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Attorneys for Plaintiffs

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

AARON ALVAREZ and MICHAEL ARMOUR,
individually, and on behalf of all others similarly
situated,

Plaintiffs,

v.

AMAROK LLC, a Delaware limited liability
company; and DOES 1 through 10, inclusive,

Defendants.

ELECTRONICALLY FILED
Superior Court of California
County of Sacramento

04/24/2025

By: A. Gray Deputy

Case No.: 24CV008395 (Lead Case)
Case No.: 24CV013383

Assigned for all purposes to:
Hon. Jill H. Talley
Dept. 23

**DECLARATION OF JOHN G. YSLAS IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: May 16, 2025
Time: 9:00 a.m.
Dept.: 23

Reservation # A-08395-001

1 I, John G. Yslas, hereby declare as follows:

2 1. I am an attorney at law licensed to practice before all of the courts of the State of
3 California. I am a senior partner at Wilshire Law Firm, PLC (“WLF”), counsel for Plaintiffs Aaron
4 Alvarez and Michael Armour (“Plaintiffs”) in this matter. I am thoroughly familiar with and have
5 personal knowledge of all of the facts set forth herein.

6 2. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval
7 of Class Action and PAGA Settlement.

8 **Procedural History**

9 3. On April 30, 2024, Plaintiffs filed this action as a putative class action against
10 Defendant alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime
11 wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5)
12 failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage
13 statements; (7) failure to indemnify employees for expenditures; (8) failure to produce requested
14 employment records; and (9) unfair business practices.

15 4. On the same date, April 30, 2024, Plaintiffs provided written notice to the LWDA
16 and Defendant of their intention to file a PAGA claim. A true and correct copy of the notice to the
17 LWDA is attached hereto as **Exhibit 3**. The LWDA did not notify Plaintiffs that it intended to
18 investigate within 65 days of this written notice. Therefore, on July 5, 2024, Plaintiffs filed a PAGA
19 Action Complaint seeking civil penalties pursuant to Labor Code § 2699, *et seq.*

20 5. The Parties subsequently participated in a private mediation with mediator Hon.
21 William McCurine, Jr. (Ret.), on November 25, 2024. The Parties did not reach an agreement to
22 settle that day. However, following mediation, the Parties continued to negotiate in good faith and
23 with the help of Judge McCurine were able to reach an agreement on general settlement terms. The
24 negotiations were adversarial, conducted at arm’s length, and tempered by the efforts of both sides
25 to serve the interests of their clients.

26 6. The parties negotiated the terms of the Settlement over the next several months,
27 which was finalized on April 18, 2025. A true and correct copy of the fully executed Settlement
28

Agreement is attached hereto as **Exhibit 1**. Attached thereto as **Exhibit A** is a true and correct copy of the Parties' proposed Class Notice.

7. The parties have agreed to settle the claims alleged in this case for a Gross Settlement Amount of \$100,000.00. Subject to Court approval, the following payments will be deducted from the Gross Settlement Amount: (1) a class representative service payment of up to \$5,000.00 to each Plaintiff; (2) attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount (currently \$33,333.33) and reimbursement of actual litigation costs to Plaintiffs' Counsel currently estimated not to exceed \$15,000.00; (3) costs of settlement administration of up to \$3,500.00 to APEX; and (4) PAGA penalties in the amount of \$10,000.00, which will be allocated 75% to the LWDA (\$7,500.00) and 25% to Aggrieved Employees (\$2,500.00). After all requested deductions are made, the remaining Net Settlement Amount is currently estimated to be \$28,166.67, or an average of \$722.20 per Class Member.

8. On April 24, 2025, Plaintiffs submitted a copy of the Settlement Agreement to the LWDA. A true and correct copy of the confirmation of submission my office received after submitting the Settlement Agreement to the LWDA is attached hereto as **Exhibit 2**.

Investigation and Exposure Analysis

9. Prior to attending mediation, Plaintiffs' Counsel thoroughly investigated the claims, applicable laws, and potential defenses. Plaintiffs' Counsel assessed the value to the class claims using the documents and data Defendant produced in informal discovery, including class data providing the number of Class Members, the number of workweeks in the Class Period, and the number of pay periods in the PAGA Period, Plaintiffs' personnel files, employment handbooks and policies, job descriptions, and a random sampling of time and payroll records. Plaintiffs' Counsel engaged an expert to quantify the potential exposure using the time and payroll records, and then assessed the risks associated with each claim meriting reductions in the likely success at class certification and likely recovery at trial.

10. The Class is also readily ascertainable from Defendant's business records, because all Class Members are or were employees of Defendant. Defendant's records show that there are approximately 39 Class Members, making joinder of all Class Members impracticable. Further,

1 given the size and amount of each Class Members' claim, Class Members have little incentive to
2 litigate their claims on an individual basis because the out-of-pocket expenses and personal
3 commitment necessary to litigate each claim likely outweighs any potential recovery.

4 11. Plaintiffs have alleged that Defendant maintained common employment policies
5 and/or practices that unlawfully deprived Class Members of wages, meal period, rest periods,
6 reimbursements for business expenses, accurate wage statements, and timely payment of wages
7 upon separation of employment. These allegations present common factual and legal questions of,
8 *inter alia*, whether Defendant applied the same scheduling, timekeeping, pay, meal period, rest
9 period, and reimbursement policies to all Class Members, whether these policies and practices
10 resulted in Labor Code violations, whether Defendant's conduct was intentional, and whether Class
11 Members are entitled to damages and/or penalties. These common questions could be resolved
12 using Class Members' time records, payroll records, testimony from Defendant's designated
13 representative(s), and Class Members' testimony.

14 12. Although the exposure Plaintiffs' Counsel calculated is substantial, the various risks
15 at succeeding at class certification and through trial affected the valuation of the claims for
16 settlement purposes.

17 13. Minimum and Overtime Wages: Plaintiffs' unpaid minimum and overtime wage
18 claims were based on the allegation that Defendant failed to pay Class Members for all hours
19 worked by requiring them to perform work duties while off-the-clock. For purposes of calculating
20 Defendant's liability based on a best-case scenario for Plaintiffs and the Class, we estimate that
21 Defendant's maximum potential exposure by assuming that all unpaid work time should have been
22 paid at the overtime rate, not minimum or straight time wages, and we assumed that Defendant is
23 liable for one (1) hour of unpaid worktime per workweek. This results in an estimate of
24 \$143,346.63 (3,122 Workweeks x \$30.61 hourly rate x 1.5 overtime rate x 1 hour of unpaid work
25 per week). Since liability depends on whether Defendant knew or should have known that class
26 members were working off-the-clock, we applied a risk discount based on a 50% chance of
27 succeeding at class certification and a 40% chance of succeeding at trial to reach a settlement value
28 of approximately \$28,669.33 (\$143,346.63 x 50% x 40%).

1 14. Meal Periods: With respect to the meal period claim, Plaintiffs allege that Defendant
2 required them and similarly situated class members to either work in lieu of taking meal periods,
3 or their meal periods were untimely or interrupted. Based on our investigation, we assumed that
4 100% of all shifts over 5 hours had a meal period violation. Potential liability for the meal period
5 claims is \$464,353.70 (15,170 shifts x \$30.61 hourly rate x 100% violation rate). However, we
6 discounted this figure based on a 30% chance of succeeding at class certification and a 20% chance
7 of succeeding at trial, as well as Defendant's contention that the claim lacks merit and a 100%
8 violation rate is unrealistic, resulting in a risk discount to reach a settlement value of approximately
9 \$27,861.22 (\$464,353.70 x 30% x 20%).

10 15. Rest Breaks: Plaintiffs' rest period claim was based on the allegation that Defendant
11 maintained a policy that required class members to work in lieu of taking rest periods, or their rest
12 periods were untimely or interrupted. Plaintiffs' Counsel applied a 100% violation rate to all shifts
13 over 3.5 hours and calculated a potential exposure of \$464,353.70 (15,170 shifts x \$30.61 hourly
14 rate x 100% violation rate) for this claim. However, we discounted this figure to account for the
15 difficulty of certifying and proving rest period claims, particularly because rest periods do not have
16 to be recorded, and to account for the possibility of Class Members voluntarily choosing to forego
17 a rest period. Because this claim would have relied exclusively on Class Member testimony,
18 Plaintiffs' Counsel discounted this claim based on a 30% chance of succeeding at class certification
19 and a 20% chance of succeeding at trial, yielding a realistic damage estimate of \$27,861.22
20 (\$464,353.70 x 30% x 20%).

21 16. Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that
22 Defendant required Class Members to use their personal cellular phones for work related purposes
23 and required to provide their own tools. Assuming a very conservative \$10/per month per employee
24 for unpaid reimbursements, this results in a damage estimate of \$31,220.00 (\$10/workweek x 3,122
25 Workweeks). However, after discounting this figure based on an evaluation of a 50% chance of
26 succeeding at class certification and a 40% chance of succeeding at trial to account for the difficulty
27 of certifying and proving unpaid reimbursements and necessary business expenses, yields a
28 realistic damage estimate of \$6,244.00 (\$31,220.00 x 50% x 40%).

1 17. In sum, we estimated that Plaintiffs' maximum recovery for the off-the-clock claim,
2 meal period violations, rest period violations, and failure to reimburse business expenses is
3 \$1,103,274.03 (\$143,346.63 in unpaid overtime + \$464,353.70 for meal period violations +
4 \$464,353.70 for rest break violations + \$31,220.00 for unpaid reimbursements), but after factoring
5 in the risk and uncertainty of prevailing at certification and trial, we estimate that Plaintiffs'
6 realistic estimated recovery for the non-penalty claims is \$90,635.77 (\$28,669.33 in unpaid
7 overtime + \$27,861.22 for meal period violations + \$27,861.22 for rest break violations +
8 \$6,244.00 for unpaid reimbursements).

9 18. Derivative Penalties: Plaintiffs alleged that as a result of Defendant's alleged failure
10 to pay all wages and meal and rest period premiums owed, Defendant owed waiting time penalties
11 and wage statement penalties. However, Defendant argued that it had good faith defenses that made
12 the imposition of these penalties unwarranted. Moreover, Plaintiffs could not recover these
13 penalties if they failed to prove the underlying claims. Plaintiffs' Counsel calculated that potential
14 exposure for the waiting time penalty claim was approximately \$73,464.00 (assuming 30 days per
15 employee at 8.0 hours per day, based on the average hours per shift), and approximately \$68,050.00
16 for the wage statement penalty claim (based on \$50 for the first violations and \$100 for subsequent
17 violations, with a \$4,000 employee maximum). However, considering that the underlying claims
18 are realistically estimated to be \$90,635.77, such a disproportionate award would also raise due
19 process concerns. As such, Plaintiffs discounted the figure to account for the risk and uncertainty
20 of prevailing at trial, resulting in a realistic evaluation of \$4,407.84 ($\$73,464.00 \times 30\% \times 20\%$) for
21 waiting time penalty claims and \$4,083.00 ($\$68,050.00 \times 30\% \times 20\%$) for wage statement penalty
22 claims.

23 19. PAGA: For the PAGA claim, Plaintiffs' Counsel determined that Defendant's
24 potential exposure could potentially reach \$61,600.00, assuming the initial \$100 penalty would
25 apply for each of the 616 pay periods in the PAGA Period. However, even assuming success on
26 the merits of each claim, PAGA gives the Court discretion to reduce penalties for a variety of
27 reasons, including whether the amount of the award would be unjust, arbitrary and oppressive, or
28 confiscatory. As such, Plaintiffs could not place a high value on the PAGA Penalties and therefore

1 allocated \$10,000.00 of the Gross Settlement Amount to settle the PAGA claims, which amounts
2 to approximately \$16.23 per pay period (\$10,000.00 / 616 pay periods).

