policy/practice of not providing second meal periods to Mr. Ramirez and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, when employees are required to work shifts greater than ten (10) hours long, they never receive second meal periods, let alone before the tenth hour of work.

In addition, Argus fails to keep accurate records of meal periods for Mr. Ramirez and the aggrieved employees.

By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, Argus willfully violated the provisions of *Labor Code* sections 226.7 and 512.

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Ramirez has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

IV. Argus Failed to Provide Lawful Rest Periods

Argus has had a consistent policy and/or practice of not providing duty free paid ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Mr. Ramirez and the aggrieved employees.

Industrial Welfare Commission Order No. 4-2001 section 11(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period….The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof."

Argus has a continuous policy and practice that fails to provide Mr. Ramirez and the aggrieved employees with rest periods "at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof." Specifically, Argus does not provide Mr. Ramirez and the aggrieved employees with rest periods consisting of ten (10) minutes net rest time, nor do they provide them with a rest period per four (4) hours worked or major fraction thereof. Instead, Argus unlawfully has Mr. Ramirez's and the aggrieved employees' take a longer meal period instead of providing compliant rest periods.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, Argus willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 4-2001 section 11(A).

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez, as a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Ramirez has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 4-2001 section 18 for violations of *California Labor Code* section 226.7 and Industrial Welfare Commission Order No. 4-2001 section 11(A).

V. <u>Argus Failed to Pay All Wages Due at Termination and During Employment</u>

Argus willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left Argus' employ or who were terminated.

The aggrieved employees who ended their employment with Argus during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, Argus intentionally and willfully failed to pay the aggrieved employees who are no longer employed by Argus their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Argus' employ.

Argus has a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving Argus' employ.

As outlined above, Argus has a continuous policy of not paying Mr. Ramirez and the aggrieved employees for all hours worked. Specifically, Argus has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Ramirez and the aggrieved employees are not paid for this time.

For example, Argus has a continuous policy or practice that instructs Mr. Ramirez and the aggrieved employees to show up several minutes prior to the start of their shifts. This is because the clock in process can take several minutes, and Argus expects Mr. Ramirez and the aggrieved employees to start their shifts on time. However, Argus fails to pay Mr. Ramirez and the aggrieved employees for this time. Further, Argus requires Mr. Ramirez and the aggrieved employees to review and fill out post hire paperwork prior to working the first shift of their employment with Argus but fails to compensate them for this time.

Furthermore, when Mr. Ramirez and the aggrieved employees are able to take meal periods, Mr. Ramirez and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. Specifically, Mr. Ramirez and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Argus, thereby denying them the right to be completely free from employer control under California law. Additionally, Mr. Ramirez and the aggrieved employees are regularly interrupted during their meal periods by calls and messages from Argus to which Mr. Ramirez and the aggrieved employees must respond.

Mr. Ramirez and the aggrieved employees are informed and believe and thereon allege that Argus breached the legal duty to pay full wages to Mr. Ramirez by failing to pay Mr. Ramirez and similarly aggrieved employees for time when Mr. Ramirez and the aggrieved employees were not relieved of all duties and/or employer control.

In addition, through its failure to provide aggrieved employees with lawful meal and rest periods, Argus does not pay all meal and rest period premiums owed to Mr. Ramirez and the aggrieved employees at the time of termination.

Argus' failure to pay the aggrieved employees who are no longer employed by Argus their wages, that were earned and unpaid, at the time of termination or within seventy-two (72) hours of their leaving Argus' employ, is in violation of *California Labor Code* sections 201 and 202.

California Labor Code section 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until and action is commenced; but the wages shall not continue for more than thirty (30) days.

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

VI. Argus' Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions

Section 226(a) of the *California Labor Code* requires Argus to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Mr. Ramirez and the aggrieved employees.

California Labor Code section 226 subdivision (a) requires that Argus, at the time of each payment of wages, "furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee… (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer…(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...”

California Labor Code section 226, subdivision (a) also requires that “deductions made from payment of wages shall be recorded in ink or other indelible form, properly dates, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California” to itemize in wage statements and to accurately report the total hours worked and total wages earned.

In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” An employer complies with *California Labor Code* section 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

Argus has knowingly and intentionally failed to comply with *California Labor Code* section 226(a) by failing to include all of the information required by *California Labor Code* section 226(a)(1) through (9) on each and every wage statement provided to Mr. Ramirez and the other aggrieved employees.

Additionally, by virtue of its failure to pay for all time worked, Argus knowingly and intentionally did not correctly itemize the gross wages earned, total hours worked, net wages earned, and number of hours worked at each hourly rate on wage statements provided to Mr. Ramirez and the aggrieved employees as *California Labor Code* section 226, subsection (a), requires in every pay period during the period of the relevant statute of limitations.

As outlined above, Argus has a continuous policy of not paying Mr. Ramirez and the aggrieved employees for all hours worked. Specifically, Argus has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Ramirez and the aggrieved employees are not paid for this time.

For example, Argus has a continuous policy or practice that instructs Mr. Ramirez and the aggrieved employees to show up several minutes prior to the start of their shifts. This is because the clock in process can take several minutes, and Argus expects Mr. Ramirez and the aggrieved employees to start their shifts on time. However, Argus fails to pay Mr. Ramirez and the aggrieved employees for this time. Further, Argus requires Mr. Ramirez and the aggrieved employees to review and fill out post hire paperwork prior to working the first shift of their employment with Argus but fails to compensate them for this time.