3 20. Using these estimated figures, Plaintiffs predicted that the realistic maximum
4 recovery for all claims, including penalties, would be **\$109,126.61** (\$90,635.77 in damages for
5 violations + \$18,490.84 (inclusive of wage statement penalties, waiting time penalties, and PAGA
6 penalties) in statutory and civil penalties). This means that the **\$100,000.00** settlement figure
7 represents **91.6%** of the realistic maximum recovery (\$100,000.00 / \$109,126.61). Considering the
8 risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the
9 Class¹. Indeed, because of the proposed Settlement, Class Members will receive timely, guaranteed
10 relief and will avoid the risk of an unfavorable judgment.

11 **Plaintiffs' Counsel's Qualifications**

12 21. Plaintiffs are represented by WLF. The attorneys at WLF performed significant
13 work and expended litigation costs in prosecuting this matter with no guarantee of payment.

14 22. WLF was selected by Best Lawyers and U.S. News & World Report as one of the
15 nation's Best Law Firms since 2020 and is comprised of more than 100 attorneys and over 600
16 employees. WLF is actively and continuously practicing in employment litigation, representing
17 employees in both individual and class actions in both state and federal courts throughout
18 California.

19 23. WLF is qualified to handle this Litigation because its attorneys are experienced in
20 litigating Labor Code violations in both individual, class action, and representative action cases.
21 WLF has handled, and is currently handling, numerous wage and hour class action lawsuits, as
22 well as class actions involving consumer rights and data privacy litigation.
23

24
25 ¹ See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.*, No. 1:17-cv-00853-DAD-EPG
26 (E.D. Cal. Aug. 21, 2019) 2019 WL 3943859 at *8 (granting preliminary approval where the
27 proposed allocation to settle class claims was between 9.53 percent of Plaintiffs' maximum
28 recovery); *Bravo v. Gale Triangle, Inc.*, CV 16-03347 BRO (C.D. Cal. Feb 16, 2017) 2017 WL
708766 at * 10 (finding that "a settlement for fourteen percent recovery of Plaintiffs' maximum
recovery is reasonable"); *In re Omnivision Techs., Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036,
1042 (approving settlement amount that "is just over 9% of the maximum potential recovery
asserted by either party.").

1 24. I graduated from the University of California, Santa Barbara with High Honors in
2 1991 with Bachelor of Arts degrees in Psychology. I received my Juris Doctor from UCLA Law
3 School in 1996.

4 25. Upon graduating from law school in 1996, I worked for a boutique law firm
5 practicing general litigation which included employment law matters. Since 2000 (that is, the last
6 23 years) my practice has been exclusively focused on labor and employment matters including
7 handling wage and hour class, collective and representative actions (including the California
8 Private Attorneys General Act, or “PAGA”), including in the international law firms of Morgan,
9 Lewis & Bockius LLP (where I was a senior associate), Foley & Lardner LLP (where I was a
10 partner and a national Vice Chair of the Labor and Employment Group), Norton Rose Fulbright
11 LLP (where I was a partner) and Seyfarth Shaw (where I was a partner and member of the Wage
12 and Hour Practice Group). During my time at these law firms, I was the primary attorney or took
13 a major leading role in defending employers on numerous wage and hour class, collective and
14 representative actions.

15 26. In late June 2022 I left Seyfarth Shaw and joined my current firm, The Wilshire
16 Law Firm, PLC, to represent plaintiff employees. I have been and am handling many wage and
17 hour class and representative actions litigating such matters on behalf of plaintiff employees in
18 numerous Superior Courts and District Courts. From matters representing both plaintiffs and
19 defendants, I have successfully mediated the resolution of many wage and hour class, collective,
20 and representative actions. Just since starting to settle cases in late April 2023 I have already
21 successfully mediated matters in which I have been counsel or co-counsel resulting in **over \$100**
22 **million** in settlements which are in the process of being finalized, and with numerous upcoming
23 mediations scheduled. In those and numerous other matters, I have managed and assisted with the
24 litigation and settlement of many wage and hour PAGA and class actions. In those actions, I
25 performed similar tasks as those performed in the course of prosecuting this action.

26 27. I have received numerous awards for my legal work. For example, from 2015 to
27 2018, I was listed in Los Angeles Super Lawyers for Employment Litigation (Thomson Reuters).
28 have also served on numerous prominent boards and in other leadership positions, including

1 currently serving as Southern California Regional President for the Hispanic National Bar
2 Association and on the board of directors of the Mexican American Bar Foundation. I also
3 previously served on the 5-member Los Angeles Civil Service Commission, which generally
4 oversees the personnel decisions for the City of Angeles.

5 28. I have also published numerous blogs on labor and employment issues including on
6 wage and hour issues. For example, I published “Headline News: Wal-Mart v. Dukes-Impact on
7 Class Action Litigation” (while a partner with Foley & Lardner LLP) and “Are You Really
8 Protected From Wage-and-Hour Successor Liability in an Asset Purchase” (while a partner with
9 Seyfarth Shaw LLP). I have also been a presenter at numerous conferences, including being a
10 presenter involving the “Employment Law Update” at a National Employment Law Council
11 conference.

12 29. Samantha A. Smith is a Senior Attorney at WLF where her practice is focused on
13 managing wage and hour class action and PAGA settlements. Ms. Smith was admitted to the
14 California Bar in December of 2004, and received a J.D. from University of California, Hastings
15 College of the Law and a B.A. from University of California, Davis. Ms. Smith has dedicated
16 her 20-year career to plaintiffs’-side class action litigation. Her wealth of experience includes
17 successful work on all stages of class action litigation, including class action appeals, class
18 certification motions, and class settlements. See, e.g., Blue Diamond Growers Product Labeling
19 Cases, JCCP No. 4822 (Los Angeles County Superior Court) (false advertising of Blue Diamond
20 food products); Adam vs. eHealth, Inc., Case No. 17CV309050 (Santa Clara Superior Court)
21 (employee data breach); Overton v. Armour-Eckrich Meats, LLC, Case No. CIVDS1501325
22 (San Bernardino County Superior Court) (unpaid wages, meal period and rest break claims, and
23 PAGA violations for nonexempt employees); DeLeon et al. v. Westlake Services, LLC, Case
24 No. BC 526750 (Los Angeles County Superior Court) (unpaid overtime, meal period and rest
25 break claims for call center employees); Sawyer v. Retail Data, LLC, Case No. 30-2014-
26 00753767-CU-OE-CXC (Orange County Superior Court) (unpaid wage and rest break claims
27 for piece rate workers); Nguyen v. Pharmerica Corporation et al., Case No. 30-2014-00716072-
28 CU-OE-CXC (Orange County Superior Court) (unpaid wages and unreimbursed expenses for

1 pharmacists); Laumea v. Performance Food Group, Inc., Case No. CIVDS1407509 (San
2 Bernardino Superior Court) (unpaid wages, meal and rest break claims for non-exempt
3 employees); Durroh v. East West Bank, Case No. BC528860 (Los Angeles Superior Court)
4 (overtime claims for failure to include bonuses in regular rate of pay for bank workers);
5 Gonzalez et al. v. SFFI Company, Inc. et al., Case No. CIVDS1504287 (San Bernardino
6 Superior Court) (unpaid wages, meal period and rest break claims for non-exempt employees).

7 30. Eugene Zinovyev is a Junior Partner at WLF. He graduated from the University of
8 California-Berkeley with a Bachelor of Arts in Political Economy of Industrial Societies, and
9 received his Juris Doctor from the University of California, San Francisco School of Law in 2009.
10 He has practiced employment and wage and hour law since on both the plaintiff and defense sides.
11 Mr. Zinovyev has tried multiple jury cases to verdict as well as numerous bench trials. He has also
12 briefed published appellate court decisions in both state and federal court. Mr. Zinovyev is
13 admitted to practice before all Federal District Courts in California as well as the 9th Circuit Court
14 of Appeals. He is also a member of the California Employment Lawyers Association. He has
15 mediated and settled dozens of class and representative actions as well as individual civil matters.

16 31. John Brown is an Associate Attorney at Wilshire Law firm, PLC. He was admitted
17 to practice law in the State of California in 2004. John graduated from UC Berkeley with a Bachelor
18 of Arts and received his Juris Doctor from The UCLA School of Law. His current practice has
19 been focused on class action employment law. He has participated in dozens of settlements totaling
20 tens of millions of dollars, from the memorandum of understanding and settlement agreement
21 drafting stage through to final approvals from the court.

22 32. Lisa B. Iturriaga is a fourth-year Associate Attorney at Wilshire Law Firm, PLC.
23 She was admitted to practice law in the State of California in November 2021. Lisa graduated from
24 University of South Florida with a Bachelor of Science in Finance and a Bachelor of Arts in
25 Marketing. She received her Juris Doctor from Chapman University Dale E. Fowler School of
26 Law. Since graduating, her practice has been in insurance defense (previously) and employment
27 law (currently). Since 2023, she has exclusively worked on Plaintiff-side wage and hour cases.

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

Executed on April 24, 2025 at Los Angeles, California.

John G. Yslas

EXHIBIT 1

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Attorneys for Plaintiffs
AARON ALVAREZ and MICHAEL ARMOUR,
individually, on behalf of all others similarly situated

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Attorneys for Defendant
AMAROK LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

AARON ALVAREZ and MICHAEL
ARMOUR, individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

AMAROK LLC, a Delaware limited liability
company; and DOES 1 through 10, inclusive,

Defendants.

Case No. 24CV008395

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

1
2 This Class Action and PAGA Settlement Agreement is entered into between AMAROK LLC,
3 and Plaintiffs AARON ALVAREZ and MICHAEL ARMOUR, individually, and on behalf of all
4 other similarly situated and as representatives of the State of California.

5 **ARTICLE I**

6 **DEFINITIONS**

7 a. Action. “Action” collectively means the class action lawsuit entitled *Aaron Alvarez*
8 *and Michael Armour et al. v. Amarok LLC*, Case No. 24CV008395, County of Sacramento filed on
9 April 30, 2024 (“Class Action”), and the Private Attorneys General Act representative action entitled
10 *Aaron Alvarez and Michael Armour v. Amarok LLC*, Case No. 24CV013383, County of Sacramento,
11 filed on July 5, 2024 (“PAGA Action”). Final Approval of this Class and PAGA Settlement
12 Agreement will be sought in the Class Action but will resolve claims asserted in both actions.

13 b. Agreement. “Agreement” shall refer to the instant Class Action and PAGA
14 Settlement Agreement.

15 c. Attorneys’ Fees. “Attorneys’ Fees” refers to the amount to be awarded to Class
16 Counsel for the work it has performed in furtherance of the Action, which, pending Court approval,
17 shall not exceed 1/3 of the Gross Settlement Amount, which is currently \$33,333.33.

18 d. Attorneys’ Costs. “Attorneys’ Costs” refers to the amount to be reimbursed for Class
19 Counsel’s litigation costs and expenses, which, pending Court approval, shall not exceed Fifteen
20 Thousand Dollars (\$15,000.00).

21 e. Class Counsel. “Class Counsel” shall mean John G. Yslas, Samantha A. Smith,
22 Eugene Zinovyev and John Brown of Wilshire Law Firm.

23 f. Class Members and the Class. “Class” or “Class Members” (individually, “Class
24 Member”) are current and former non-exempt employees of Defendant employed in California
25 during the Class Period.

26 g. Class Notice. “Class Notice” means the Notice of Class Action and PAGA Settlement
27 mutually agreed upon by the Parties and approved by the Court to be sent to the Class Members and
28 PAGA Members following preliminary approval that includes the scope of release language for

Settled Claims and Settled PAGA Claims, notifies Class Members and PAGA Members of the Settlement, explains the Class Members' options, including how Class Members may opt out or object to the Settlement, and explains the facts and methods based on which the Class Members' and PAGA Members' estimated settlement payments are calculated, substantially in the form attached hereto as **Exhibit A**.

h. **Class List**. "Class List" means a data file based on Defendant's business records that identifies each Class Member's name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, dates of employment, and the number of Qualifying Workweeks and, if applicable, Qualifying PAGA Workweeks worked during the Class Period.

i. **Class Period**. "Class Period" means April 30, 2020, through the date of the Preliminary Approval Order.

j. **Class Settlement**. "Class Settlement" refers to the settlement and resolution of the Settled Class Claims.

k. **Complaint**. "Complaint" refers to the operative complaint in each respective Action.

l. **Court**. "Court" refers to the Superior Court of California, Sacramento County, or other court, that will approve the Agreement.

m. **Day**. "Day" or "days" refers to a calendar day(s) unless otherwise stated. If any designated date or deadline falls on a weekend or holiday, the designated date or deadline will occur on the next business day.

n. **Date of Finality**. "Date of Finality" means the first business day following the last of the following occurrences: (i) sixty (60) calendar days following the date the Court enters the Final Approval Order and Judgment; or (ii) if an appeal is taken from the Final Approval Order and Judgment, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*, resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible.

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1 o. Defendant. “Defendant” means Amarok LLC.

2 p. Defense Counsel. “Defense Counsel” shall mean Karin M. Cogbill and Veena Bhatia
3 of Jackson Lewis, and/or any successor(s) thereof.

4 q. Final Approval Order and Judgment. “Final Approval Order and Judgment” means
5 the order and judgment entered and filed by the Court, that: (1) ultimately approves this Agreement;
6 (2) awards and orders the payment of all required amounts pursuant to the terms of this Agreement,
7 and (3) enters judgment in the Class Action pursuant to California Rules of Court, 3.769, *et seq.*, and
8 dismissal of the PAGA Action. The Final Approval Order and Judgment will constitute a binding
9 and final resolution, have full *res judicata* effect, and discharge Defendant and Released Parties from
10 liability during the Class Period for any and all claims by Named Plaintiffs, all Settlement Class
11 Members as to all Settled Claims, and the State of California and PAGA Members as to all Settled
12 PAGA Claims as set forth in this Agreement.

13 r. Final Approval Hearing. “Final Approval Hearing” means the hearing at which the
14 Court shall consider the Motion for Final Approval and determine whether to fully and finally
15 approve the fairness and reasonableness of this Agreement, and enter the Final Approval Order and
16 Judgment.

17 s. Last Known Address. “Last Known Address” means the most recently recorded
18 mailing address for a Class Member and/or PAGA Member contained in Defendant’s payroll
19 records.

20 t. Gross Settlement Amount. “Gross Settlement Amount” means a total payment of
21 One Hundred Thousand Dollars and Zero Cents (\$100,000.00), payable by Defendant under this
22 Agreement. The Gross Settlement Amount includes all Attorneys’ Fees, Attorney’s Costs,
23 Settlement Administration Costs, Incentive Awards to the Named Plaintiffs, the PAGA Allocation,
24 and the Net Settlement Amount. With the exception of the employer share of payroll taxes on the
25 wage portion of any individual settlement payments, in no event shall Defendant be required to pay
26 any amounts above the Gross Settlement Amount to effectuate this Agreement. The Settlement
27 Administrator will withhold the employees’ and employer’s share of taxes on settlement payments,
28 as provided below, and Class Members and PAGA Members shall remain responsible for paying any

additional taxes due on any payments they are issued under the settlement. There will be no reversion of the Gross Settlement Amount to Defendant.

u. Incentive Award(s). “Incentive Awards” refers to an individual payment, approved by the Court, not to exceed Five Thousand Dollars (\$5,000.00) to each Aaron Alvarez and Michael Armour in addition to Plaintiffs’ Individual Settlement Payment. Plaintiff Armour shall be required to execute a general release and 1542 waiver.

v. LWDA. “LWDA” means The State of California Labor and Workforce Development Agency.

w. Motion for Final Approval. “Motion for Final Approval” means the Named Plaintiffs’ submission of a written motion, including any evidence as may be required for the Court to conduct an inquiry into the fairness of the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and to enter a Final Order in the Action.

x. Motion for Preliminary Approval. “Motion for Preliminary Approval” means the Named Plaintiffs’ submission of a written motion, including any evidence as may be required for the Court to grant preliminary approval of the Agreement as required by Rule 3.769 of the California Rules of Court.

y. Named Plaintiffs. “Named Plaintiffs” means Aaron Alvarez and Michael Armour.

z. Net Settlement Amount. “Net Settlement Amount” means the amount available for distribution to Settlement Class Members, which is the Gross Settlement Amount, less all Attorneys’ Fees, Attorneys’ Costs, Settlement Administration Costs, Incentive Award to the Named Plaintiffs, and the PAGA Allocation. Each Settlement Class Member will be entitled to a *pro rata* share of the Net Settlement Amount (referred to as “Individual Settlement Payment(s)”) based on the number of Workweeks credited to each Settlement Class Member during the Class Period. The wage portion of the Individual Settlement Payment shall be subject to standard deductions and withholdings.

aa. Objection. “Objection” means an objection to the Class Settlement that a Settlement Class Member submits in writing to the Settlement Administrator. Each “Objection” must (1) contain the full name, address, and telephone number of the Settlement Class Member objecting and the case name and number of the Class Action; (2) be signed by the Settlement Class Member; (3) be

1 postmarked or fax stamped on or before the Response Deadline (as defined below) and returned to
2 the Settlement Administrator at the specified address or fax number; and (4) give the legal and factual
3 basis for objection to the Class Settlement.

4 bb. Opt Out Request. “Opt Out Request” means a request by a Class Member to be
5 excluded from the Class Settlement. Each “Opt Out Request” must (1) contain the full name, address,
6 and telephone number of the Class Member requesting exclusion from the Class Settlement and the
7 case name and number of the Class Action; (2) be signed by the Class Member; (3) be postmarked
8 or fax stamped on or before the Response Deadline and returned to the Settlement Administrator at
9 the specified address or fax number; and (4) contain a statement similar to:

10 “I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS
11 CLAIMS IN THE ALVAREZ ET AL. V. AMAROK LLC CLASS
12 ACTION LAWSUIT, AND UNDERSTAND THAT IF I ASK TO BE
13 EXCLUDED, I WILL NOT RECEIVE AN INDIVIDUAL SETTLEMENT
14 PAYMENT. I UNDERSTAND THAT, NEVERTHELESS, SETTLED
15 PAGA CLAIMS WILL BE RELEASED AND SETTLED.”

16 cc. PAGA. “PAGA” means the California Private Attorneys General Act of 2004, which
17 is codified in California Labor Code §§ 2698 *et seq.*

18 dd. PAGA Allocation. “PAGA Allocation” refers to the amount of Ten Thousand Dollars
19 (\$10,000.00) which is allocated to the settlement of the Settled PAGA Claims, which will be
20 distributed 75% to the LWDA (“LWDA Payment”) and 25% to PAGA Members (“Net PAGA
21 Distribution Amount”), on a *pro rata* basis (“Individual PAGA Payment(s)” refer to PAGA
22 Members’ *pro rata* share of 25% of the PAGA Allocation).

23 ee. PAGA Members. “PAGA Members” or “Aggrieved Employees” means all current
24 and former non-exempt employees of Defendant employed in the State of California during the
25 PAGA Period.

26 ff. PAGA Period. “PAGA Period” means the period from April 30, 2023 through the
27 date of the Preliminary Approval Order.
28

1 gg. PAGA Settlement. “PAGA Settlement” refers to the settlement and resolution of the
2 Settled PAGA Claims.

3 hh. Parties. “Parties” shall mean Named Plaintiffs and Defendant. Pay Period. “Pay
4 Period” shall mean any two-week pay period in which a PAGA Member performed work for
5 Defendant at least one day. The Parties agree that, for purposes of determining a PAGA Member’s
6 Pay Periods under this Agreement, Pay Periods may be calculated as the number of days between a
7 Class Member’s hire date(s) (or the start of the applicable PAGA Period) and termination date(s) (or
8 the date of approval of the Settlement Agreement in the absence of a subsequent termination date)
9 based on a 360-day year (using Microsoft Excel’s DAYS360 or similar function which returns the
10 number of days between two dates) and dividing the result by 14 and then rounding that number up
11 to the nearest whole number.

12 ii. Preliminary Approval Order. “Preliminary Approval Order” is the order entered and
13 filed by the Court that preliminarily approves the terms and conditions of this Agreement, including
14 approval of the Parties’ Agreement that specifies the content of notice and manner in which notice
15 will be provided to the Class and responded to by the Class.

16 jj. Released Parties. “Released Parties” means Amarok LLC, and each of its current and
17 former shareholders, board members, directors, officers, employees, managers, independent
18 contractors, members, investors, insurers, parent companies, subsidiaries, affiliates, and counsel.

19 kk. Response Deadline. The “Response Deadline” means the day that is forty-five (45)
20 days after the date the Class Notice is mailed to Class Members via First-Class U.S. Mail and is the
21 deadline to submit an Opt Out Request (as defined herein), Objection (as defined herein), and/or
22 Workweeks Dispute (as defined below). Any Class Members that have their notices re-mailed shall
23 have an additional five (5) days to respond.

24 ll. Settlement. “Settlement” shall refer to the agreement of the Parties to settle the claims
25 as set forth and embodied in this Agreement.

26 mm. Settlement Administrator. “Settlement Administrator” shall mean Apex Class Action
27 Administration (“Apex”) a neutral third-party administrator as mutually chosen by the Parties and
28 approved by the Court.

nn. Settlement Administration Costs. “Settlement Administration Costs” refers to the amount to be paid to the Settlement Administrator for the costs of administering this Settlement, not to exceed Three Thousand Five Hundred Dollars (\$3,500).

oo. Settled Class Claims. “Settled Class Claims” means all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, whether known or unknown, that arise during the Class Period that each Settlement Class Member had, now has, or may hereafter claim to have against the Released Parties and that were asserted in the Complaint, or that could have been asserted in the Complaint based on any of the facts or allegations in the Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. The Settled Class Claims specifically include, but are not limited to claims for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods or premium pay in lieu thereof, failure to provide rest periods or premium pay in lieu thereof, failure to timely pay final wages at termination, failure to provide complete and accurate itemized wage statements, failure to reimburse business expenses, civil, unfair business practices, and including and not limited to, for violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802, and Industrial Welfare Commission Wage Orders.

pp. Settled PAGA Claims. “Settled PAGA Claims” means all claims for civil penalties pursuant to PAGA that were asserted, or could have been asserted, or that arise, whether known or unknown, during the PAGA Period, based for any of the alleged violations of the California Labor Code and/or Industrial Welfare Commission Wage Orders that were asserted, or could have been asserted, within the PAGA Complaint and Notice based on any facts or allegations therein, including, but not limited to, violations of California Labor Code §§ 98.6, 201, 201.3, 202, 203, 204, 210, 213(d), 216, 218.5, 218.6, 223, 225.5, 226, 226(a), 226(e), 226(f), 226(h), 226.3, 226.6, 226.7, 227.3, 232, 232.5, 233, 234, 245-248.5, 432, 432.5, 432.7, 510, 512, 558.1, 1102.5, 1024.5, 1174, 1174.5, 1174(d), 1194, 1194(a), 1194.2, 1197, 1197.1, 1197.5, 1198, 1199, 1198.5, 1527, 2699, 2699(f)-(g), 2699.3, 2699(a), 2802, 2802(a), 2802(b), 2810.5, 3366, 3457, 8397.4, 6401 and Industrial Welfare Commission Wage Orders.

qq. Settlement Class/Settlement Class Member(s). “Settlement Class” or “Settlement Class Member(s)” means all Class Members who have not submitted a timely and valid Opt Out Request.

rr. Settlement Proceeds Distribution Deadline. “Settlement Proceeds Distribution Deadline” means a date that is fourteen calendar (14) days after the Gross Settlement Amount has been deposited by Defendant.

ss. Updated Address. “Updated Address” means a mailing address that was updated by a reasonable address verification measure of the Settlement Administrator or by an updated mailing address provided by the United States Postal Service for a Class Member or PAGA Member.

tt. Workweek. “Workweek” shall mean any calendar week (*i.e.* a week beginning on Sunday and ending on Saturday) in which a Class Member performed work for Defendant at least one day. The Parties agree that, for purposes of determining a Class Member’s Workweeks under this Agreement, Workweeks may be calculated as the number of days between a Class Member’s hire date(s) (the start of the applicable Class Period) and termination date(s) (or the date of approval of the Settlement Agreement in the absence of a subsequent termination date) based on a 360-day year (using Microsoft Excel’s DAYS360 or similar function which returns the number of days between two dates) and dividing the result by 7 and then rounding that number up to the nearest whole number.