Furthermore, when Mr. Ramirez and the aggrieved employees are able to take meal periods, Mr. Ramirez and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. Specifically, Mr. Ramirez and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Argus, thereby denying them the right to be completely free from employer control under California law. Additionally, Mr. Ramirez and the aggrieved employees are regularly interrupted during their meal periods by calls and messages from Argus to which Mr. Ramirez and the aggrieved employees must respond.

Mr. Ramirez and the aggrieved employees are informed and believe and thereon allege that Argus breached the legal duty to pay full wages to Mr. Ramirez by failing to pay Mr. Ramirez and similarly aggrieved employees for time when Mr. Ramirez and the aggrieved employees were not relieved of all duties and/or employer control.

In addition, Argus failed to pay all meal and rest period premiums owed to Mr. Ramirez and the aggrieved employees for Argus' failure to provide lawful meal and rest periods.

Argus also failed to itemize the amount of sick leave available for use on Mr. Ramirez's and the aggrieved employees' wage statements in violation of *California Labor Code* section 246(i).

Throughout the statutory period, as a result of the knowing and intentional failure by Argus to comply with itemized employee wage statement provisions, Mr. Ramirez and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Further, in addition to any penalties levied upon Argus for its failure to comply with *California Labor Code* section 226 subdivision (a)'s requirement to provide Mr. Ramirez and the aggrieved employees accurate, itemized wage statements, *California Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *California Labor Code* section 226 subdivision (a) requires Argus to maintain records that "accurately shows all of the information required by this subdivision." Argus has violated it statutory duty to maintain records for Mr. Ramirez and the aggrieved employees that contain all of the information under *California Labor Code* section 226(a)(1) through (9).

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez, as a non-exempt employee who Argus failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Ramirez has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226 and 226.3.

VII. Argus Failed to Reimburse Employees for Business Expenses

Section 2802(a) of the *California Labor Code* requires "[a]n employer [to] indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

Mr. Ramirez and the aggrieved employees incurred expenses necessary for the discharge of their duties without receiving reimbursement from Argus. Argus required employees to use to use their personal cell phones for business purposes, but failed to reimburse this expense. Mr. Ramirez and the aggrieved employees were required to use various applications on their personal cell phones to adequately perform their job duties, such as receiving authorization codes in order to clock in for the day and fielding calls from Argus throughout the workday.

Argus also requires Mr. Ramirez and the aggrieved employees to travel to make bank drops and drop off letters, but fails to provide adequate reimbursement for the costs and expenses Mr. Ramirez and the aggrieved employees incur for the use of these vehicles.

California Labor Code section 2802(a) entitles Mr. Ramirez and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez is an aggrieved employee with standing to bring an action under the PAGA. Furthermore, Mr. Ramirez satisfies all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802(a).

VIII. <u>Argus Failed to Pay Employees Twice Per Month</u>

Section 204(a) of the *California Labor Code* required Argus to pay Mr. Ramirez and the aggrieved employees twice during each calendar month.

California Labor Code section 204 subdivision (a) provides "[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following month."

During the relevant time period, by virtue of its failure to pay for all time worked, Argus intentionally and willfully failed to pay Mr. Ramirez and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month.

Argus has a continuous policy of not paying Mr. Ramirez and the aggrieved employees for all hours worked. Specifically, Argus has a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Mr. Ramirez and the aggrieved employees are not paid for this time.

For example, Argus has a continuous policy or practice that instructs Mr. Ramirez and the aggrieved employees to show up several minutes prior to the start of their shifts. This is because the clock in process can take several minutes, and Argus expects Mr. Ramirez and the aggrieved employees to start their shifts on time. However, Argus fails to pay Mr. Ramirez and the aggrieved employees for this time. Further, Argus requires Mr. Ramirez and the aggrieved employees to review and fill out post hire paperwork prior to working the first shift of their employment with Argus but fails to compensate them for this time.

Furthermore, when Mr. Ramirez and the aggrieved employees are able to take meal periods, Mr. Ramirez and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. Specifically, Mr. Ramirez and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Argus, thereby denying them the right to be completely free from employer control under California law. Additionally, Mr. Ramirez and the aggrieved employees are regularly interrupted during their meal periods by calls and messages from Argus to which Mr. Ramirez and the aggrieved employees must respond.

Mr. Ramirez and the aggrieved employees are informed and believe and thereon allege that Argus breached the legal duty to pay full wages to Mr. Ramirez by failing to pay Mr. Ramirez and similarly aggrieved employees for time when Mr. Ramirez and the aggrieved employees were not relieved of all duties and/or employer control.

In addition, Argus failed to pay all meal and rest period premiums owed to Mr. Ramirez and the aggrieved employees for Argus' failure to provide lawful meal and rest periods.

Argus' failure to pay Mr. Ramirez and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *California Labor Code* section 204.

During the relevant time period, Argus intentionally and willfully failed to pay Mr. Ramirez and the aggrieved employees their wages, that were earned and unpaid, within the timeframes as required by *California Labor Code* section 204.

These claims are for Mr. Ramirez and all similarly situated hourly, non-exempt employees who worked for Argus in California.

Mr. Ramirez, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of section 204.

IX. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. Ramirez will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,
MARA LAW FIRM, PC

David Mara, Esq.

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