ARTICLE II

RECITALS

a. Plaintiffs Aaron Alvarez and Michael Armour’s Class Action Complaint for Damages was filed on April 30, 2024 in the Superior Court of California, County of Sacramento, commencing the Action. The Class Action Complaint alleged the following causes of action: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; (8) failure to produce requested employment records; and (9) unfair business practices.

b. On April 30, 2024, Named Plaintiffs provided the Labor and Workforce Development Agency notice of intent to pursue civil penalties against Defendant under the Private Attorneys General Act for alleged violations of the California Labor Code and applicable Industrial Welfare Commission Wage Orders (the “PAGA Notice”).

c. Plaintiffs Aaron Alvarez and Michael Armour’s PAGA Action Complaint was filed on July 5, 2024 in the Superior Court of California, County of Sacramento. The PAGA Action Complaint seeks civil penalties under California Labor Code § 2699, *et seq.*

d. Named Plaintiffs and Defendant attended mediation with Hon. William McCurine, Jr. on November 25, 2024, after which the Parties continued negotiations, and with the assistance of Judge McCurine reached this Agreement. The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties supervised by an experienced mediator. The Parties agree that the Agreement is entered into in good faith as to each Class Member and PAGA Member, and that the Settlement is fair, reasonable and adequate as to each Class Member and PAGA Member.

ARTICLE III

CONTINGENT NATURE OF THE AGREEMENT

Section 3.01: Stipulation of Class Certification for Settlement Purposes; Contingent on Court Approval

The Parties stipulate to the certification of the Class for purposes of this Settlement only. If, however, the Settlement does not become final for any reason, the Parties’ Agreement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, whether class certification would be appropriate in any other context in the Action, or any other action, or whether any PAGA claim is manageable in this Action, or any other action.

The Parties intend this Settlement to be contingent upon the Court’s granting preliminary and final approval of this Agreement; and in the event final approval of this Agreement is not obtained, the Parties do not waive, and instead expressly reserve, their respective rights to prosecute and defend the Action as if this Agreement never existed. In the event that final approval of this Agreement is denied by the Court, fails to become effective, or is reversed, withdrawn, or modified by the Court

or any other court with jurisdiction over the Action, the Agreement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, further proceedings in the Action.

ARTICLE IV

PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT

The procedure for obtaining Court approval of and implementing this Agreement shall be as follows:

Section 4.01: Motion for Preliminary Approval

Within thirty (30) calendar days of all Parties signing this Agreement, Named Plaintiffs shall secure a hearing date in the Class Action and take all other necessary steps to request that the Court enter the Preliminary Approval Order based on an agreed-upon Settlement schedule, subject to Court approval, including:

a. Class certification on the terms set forth in this Agreement solely for purposes of Settlement;

b. Preliminarily approving the proposed Settlement and this Agreement, including the payments to the Settlement Class Members, Class Counsel, Named Plaintiffs, PAGA Members, the Settlement Administrator, and the LWDA;

c. Preliminarily approving the appointment of Named Plaintiffs as representatives of the Class for settlement purposes;

d. Preliminarily approving the appointment of counsel for Named Plaintiffs as Class Counsel;

e. Appointing and approving the Settlement Administrator, to comply with the duties and obligations as required by this Agreement;

f. Approving the form of the Class Notice mutually agreed upon by the Parties;

g. Scheduling the Final Approval Hearing for consideration of whether to grant final approval of this Agreement;

h. Approving the procedure to submit an Opt-Out Request, Objection, or Workweeks Dispute;

Defendant shall not oppose Class Counsel's Motion for Preliminary Approval and/or Motion for Final Approval of the Settlement so long as the motions and supporting papers are consistent with the terms of this Agreement. Class Counsel shall provide Defendant with at least three (3) business days (in each case) to review and provide comments on the Motion for Preliminary Approval and Motion for Final approval of the Settlement before the motions and supporting papers are filed with the Court. Failure of the Court to grant preliminary approval will be grounds for the Parties to terminate the Settlement and the terms of the Agreement. A request by the Court for supplemental briefing, or a preliminary denial pending additional briefing, shall not be deemed a denial of preliminary approval or final approval. To the extent the Court requests further or supplemental briefing, the Parties will work in good faith to address the Court's concerns and questions.

Section 4.03: Notice to Class Members

a. Class and PAGA Member Data

Within twenty-one (21) calendar days after notice of entry of the Preliminary Approval Order, Defendant shall provide the Class List to the Settlement Administrator. The Settlement Administrator will keep the Class List confidential and shall not provide it to anyone, including Class Counsel, absent express written approval from Defendant, and shall use it only for the purposes described herein, take adequate safeguards to protect confidential or private information, and return or certify the destruction of the information upon completion of the Settlement Administration process.

b. Settlement Administrator's Initial Duties

i. *Address Information.* Prior to mailing the Class Notice, the Settlement Administrator will update the addresses for the Class Members and PAGA Members using skip trace and/or through a search of the National Change of Address database. To the extent this process yields a different address from the one supplied by Defendant, that Updated Address shall replace the address supplied by Defendant (i.e., Last Known Address) and be treated as the new Last Known Address for purposes of this Agreement and for subsequent mailings in particular.

ii. *Notice Process.* Within fourteen (14) calendar days following receipt of the Class List, the Settlement Administrator shall prepare and mail the approved Class Notice. The Settlement

1 Administrator shall deliver the Class Notice by First-Class U.S. Mail to each Class Member and
2 PAGA Member's Last Known Address or Updated Address (if applicable).

3 c. **Settlement Administrator Follow-Up Duties**

4 i. *Undeliverable Class Notice(s)*. If a Class Notice is returned by the Post Office as
5 undeliverable, but with a forwarding address, on or before the Response Deadline, then the
6 Settlement Administrator shall re-mail it by First-Class U.S. mail. If a Class Member personally
7 provides an updated address to the Settlement Administrator on or before the Response Deadline,
8 then, the Settlement Administrator shall re-mail said Class Member's Class Notice by First-Class
9 U.S. to the updated address provided by the Class Member. If a Class Notice is returned by the Post
10 Office as undeliverable, without a forwarding address, on or before the Response Deadline, then, the
11 Settlement Administrator shall conduct a skip trace and/or search of the National Change of Address
12 or other appropriate database and, if an alternate address that is likely to be more current is located,
13 proceed to re-mail the Class Notice by First-Class U.S. mail to the alternate address. It is the intent
14 of the parties that reasonable means be used to locate Class Members and that the Settlement
15 Administrator be given discretion to take steps in order to facilitate notice of the Settlement and
16 delivery of the Individual Settlement Payments to all Settlement Members. In the event a Class
17 Member's Class Notice remains undeliverable sixty (60) calendar days after the Class Notice was
18 initially mailed, the Settlement Administrator will not mail the Class Member's Individual Settlement
19 Payment. The Settlement Administrator will hold the Class Member's Individual Settlement
20 Payment during the check validity period on behalf of the Class Member. If, at the conclusion of the
21 check validity period, the Class Member's Class Notice and Individual Settlement Payment remain
22 undeliverable and/or unclaimed and uncashed, the Settlement Administrator will distribute the funds
23 from unclaimed/uncashed checks in accordance with the procedures set forth in Section 4.06(i)(vi)
24 below.

25 ii. *Documenting Communications*. The Settlement Administrator shall date stamp
26 documents it receives, including Opt Out Requests, Objections, Workweeks Disputes, and any
27 correspondences and documents from Class Members and PAGA Members. The date of the initial
28

mailing of the Class Notice and the date a signed Opt Out or Objection is postmarked shall be conclusively determined according to the records of the Settlement Administrator.

iii. *Settlement Administrator Declaration.* At least ten (10) court days before the Final Approval Hearing, the Settlement Administrator shall prepare, subject to the Parties' input and approval, a declaration setting forth the due diligence and proof of mailing of the Class Notice, the results of the Settlement Administrator's mailings, including tracing and re-mailing efforts, and the Class Members' and PAGA Members' responses (i.e., Opt Out, Objections, Workweeks Disputes) to those mailing, and provide additional information deemed necessary to approve the settlement.

iv. *Settlement Administrator Written Reports.* Each week after initially mailing the Class Notices and prior to the Response Deadline, the Settlement Administrator shall provide the Parties with a report listing the number of Class Members that submitted Opt Out Requests, Objections, and/or Workweeks Disputes as well as the dates that any Class Notices were re-mailed. Within seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide a final report listing the number of Class Members who submitted Opt Out Requests, Objections, and/or Workweeks Disputes.

v. *Settlement Administrator Calculations of Individual Settlement Payments.* Within seven (7) calendar days after resolving all Workweeks Disputes made by Settlement Class Members, and following entry of the Final Approval Order and Judgment, the Settlement Administrator shall provide to the Parties a report showing its calculation of all amounts that must be funded by Defendant under the Settlement, including and not limited to, calculations of the Individual Settlement Payments to be made to Settlement Class Members and Individual PAGA Payments to be made to PAGA Members. After receiving the Settlement Administrator's report, Class Counsel and Defendant's counsel shall review the same to determine if the calculation of payments is consistent with this Agreement and the Court's orders, and shall notify the Settlement Administrator if either counsel does not believe the calculation is consistent with the Agreement and/or the Court's orders. After receipt of comments from counsel, the Settlement Administrator shall finalize its calculations of payments, at least five (5) calendar days prior to the distribution of such payments, and shall provide Class Counsel and Defendant's counsel with a final report listing the amount of all

1 payments to be made to each Settlement Class Member from the Net Settlement Amount and listing
2 the amount of all payments to be made to each PAGA Member from the Net PAGA Distribution
3 Amount. The Settlement Administrator will also provide information that is requested and approved
4 by both Parties regarding its duties and other aspects of the Settlement, and that is necessary to carry
5 out the terms of the Settlement.

6 **d. Requirements for Recovery of Individual Settlement Payments**

7 i. *Class Members.* No claim form is necessary to participate in the Class Settlement.
8 Unless a Class Member submits a valid and timely Opt Out Request, that Class Member will be a
9 Settlement Class Member, bound by the Final Approval Order and Judgment and Class Settlement,
10 and will receive a payment from the Net Settlement Amount (i.e., an Individual Settlement Payment).

11 ii. *PAGA Members.* All PAGA Members shall be bound by the PAGA Settlement, and
12 will be issued payment from the Net PAGA Distribution Amount (i.e., and Individual PAGA
13 payment). No PAGA Member will have a right to opt-out of the PAGA Settlement.

14 iii. *Late Submissions.* The Settlement Administrator shall not accept as timely any Opt
15 Out Request, Objection, or Workweeks Dispute postmarked after the Response Deadline. It shall be
16 presumed that, if an Opt Out Request, Objection, or Workweeks Dispute is not postmarked or fax
17 stamped on or before the Response Deadline, the Class Member did not return the Opt Out Request,
18 Objection, or Workweeks Dispute in a timely manner. However, the Court may consider an Opt
19 Outs, and/or Objections submitted at or before the hearing on Final Approval.

20 iv. *Opt-Out Procedure.* A Class Member will not be entitled to opt out of the Class
21 Settlement established by this Agreement unless he or she submits to the Settlement Administrator a
22 timely and valid Opt Out Request.

23 v. The Settlement Administrator shall not have the authority to extend the deadline for
24 Class Members to submit an Opt Out Request absent agreement by both Parties.

25 vi. Class Members shall be permitted to rescind in writing their Opt Out Request by
26 submitting a written rescission statement to the Settlement Administrator no later than the day before
27 the Final Approval Hearing.

vii. If more than ten percent (10%) of the Class Members timely opt out of the Class Settlement, Defendant shall have the sole and absolute discretion to withdraw from this Agreement within seven (7) calendar days after the Response Deadline and written notice from the Settlement Administrator of the final opt out rate. Defendant shall provide written notice of such withdrawal to Class Counsel. In the event that Defendant elects to so withdraw, the withdrawal shall have the same effect as a termination of this Agreement for failure to satisfy a condition of Settlement, and the Agreement shall become null and void and have no further force or effect, and Defendant will be responsible for any and all Settlement Administration Costs incurred thus far.

Section 4.04: Responses to Class Notice

a. Workweeks Disputes

Class Members will have the right to challenge the number of Qualifying Workweeks and/or Qualifying PAGA Workweeks allocated to them. Class Members shall have until the Response Deadline to submit to the Settlement Administrator their dispute in writing (“Workweek Dispute”) at the address indicated on the Class Notice. Each Workweek Dispute must: (1) contain the full name, address, and telephone number of the Class Member and the case name and number of the Action; (2) be signed by the Class Member; (3) be postmarked or fax stamped on or before the Response Deadline and returned to the Settlement Administrator at the specified address or fax number; (4) clearly state the number of Workweeks and/or PAGA Workweeks he or she believes is correct; and (5) attach any documents the Class Member has to support his or her position that they be credited with the contended number of Workweeks and/or PAGA Workweeks. The Settlement Administrator will inform Class Counsel and Defendant’s counsel in writing of any timely submitted Workweeks Disputes. Defendant shall have the right to respond to any Dispute submitted by any Class Members within seven (7) calendar days of being informed of a timely submitted Workweeks Dispute, and shall cooperate in providing the Settlement Administrator will information to determine all such Workweeks Disputes. The Settlement Administrator will determine all such Workweeks Disputes following Defendant’s opportunity to respond. Subject to Court approval, Workweeks Disputes will be resolved without hearing by the Settlement Administrator, who will make a decision

based on Defendant's records and any documents or other information presented by the Class Member and/or PAGA Member making the Workweeks Dispute, Class Counsel, or Defendant.

b. Opt Out Request

Any Class Member may exclude himself or herself from the Class Settlement. Any such Opt Out Request must be submitted to the Settlement Administrator in writing on or before the Response Deadline. Opt Out Requests do not apply to the PAGA Settlement; PAGA Members will be bound to the PAGA Settlement (i.e., the settlement and release of Settled PAGA Claims) irrespective of whether they exclude themselves from the Class Settlement. Any Class Member who timely and validly Opts Out from the Class and this Settlement will not be entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this Agreement, and will not have any right to object, appeal, or comment thereon. Any Class Member who fails to timely submit an Opt Out shall automatically be deemed a Class Member whose rights and claims with respect to the issues raised in the Action will be determined by the Court's Final Approval Order and Judgment.

c. Objections to Settlement

Any Settlement Class Member may object to the Class Settlement by submitting an Objection to the Settlement Administrator in writing on or before the Response Deadline. The Parties shall be permitted to file responses to any Objections prior to the Final Approval Hearing and/or to respond to or address the Objection at the Final Approval Hearing. Within three (3) business days after receipt of an Objection, the Settlement Administrator shall serve the Objection on the Parties, and at least sixteen (16) court days before the Final Approval Hearing, the Settlement Administrator shall submit all Objections received by the Settlement Administrator to the Court. The Court retains final authority with respect to the consideration and admissibility of Class Member Opt Outs and Objections. The Court may consider Opt Outs and/or Objections submitted before or at the Final Approval Hearing. If a Class Member submits both an Objection and an Opt Out Request, he or she will be excluded from the Class Settlement and the Objection will not be considered.

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d. **Encouragement of Class Members**

At no time shall any of the Parties or their counsel (either directly or indirectly) seek to solicit or otherwise encourage Settlement Class Members to submit any Opt Outs or Objections to the Settlement or any appeal from the Final Approval Order and Judgment. Class Counsel shall not represent any Settlement Class Members with respect to any such Objections. However, Class Counsel may respond to inquiries from Class Members.

Section 4.05: Final Approval Hearing

a. **Entry of Final Judgment**

At the Final Approval Hearing, Named Plaintiffs will request, and Defendant will concur in said request, that the Court enter a jointly-agreed upon Final Approval Order and Judgment.

b. **Motion for Final Approval**

Named Plaintiffs will draft and file a motion for final approval in conformity with any requirements from the Court and will take any other actions necessary to request the entry of a Final Approval Order and Judgment in accordance with this Agreement. In conjunction with the motion for final approval and requesting an award of Attorneys' Fees, Attorneys' Costs, and Service Payments, Class Counsel shall file a declaration from the Settlement Administrator confirming that the Class Notice was mailed to all Class Members as required by this Agreement, as well as any additional information Class Counsel, with the input and approval of Defendant, deems appropriate to provide to the Court.

c. **Final Approval Order and Judgment**

The Parties shall take all reasonable efforts to secure entry of the Final Approval Order and Judgment. If the Court denies final approval of the Settlement, this Agreement shall be void *ab initio*, and Defendant shall have no obligation to make any payments under the Agreement besides any Settlement Administration Costs incurred thus far. A request by the Court for supplemental briefing, or a preliminary denial pending additional briefing, shall not be deemed a denial of final approval of the Settlement. To the extent the Court requests further or supplemental briefing, the Parties will work in good faith to address the Court's concerns and questions. Said Final Approval Order and Judgment shall contain the following provisions:

i. Wherein the Court enters judgment, finding that this Agreement and Settlement is fair, just, equitable, reasonable, adequate, and in the best interests of the Class and was reached as a result of intensive, serious, and non-collusive arms-length negotiations and was achieved with the aid of an experienced mediator and in good faith as to each Class Member;

ii. Affirming that each side will bear its own costs and fees (including attorneys' fees), except as provided by the Agreement, and that Defendant shall not be required to pay any amounts other than as set forth in the Agreement;

iii. Confirming the certification of the Class for purposes of Settlement only;

iv. Finding that the Settlement Administration process as carried out afforded adequate protections to Class Members, provided the best notice practicable, and satisfied the requirements of law and due process;

v. Ruling on any Objections to the Settlement;

vi. Approving the settlement of Settled PAGA Claims consistent with the Settlement;

vii. Retaining Court jurisdiction after entry of judgment to oversee administration and enforcement of the terms of the Agreement; and

viii. Requiring the Parties to carry out the provisions of this Agreement.

Section 4.06: Settlement Payment Procedures

Subject to final Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth herein, Defendant agrees to make a payment or payments as set forth herein totaling an amount of, but not to exceed the Gross Settlement Amount. The Gross Settlement Amount shall be apportioned as follows:

a. **Pro-Rata Adjustment to Gross Settlement Amount.** Defendant has estimated that there are approximately 39 class members who worked 3,122 workweeks from April 30, 2020 through November 25, 2024. Should the qualifying workweeks increase beyond 10% worked by the Class Members during the Class Period, Defendant shall increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of workweeks worked by Class Members above 10% (e.g., if the number of workweeks increases by 11% to 3,465 workweeks, the GSA will increase by 1%). However, Defendant may, at its sole discretion adjust the length of the

1 Class Period by moving the end date so as to keep the number of workweeks no more than 3,434 and
2 avoid triggering the escalation clause so long as it does so before Plaintiffs' motion for preliminary
3 approval is heard.

4 **b. Attorneys' Fees.** Class Counsel will apply to the Court for an award of attorneys'
5 fees of 33% of the Gross Settlement Amount, which is no more than One Hundred and Three
6 Thousand and Three Hundred and Thirty-Three Dollars and Thirty-Three Cents (\$33,333.33) (i.e.,
7 Attorneys' Fees). The Attorneys' Fees shall be paid from and be deducted from the Gross Settlement
8 Amount subject to Court approval, and Defendant will not oppose such application. In the event the
9 Court approves an amount of attorneys' fees that is less than the amount provided herein, the
10 unawarded amount shall become part of the Net Settlement Amount for distribution to Settlement
11 Class Members. Any reduction by the Court shall not constitute grounds for revocation or
12 cancellation of this Agreement by the Named Plaintiffs.

13 **c. Attorneys' Costs.** Class Counsel shall request approval of an amount not to exceed
14 Fifteen Thousand Dollars (\$15,000) for reimbursement of litigation costs and expenses incurred in
15 the Action (i.e., Attorneys' Costs), which will be paid and deducted from the Gross Settlement
16 Amount subject to Court approval. Defendant will not oppose such application. Any unawarded
17 Attorneys' Costs shall become part of the Net Settlement Amount for distribution to Settlement Class
18 Members. Any reduction by the Court shall not constitute grounds for revocation or cancellation of
19 this Agreement by Plaintiff. Attorneys' Fees as specified in the preceding paragraph and Attorneys'
20 Costs as specified in this paragraph shall cover all claimed and unclaimed Attorneys' Fees,
21 Attorneys' Costs, and other amounts payable or awardable against Defendant for Class Counsel's
22 work, effort, or involvement in the Action and in carrying out the Agreement and includes any and
23 all work, effort, or involvement to carry out the terms of the Agreement and as may be potentially or
24 actually necessary or advisable to defend the Agreement and/or Settlement through appeal, or
25 collateral attack or in any other forum or proceeding. These specified Attorneys' Fees and Attorneys'
26 Costs shall be the sole payment for attorneys' fees and costs and, otherwise, the Parties and Class
27 Members and their counsel shall bear their own fees and costs in connection with the Action.

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1 **d. Settlement Administration Costs.** Class Counsel will also apply to the Court for
2 approval of costs of settlement administration in an amount estimated to be up to Three-Thousand
3 Five Hundred Dollars (\$3,500), which the Parties agree will be paid and deducted from the Gross
4 Settlement Amount (i.e., Settlement Administration Costs) subject to Court approval. Defendant
5 will not oppose such application. Any unawarded amount shall become part of the Net Settlement
6 Amount for distribution to Settlement Class Members. Class Counsel will specify the amount sought
7 for such costs, up to the foregoing maximum, in Plaintiff's motion for final approval of the
8 Settlement.

9 **e. Incentive Awards to Named Plaintiffs.** Class Counsel will apply to the Court for
10 approval of an enhancement award in an amount not to exceed Five Thousand Dollars (\$5,000) for
11 each Named Plaintiff—to be paid and deducted from the Gross Settlement Amount, subject to Court
12 approval, for their services in this litigation by Named Plaintiffs (i.e., the Service Payments). Plaintiff
13 Armour shall be required to execute a general release and 1542 waiver. Defendant will not oppose
14 such applications. Any unawarded amount shall become part of the Net Settlement Amount for
15 distribution to Settlement Class Members. Any reduction by the Court shall not constitute grounds
16 for revocation or cancellation of this Agreement by Named Plaintiffs.

17 **f. PAGA Allocation and Individual PAGA Payments.** Pursuant to California Labor
18 Code Section 2698, *et seq.*, the Parties designate Ten Thousand Dollars (\$10,000.00) of the Gross
19 Settlement Amount to resolve the Settled PAGA Claims (i.e., the PAGA Allocation). Pursuant to
20 the California Labor Code, seventy-five percent (75%) of the PAGA Allocation, which is Seven
21 Thousand and Five Hundred Dollars (\$7,500), will be paid to the LWDA (i.e., the LWDA Payment).
22 The remaining twenty-five percent (25%) of the PAGA Allocation, which is Two Thousand and Five
23 Hundred Dollars (\$2,500.00) ("Net PAGA Distribution Amount"), shall be paid to PAGA Members
24 on a *pro rata* basis based on the number of Workweeks worked by the PAGA Member during the
25 PAGA Period as follows:

26 i. The Settlement Administrator will use the number of Pay Periods worked by PAGA
27 Members during the PAGA Period ("Qualifying PAGA Pay Periods (s)") as reflected in the Class
28 List to be provided by Defendant to the Settlement Administrator;

ii. Each of the PAGA Members is eligible to receive a *pro rata* share of the Net PAGA Distribution Amount based on his or her share of the total number of Qualifying PAGA Pay Periods worked.

iii. The value of a single Qualifying PAGA Pay Period shall be determined by dividing the Net PAGA Distribution Amount by the total number of Qualifying PAGA Pay Periods by all PAGA Members. Each PAGA Member shall receive an Individual PAGA Payment equal to his or her individual Qualifying PAGA Pay Periods multiplied by the value of a single Qualifying PAGA Pay Period. PAGA Members shall receive their respective PAGA Payments regardless of whether they opt out with respect to their class claims.

g. Net Settlement Amount and Individual Settlement Payments to Settlement Class Members. Individual Settlement Payments to the Settlement Class Members will be calculated as follows:

i. The Settlement Administrator will use the number of Workweeks worked by Class Members during the Class Period (“Qualifying Workweek(s)”) as reflected in the Class List to be provided by Defendant to the Settlement Administrator;

ii. Each of the Class Members is eligible to receive a *pro rata* share of the Net Settlement Amount based on his or her share of the total number of Qualifying Workweeks worked.

iii. The value of a single Qualifying Workweeks shall be determined by dividing the Net Settlement Amount by the total number Qualifying Workweeks by all Settlement Class Members. Each Settlement Class Member shall receive a gross Individual Settlement Payment equal to his or her Qualifying Workweeks multiplied by the value of a single Qualifying Workweek.

h. Satisfaction of Defendant’s Payment Obligations. The Parties agree that, except as discussed in Section 4.06(a), and employer taxes on any wage portions of the Individual Settlement Amounts, under no circumstances shall Defendant be obligated to pay any amounts under this Agreement to any Class Member other than the Individual Settlement Payment to Settlement Class Members and Individual PAGA Payment to PAGA Members that is provided for under this Agreement. The Parties also acknowledge and agree that the formula used to calculate Individual Settlement Payments and Individual PAGA Payments does not imply that all of the elements of

1 damages covered by the release are not being taken into account.

2 **i. Payment of Settlement**

3 i. Defendant will deposit the Gross Settlement Amount into an account established by
4 the Settlement Administrator within ten (10) business days of the Date of Finality.

5 ii. The Parties agree that the account in which Defendant will deposit the Gross
6 Settlement Amount will qualify as a settlement fund pursuant to the requirements of Section
7 468(B)(g) of the Internal Revenue Code of 1986, as amended, and Section 1.468B-1 *et seq.* of the
8 income tax regulations. Furthermore, the Settlement Administrator is hereby designated as the
9 “administrator” of the qualified settlement funds for purposes of Section 1.468B-2(k) of the income
10 tax regulations. As such, all employee taxes imposed on the gross income of that settlement fund
11 and any tax-related expenses arising from any income tax returns or other reporting documents that
12 may be required by the Internal Revenue Service or any state or local taxing body will be paid from
13 the Net Settlement Amount by the Settlement Administrator.

14 iii. The Settlement Administrator shall be deemed to have timely distributed Individual
15 Settlement Payments and Individual PAGA Payments if it places said payments in the mail (First-
16 Class U.S.) no later than 14 days after Defendant funds the GSA. If, within forty-five (45) days of
17 the initial mailing of the payment(s), the Settlement Administrator receives notice from Settlement
18 Class Members or PAGA Members that they have not received their settlement check due to changes
19 of address or other circumstances, the Settlement Administrator shall make reasonable efforts to
20 ensure the initial payment is cancelled and re-issue the payment to the Settlement Class Member or
21 PAGA Member. The Settlement administrator shall take steps to promptly obtain a valid mailing
22 address, as necessary, by performing a skip trace and/or through a search of the National Change of
23 Address database or other appropriate database. The Settlement Administrator shall only undertake
24 one re-issuance of a payment upon request of a Settlement Class Member.

25 iv. The distribution of Attorneys’ Fees, Attorneys’ Costs, LWDA Payment, and the
26 Service Payments shall occur no later than the Settlement Proceeds Distribution Deadline. Under no
27 circumstances shall the foregoing payments be made prior to the distribution of payments to
28 Settlement Class Members and PAGA Members.

v. Individual Settlement Payment and Individual PAGA Payment checks will be valid for one hundred eighty (180) days after mailing by the Settlement Administrator.

vi. After the one hundred eighty (180) day check validity period, unclaimed or uncashed settlement checks will become cancelled and funds associated with the cancelled checks will be transmitted to Katherine and George Alexander Community Law Center at the Santa Clara University School of Law, a non-profit organization, pursuant to California Code of Civil Procedure section 384. Settlement Class Members and PAGA Members who fail to deposit or negotiate their check(s) in a timely fashion shall, nevertheless, remain subject to the terms of the Agreement and the Final Approval Order and Judgment.

vii. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to the Court, Class Counsel, and Defendant's counsel.

viii. In the event of a timely appeal from the Final Approval Order and Judgment, the Final Approval Order and Judgment shall be stayed and the Gross Settlement Amount shall not be distributed pending the completion of the appeal.

j. Default on Payment

Defendant's failure to timely fund the Gross Settlement Amount shall be considered a default. In the event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to the Settlement Administrator.

k. No Credit Toward Benefit Plans

The Individual Settlement Payments made to Settlement Class Members and Individual PAGA Payments made to PAGA Members under this Agreement shall not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Class Members or PAGA Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or

amounts to which any Settlement Class Members and/or PAGA Members may be entitled under any benefit plans.

I. Taxation of Settlement Proceeds

i. The Parties agree that the Individual Settlement Payments shall be allocated as follows: 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portions"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining portion of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages as follows: 40% allocated to penalties and 40% allocated to interest and fees (the "Non-Wage Portions"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms (if required). Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

ii. The Individual PAGA Payments to PAGA Members will be designated one hundred percent (100%) as penalties and will be report on an IRS Form 1099 (if required).

iii. The Settlement Administrator shall calculate, withhold from the Individual Settlement Payments, and remit to applicable governmental agencies sufficient amounts, if any, as may be owed by Settlement Class Members for applicable employee taxes. The Settlement Administrator will issue appropriate tax forms, as required, to each such Settlement Class Member and PAGA Member consistent with the above allocations.

iv. All Parties represent that they have not received, and shall not rely on, advice or representations from other Parties or their agents regarding the tax treatment of payments under federal, state, or local law. In this regard, Defendant makes no representations regarding the taxability of the Individual Settlement Payments, Individual PAGA Payments, or any other payments made under this Agreement.

v. Class Counsel will be issued an IRS Form 1099 for the Attorneys' Fees and Attorneys' Costs awarded by the Court.

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vi. Named Plaintiffs will be issued IRS Form 1099s for any Service Payment approved by the Court. The Service Payments payable to Named Plaintiffs shall be in addition to any Individual Settlement Payment agreed to by the Parties and, if applicable, Individual PAGA Payments that they will receive.

Section 4.07: Notice to the LWDA

Class Counsel is responsible for complying with all requirements of the PAGA governing notice to the LWDA of settlement and/or judgment. Specifically, Class Counsel will provide a copy of this Agreement to the LWDA at the same time that it is submitted to the Court and will further provide a copy of the Court's Preliminary Approval Order and Final Approval Order and Judgment to the LWDA within ten (10) calendar days after entry of said judgment or order as required by Labor Code section 2699.

ARTICLE V

RELEASES

Section 5.01: Release of Settled Class Claims

As of the Date of Finality and full funding of the Gross Settlement Amount, Named Plaintiffs and all Settlement Class Members shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Settled Class Claims against any and all Released Parties. The Settlement includes a release of all Settled Class Claims during the Class Period by Settlement Class Members. The Parties agree for settlement purposes only that, because the Class Members are so numerous, it is impossible or impracticable to have each Class Member execute this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature of the Class Settlement as to Settlement Class Members and the binding nature of the PAGA Settlement as to the State of California and all PAGA Members, and such notice shall have the same force and effect as if the Agreement were executed by each Class Member. The Parties agree that this is a settlement of disputed claims not involving undisputed wages, and that Labor Code Section 206.5 is therefore inapplicable. Expressly excluded from this release are any and all possible claims arising from the claims addressed in the separate individual settlement entered into between Defendant and Plaintiff Aaron Alvarez ("Alvarez Settlement"). Therefore, the Alvarez Settlement will not be

affected by this release.

Section 5.02: Released of Settled PAGA Claims

As of the Date of Finality and full funding of the Gross Settlement Amount, the State of California, with respect to Named Plaintiffs and all PAGA Members, shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the Released Parties of and from any and all Settled PAGA Claims. The Parties agree that it is their intent that the terms set forth in this Agreement will release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and every PAGA Member to obtain any recovery based on the Settled PAGA Claims. Expressly excluded from this release are any and all possible claims arising from the claims addressed in the separate individual settlement entered into between Defendant and Plaintiff Aaron Alvarez (“Alvarez Settlement”). Therefore, the Alvarez Settlement will not be affected by this release.

ARTICLE VI

LIMITATIONS ON USE OF THIS SETTLEMENT

Section 6.01: No Admission

The Parties enter into this Agreement to resolve the Action and to avoid the burden, expense, and risk of continued litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that Defendant has: violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; or engaged in any other culpable, wrongful or unlawful conduct with respect to its employees or any other person or entity. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings, payouts, or other events associated with it, shall be construed as an admission or concession by Defendant of any such violation(s) or failure(s) to comply with any applicable law by Defendant or any Released Parties.

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1 **Section 6.02: Non-Evidentiary Use**

2 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
3 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
4 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,
5 including but not limited to, evidence of a presumption, concession, indication, or admission by any
6 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or
7 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
8 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
9 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims
10 released through this Agreement.

11 **Section 6.03: Nullification**

12 If for any reason the Date of Finality does not occur and/or the Settlement does not become
13 final for any reason, the Settlement shall be null and void and the orders and judgment to be entered
14 pursuant to this Agreement shall be vacated; and the Parties will be returned to the status quo prior
15 to entering this Agreement with respect to the Action, as if the Parties had never entered into this
16 Agreement. In addition, in such event, the Agreement and all negotiations, court orders and
17 proceedings relating thereto shall be without prejudice to the rights of any and all Parties hereto, and
18 evidence relating to the Agreement and all negotiations shall not be admissible or discoverable in the
19 Action or otherwise in any other proceeding.

20 **ARTICLE VII**

21 **MISCELLANEOUS PROVISIONS**

22 **Section 7.01: Amendments or Modification**

23 Prior to the Court granting preliminary approval this Agreement, this Agreement may be
24 altered, amended, modified or waived, in whole or in part, only in a writing signed by counsel for
25 the Parties; after the Court has entered the Preliminary Approval Order, the Agreement may be
26 altered, amended, modified or waived, in whole or in part, only in a writing signed by counsel for
27 the Parties, subject to approval by the Court. Any waiver of any provision of this Agreement shall
28 not constitute a waiver of any other provision of this Agreement unless expressly so indicated.

1 **Section 7.02: Assignment**

2 The Parties and their counsel represent, covenant, and warrant that they have not directly or
3 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
4 person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein
5 released and discharged or herein establish and/or created, except as set forth herein.

6 **Section 7.03: Governing Law**

7 This Agreement shall be enforced, construed, administered and interpreted, and the rights of
8 the Parties shall be determined, in accordance with the laws of the State of California, without regard
9 to conflicts of laws.

10 **Section 7.04: Entire Agreement**

11 The Parties warrant that no promise or inducement has been offered or made to any of the
12 Parties except as set forth herein. This Agreement constitutes the full, complete and entire
13 understanding, agreement and arrangement between Plaintiffs on behalf of themselves, Class
14 Members, PAGA Members, and the State of California pursuant to the Private Attorneys General
15 Act, on the one hand, and Defendant and Released Parties on the other hand, with respect to the
16 Settlement of the Action and the Settled Claims and Settled PAGA Claims against the Released
17 Parties. This Agreement supersedes any and all prior oral or written understandings, agreements and
18 arrangements, express or implied, between the Parties with respect to the Settlement of the Action
19 and the Settled Claims and Settled PAGA Claims against the Released Parties. The Parties explicitly
20 recognize California Civil Code Section 1625 and California Code of Civil Procedure Section
21 1856(a), which provide that a written agreement is to be construed according to its terms, and may
22 not be varied or contradicted by extrinsic evidence, and agree that no such extrinsic oral or written
23 representations or terms shall modify, vary, or contradict the terms of this Agreement. This
24 Agreement does not in any way impact any agreement to arbitration non-released claims that may
25 exist between Defendant and an individual Class Member.

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1 **Section 7.05: Waiver of Compliance**

2 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
3 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
4 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
5 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
6 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
7 condition in this Agreement shall not operate as a waiver of, or estoppel with respect to, any
8 subsequent or other failure.

9 **Section 7.06: Counterparts and Fax/PDF Signatures**

10 This Agreement, and any amendments hereto, may be executed in any number of counterparts
11 and any Party and/or their respective counsel may execute any such counterpart, each of which when
12 executed and delivered shall be deemed to be an original. All counterparts taken together shall
13 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
14 signature.

15 **Section 7.07: Meet and Confer Regarding Disputes**

16 The Parties agree to refer any disputes related to the drafting of the Agreement and attached
17 documents to mediator, Hon. William McCurine, Jr. prior to seeking any relief from a Court.

18 **Section 7.08: Agreement Binding on Successors**

19 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
20 of each of the Parties. Specifically, Subject to final Court approval, all Settlement Class Members,
21 the State of California, and PAGA Members shall be bound by this Agreement and Final Approval
22 Order and Judgment shall be entered in the Action.

23 **Section 7.09: Cooperation in Drafting**

24 The Parties have had a full opportunity to negotiate the terms and conditions of this
25 Agreement. Accordingly, this Agreement shall not be construed more strictly against one Party than
26 another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties,
27 it being recognized that all Parties have contributed to the preparation of this Agreement.

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Section 7.10: Fair and Reasonable Settlement

The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arm's-length negotiation and in the context of adversarial litigation, taking into account all relevant factors, current and potential. The Parties further believe that the Settlement is and is consistent with public policy, and fully complies with applicable law.

Section 7.11: Headings

The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement and shall not be considered in interpreting this Agreement.

Section 7.12: Notice

Except as otherwise expressly provided in the Agreement, all notices, demands, and other communications under this Agreement must be in writing and addressed as follows:

To Named Plaintiffs and the Class:

John G. Yslas (SBN 187324)
John.yslas@wilshirelawfirm.com
 Samantha A. Smith (SBN 233331)
Samantha.smith@wilshirelawfirm.com
 Eugene Zinovyev (SBN 267245)
Eugene.zinovyev@wilshirelawfirm.com
 John Brown (SBN 233605)
John.brown@wilshirelawfirm.com
 Gabriella Solé (SBN 346164)
gabriella.sole@wilshirelawfirm.com

WILSHIRE LAW FIRM
 3055 Wilshire Blvd., 12th Floor
 Los Angeles, California 900100
 Telephone: (213) 381-9988
 Facsimile: (213) 381-9989

And

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To Defendant:

Karin M. Cogbill (SBN 244606)
 Veena Bhatia (SBN 339939)
 JACKSON LEWIS P.C.
 160 W. Santa Clara Street, Suite 400
 San Jose, CA 95113
 Telephone: (408) 579-0404
 Facsimile: (408) 454-0290
 Email: Karin.Cogbill@jacksonlewis.com
Veena.Bhatia@jacksonlewis.com

Section 7.13: Enforcement of Settlement and Continuing Court Jurisdiction

To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Final Approval Order and Judgment entered by the Court will not adjudicate the merits of the Action or the liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Section 7.14: Mutual Full Cooperation

Named Plaintiffs and Defendant, and each of their respective counsel, shall cooperate in good faith to execute all documents and perform all acts necessary and proper to implement the terms of this Agreement, including but not limited to drafting and submitting the Motion for Preliminary Approval and Motion for Final Approval, and defending the Agreement and Final Approval Order and Judgment against objections and appeals. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court or otherwise, to effectuate this Agreement and the terms set forth herein.

1 **Section 7.15: Publicity, Confidentiality, Non-Disparagement**

2 No public comment, communications to media, or any form of advertising or public
3 announcement (including social media) regarding the Action shall be made by the Named Plaintiffs
4 or Class Counsel at any time.

5 Class Counsel agrees not to solicit any Class Members to exclude themselves from the terms
6 of this Agreement, and further agrees not to initiate, contact, or have any communications with Class
7 Members during the settlement approval process. Nothing will prevent Class Counsel from
8 responding to inquiries from Class Members. Defendant agrees that it shall not discourage any Class
9 Members from participating in the settlement and shall refer any questions to the Settlement
10 Administrator.

11 Prior to the Motion for Preliminary Approval and submission of this Agreement to the Court,
12 Class Counsel shall not discuss the terms of the Agreement with any person other than Named
13 Plaintiffs, Defendant's counsel, and the Settlement Administrator, and that they will not discuss the
14 negotiations leading to Agreement with any persons other than Named Plaintiffs and Defendant's
15 counsel. Class Counsel will, however, undertake any and all submissions of information and/or
16 materials relating to the Action and this Settlement to the LWDA to the extent required under the
17 PAGA statute (e.g., submitting this Agreement to the LWDA at the same time as submitting it to the
18 Court for preliminary approval).

19 Named Plaintiffs acknowledge that they have not, and will not, discuss the terms of the
20 Settlement with any persons other than Class Counsel, their spouse(s), if any, their tax
21 preparer/accountant, and any other legal representative of Named Plaintiffs, prior to filing the Motion
22 for Preliminary Approval and submission of this Agreement to the Court. Named Plaintiffs further
23 acknowledge that at no time will they disclose details of the negotiations leading to this Settlement,
24 including information learned during or after mediation.

25 To the extent permitted by applicable law and in order to implement the Settlement, Named
26 Plaintiffs agree that they will not make any defamatory or disparaging statements about Defendant
27 or any Released Party. However, Named Plaintiffs are not precluded from submitting, and are
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1 contemplated to submit, declarations in support of certification of the Class for purposes of this
2 Settlement and to support their receipt of a Service Payment.

3 To the extent documents produced, formally or informally, by Defendant during the course
4 of the Action are confidential or otherwise subject to confidentiality, Named Plaintiffs and Class
5 Counsel agree to maintain the confidentiality of such materials.

6 Notwithstanding the above, Plaintiffs' counsel may reference publicly-available information
7 about the settlement in their declarations establishing their qualifications as counsel in other cases.

8 **Section 7.16: Authorization to Act**

9 The signatories hereby represent that they are fully authorized to enter into this Agreement
10 and bind the Parties hereto to the terms and conditions hereof.

11 **Section 7.17: No Reliance on Representations**

12 The Parties have made such investigation of the facts and the law pertaining to the matters
13 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
14 on any statement, promise, or representation of fact or law, made by any of the other parties, or any
15 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
16 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
17 to any other matters. No representations, warranties, or inducements, except as expressly set forth
18 herein, have been made to any party concerning this Agreement.

19 **EXECUTION BY PARTIES AND COUNSEL**

20 The Parties and their counsel hereby execute this Agreement.

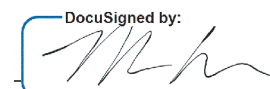
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22 Dated: 4/15/2025

Aaron Alvarez

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24 By:  Signed by: _____
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26 Dated: 4/11/2025

Michael Armour

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28 By:  DocuSigned by: _____
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Dated: 4/18/2025

AMAROK LLC

By: Nathan Leaphart
(Signature)
Nathan Leaphart
(Printed Name)
CFO
(Title)

EXHIBIT A

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

Aaron Alvarez and Michael Armour v. Amarok LLC,
Sacramento County Superior Court, Case Nos. 24CV008395 (CLASS), 24CV013383 (PAGA)

***The Sacramento County Superior Court authorized this notice.
It is not junk mail, spam, an advertisement, or solicitation by a lawyer.
Please read it carefully! You are not being sued.***

You may be eligible to receive money from employee class and representative action lawsuits (“Actions”) against Amarok LLC (“Defendant”) for alleged wage and hour violations. The Actions were filed by former employees, Aaron Alvarez and Michael Armour, and seek (1) payment of unpaid wages and other relief for a class of non-exempt or hourly-paid employees (“Class Members”) who worked for Defendant during the Class Period (April 30, 2020 to XXXX); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all Class Members who worked for Defendant during the PAGA Period (April 30, 2023 to XXXX) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA settlement requiring Defendant to fund Individual PAGA Payments and pay PAGA Penalties to the California Labor and Workforce Development Agency (“LWDA”).

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

The above estimates are based on Defendant’s records showing that **you worked _____ Workweeks during the Class Period and you worked _____ Pay Periods during the PAGA Period.** If you believe that you worked more during either period, you can submit a challenge by the deadline date.

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

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	Receive money. Give up rights to sue Defendant for claims released in the Settlement.
EXCLUDE YOURSELF	Receive no money from the Class settlement. You will retain the right to pursue your own legal claims against Defendant. However, even if you exclude yourself from the Class settlement, you will still receive a portion of the PAGA settlement and be bound by it if you worked during the PAGA Period.
OBJECT	Write to the Court about why you object to the Settlement. If the Settlement receives Final Approval, you will receive money and give up rights to sue Defendant for claims released in the Settlement.
CHALLENGE YOUR NUMBER OF WORKWEEKS AND/OR PAY PERIODS	Challenge your number of Workweeks or Pay Periods listed in this Notice and provide supporting evidence. If you challenge your workweeks or pay periods, you will still be part of the Settlement and will give up rights to sue Defendant for claims released in the Settlement.

BASIC INFORMATION

1. WHY AM I RECEIVING THIS NOTICE?

Defendant's records indicate that you worked for Defendant Amarok LLC at some point(s) between April 30, 2020 through XXXX, and are therefore a member of the Class for purposes of this Settlement.

You received this Notice because you have a right to know about a proposed Settlement of the Action, and about all of your options, before the Court decides whether to finally approve the Settlement. The Settlement will resolve all Class Members' claims, which are described below, during the Class Period. The Settlement will also resolve claims for civil penalties brought under the California Private Attorneys' General Act ("PAGA"). If you are a Class Member, you are also a "PAGA Member" if you worked for Defendant during the "PAGA Period," which is April 30, 2023 through XXXX.

If the Court grants Final Approval to the Settlement, a settlement Administrator appointed by the Court will issue the payments provided for by the Settlement to Class Members. You are encouraged to always keep your address up to date with the Administrator (the Administrator's contact information can be found in Section 12, below).

This Notice package explains the allegations and background regarding the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to receive those benefits.

The Court in charge of the Action is the Sacramento County Superior Court. The case is titled *Aaron Alvarez and Michael Armour v. Amarok LLC*, Case Nos. 24CV008395 (CLASS) and 24CV013383 (PAGA) filed in Sacramento County Superior Court. The persons who sued, Aaron Alvarez and Michael Armour, are the Plaintiffs, and the company sued, Amarok LLC, is the Defendant.

QUESTIONS? CALL 1-800-XXX-XXXX TOLL FREE

2. WHAT IS THE LAWSUIT ABOUT?

The Plaintiffs in the lawsuits alleges wage and hour violations against Defendant for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods and pay meal period premiums; (4) failure to provide rest periods and pay miss rest period premiums; (5) failure to pay all wages earned and unpaid at separation; (6) failure to furnish accurate itemized wage statements; (7) failure to indemnify all necessary business expenditures; (8) failure to produce employment records; (9) violation of California's Unfair Competition Law, California Business and Professions Code section 17200, *et seq.* In addition, Plaintiffs are seeking to recover civil penalties pursuant to PAGA ("PAGA Penalties") based on the alleged violations of the California Labor Code listed above. Defendant denies Plaintiffs' claims and denies any wrongdoing.

3. WHY IS THIS A CLASS ACTION?

In an employment class action, one or more people called "Class Representatives" (in this case, the Plaintiffs) sue on behalf of all workers who they contend have similar claims. All of these workers are a Class or Class Members. Bringing one lawsuit, as opposed to many small ones, saves money, time and court resources. The court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. WHY IS THERE A SETTLEMENT?

The Court did not decide in favor of the Plaintiffs or Defendant on the merits of the claims alleged in the lawsuit. Plaintiffs believe they would win at trial. Defendant thinks that Plaintiffs' lawsuit would not proceed to a trial and/or that Plaintiffs would not win at trial. However, there has been no trial. Instead, in acknowledgement of the risk that both Parties face should the case proceed, the Parties have agreed to a negotiated settlement. This way, all Parties avoid the cost of preparing for and conducting a trial, the risk of losing the right to a trial, and the workers affected by the alleged violations receive compensation. The Settlement represents a compromise and settlement of highly disputed claims. The Plaintiffs, as well as Plaintiffs' lawyers (called "Class Counsel"), believe the Settlement is fair and reasonable and in the best interests of all Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

5. WHO IS INCLUDED IN THE SETTLEMENT?

If you received this Notice, you are a Class Member for settlement purposes. The Class includes: all current and former hourly, non-exempt employees who were employed by Defendant in State of California at any time from April 30, 2020 through XXXX.

THE SETTLEMENT BENEFITS—WHAT YOU GET

7. WHAT DOES THE SETTLEMENT PROVIDE?

Defendant has agreed to pay a Gross Settlement Amount (“GSA”) of \$100,000.00 to settle the lawsuit. From the GSA, Class Counsel will apply to the Court for attorneys’ fees of one-third of the GSA or \$33,333.33 and reimbursement for reasonable costs, not to exceed \$15,000.00; Enhancement Awards of \$5,000.00 each to the two Plaintiffs (for Plaintiffs’ work and efforts prosecuting this case); a PAGA Penalties payment of \$10,000.00 to resolve the PAGA claims; and Settlement Administration Costs to Apex Class Action Administration, not to exceed \$3,500.00. The exact amount of the Class Counsel’s Costs, Class Representative Incentive Awards, and Administration Costs will be determined by the Court at the Final Approval hearing. The remaining portion of the Settlement amount, the “Net Settlement Amount” or the “NSA,” is currently estimated to be approximately **\$28,166.67**. The NSA will be apportioned and paid out as Individual Class Payments to the Settlement Class Members, who are the Class Members that do not request to be excluded (“opt out”) of the Settlement.

PAGA Penalties payment: As part of the PAGA portion of the Settlement, the Parties will ask the Court to approve a \$10,000.00 PAGA Penalties payment in settlement of claims for civil penalties under PAGA. As required under PAGA, 75% of the PAGA Penalties payment, or \$7,500.00, will be paid to the California Labor and Workforce Development Agency. The remaining 25% of the PAGA Penalties payment, or \$2,500.00, will be distributed to the PAGA Members as Individual PAGA Payments.

8. HOW MUCH WILL MY PAYMENT BE?

An approximation of your Individual Class Payment appears on the first page of this Notice. If you are also a PAGA Member, an approximation of your Individual PAGA Payment will also appear on the first page of this Notice.

Individual Class Payment: Your Individual Class Payment is based on the number Workweeks you worked, as represented in Defendant’s records, in comparison to the total number of Workweeks worked by all Class Members during the Class Period (April 30, 2020 to XXXX). Eighty percent (80%) of each Class Member’s Individual Class Payment will be treated as a payment in settlement of the alleged claims for penalties and interest and will be reported on a Form 1099 by the Settlement Administrator, and twenty percent (20%) of each Class Member’s Individual Class Payment will be treated as a payment in settlement of alleged claims for unpaid wages. The 20% allocated as unpaid wages will be reduced by applicable payroll tax withholdings and deductions and reported on a Form W-2.

Individual PAGA Payment: If you worked for Defendant from April 30, 2023 to XXXX (“PAGA Period”), you are also a PAGA Member and will receive an Individual PAGA Payment in addition to your Individual Class Payment. The Individual PAGA Payments are based on the number of PAGA Pay Periods worked by each PAGA Member in comparison to the total amount of PAGA Pay Periods worked by all PAGA Members during the PAGA Period. One hundred percent (100%) of each Individual PAGA Payment will be characterized as penalties and will not be reduced by payroll tax withholdings and deductions. The Individual PAGA Payment will be reported on a Form 1099 by the Settlement Administrator. An approximation of your anticipated Individual PAGA Payment appears on the first page of this Notice.

For the Class Members who are also PAGA Members, their Individual Class Payment will be combined with their Individual PAGA Payment, and they will receive a single check for the combined payments. If a Class Member chooses to opt-out of the Settlement, they will still receive an Individual PAGA Payment, as PAGA Members cannot opt-out of the PAGA portion of the Settlement. *See, e.g., Robinson v So. County Oil*, 53 Cal. App. 476 (2020).

HOW YOU GET A PAYMENT

9. HOW DO I RECEIVE A PAYMENT?

You do not need to do anything to receive a payment. However, if you believe that the number of Workweeks or PAGA Pay Periods you worked is incorrect, please correct it and provide any supporting evidence to the settlement Administrator, whose contact information is listed in Section 12 below.

10. WHEN WOULD I GET MY PAYMENT?

The Court will hold a Final Fairness Hearing on _____, to decide whether to approve the Settlement. If the Judge approves the Settlement, and anyone objects, there may be appeals. It is always uncertain when these objections and appeals can be resolved and resolving them can take time. If there is no objection, the Date of Finality of the Settlement will be 60 days after the date of entry of the Court's Order granting final approval.

Following the Date of Finality, Individual Class Payments and Individual PAGA Payments will be mailed to Participating Class Members and PAGA Members approximately 45 days later.

Settlement checks should be cashed promptly upon receipt. Proceeds of checks which remain uncashed after 180 days from the date of issuance checks shall be canceled and funds associated with such checks shall be considered unpaid, unclaimed or abandoned cash residue pursuant to Code of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue plus accrued interest, if any, shall be transmitted to the Katherine and George Alexander Community Law Center at the Santa Clara University School of Law.

For an update on the status of payments, please contact the Settlement Administrator (see Section 12).

11. WHAT AM I GIVING UP TO GET A PAYMENT?

If the Court approves this Settlement and unless you exclude yourself, you will become a Participating Class Member, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendant concerning the legal claims being resolved in this Settlement. Specifically, you will be giving up or "releasing" the Settled Class Claims described below against Defendant and each of its current and former shareholders, board members, directors, officers, employees, managers, independent contractors, members, investors, insurers, parent companies, subsidiaries, affiliates, and counsel ("Released Parties"). The releases become effective once the GSA is fully funded by Defendant.

Release of Settled Class Claims: All Settlement Class Members shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Settled Class Claims against any and all Released Parties. The "Settled Class Claims" means all claims, charges, complaints,

liens, demands, causes of action, obligations, damages and liabilities, whether known or unknown, that arise during the Class Period that each Settlement Class Member had, now has, or may hereafter claim to have against the Released Parties and that were asserted in the Complaint, or that could have been asserted in the Complaint based on any of the facts or allegations in the Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law. The Settled Class Claims specifically include, but are not limited to claims for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods or premium pay in lieu thereof, failure to provide rest periods or premium pay in lieu thereof, failure to timely pay final wages at termination, failure to provide complete and accurate itemized wage statements, failure to reimburse business expenses, civil, unfair business practices, and including and not limited to, for violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802, and Industrial Welfare Commission Wage Orders.

Release of Settled PAGA Claims: If you are an Aggrieved Employee (i.e. if you worked for Defendant during the PAGA Period), you will also release all claims all claims for civil penalties pursuant to PAGA that were asserted, or could have been asserted, or that arise, whether known or unknown, during the PAGA Period, based for any of the alleged violations of the California Labor Code and/or Industrial Welfare Commission Wage Orders that were asserted, or could have been asserted, within the PAGA Complaint and Notice based on any facts or allegations therein, including, but not limited to, violations of California Labor Code §§ 98.6, 201, 201.3, 202, 203, 204, 210, 213(d), 216, 218.5, 218.6, 223, 225.5, 226, 226(a), 226(e), 226(f), 226(h), 226.3, 226.6, 226.7, 227.3, 232, 232.5, 233, 234, 245-248.5, 432, 432.5, 432.7, 510, 512, 558.1, 1102.5, 1024.5, 1174, 1174.5, 1174(d), 1194, 1194(a), 1194.2, 1197, 1197.1, 1197.5, 1198, 1199, 1198.5, 1527, 2699, 2699(f)-(g), 2699.3, 2699(a), 2802, 2802(a), 2802(b), 2810.5, 3366, 3457, 8397.4, 6401 and Industrial Welfare Commission Wage Orders..

EXCLUDING YOURSELF FROM THE SETTLEMENT

12. HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT?

To exclude yourself from the Settlement, you must send the Settlement Administrator a written and signed request for exclusion which must be postmarked no later than [45 days after Class Notice is Mailed]. Be sure to include your name, address, and telephone number, and any other information you think would be helpful to the settlement Administrator to identify you. You can send your request for exclusion to the settlement Administrator at:

Apex Class Action Administration
AMAROK LLC Settlement
XXXXX
City, State, XXXXX
Email:
Fax:

If you ask to be excluded from the Settlement, you will not be legally bound by anything that happens in the Action, except as it relates to settlement of the PAGA claim. If you ask to be excluded from the Settlement you will not be able to object to the Settlement and you will not receive an Individual Class Payment, but you will still receive an Individual PAGA Payment if you worked for Defendant during the PAGA Period (April 30, 2023 through XXXX). If you ask to be excluded, you may be able to sue (or continue to sue) Defendant in the future.

QUESTIONS? CALL 1-800-XXX-XXXX TOLL FREE

13. IF I DON'T EXCLUDE MYSELF, CAN I SUE DEFENDANT FOR THE SAME THING LATER?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is [45 days after Class Notice is Mailed].

14. IF I EXCLUDE MYSELF, CAN I GET MONEY FROM THIS SETTLEMENT?

If you exclude yourself, you will not receive any money from this Settlement, except for any PAGA Individual Payment (if you are a PAGA Member). However, if you timely exclude yourself from the Settlement, you will retain the right to pursue your own legal action against Defendant, if you desire.

THE LAWYERS REPRESENTING YOU IN THIS LAWSUIT

15. DO I HAVE A LAWYER IN THIS CASE?

The Court has determined that Wilshire Law Firm, PLC is qualified to represent you and the Class Members in the lawsuit. These lawyers are called Class Counsel and their contact information is listed below. If you want to be represented by your own lawyer, you may hire one at your own expense.

John G. Yslas (SBN 187324)
John.yslas@wilshirelawfirm.com
Samantha A. Smith (SBN 233331)
Samantha.smith@wilshirelawfirm.com
Eugene Zinovyev (SBN 267245)
Eugene.zinovyev@wilshirelawfirm.co
John Brown (SBN 233605)
John.brown@wilshirelawfirm.com
Gabriella Solé (SBN 346164)
gabriella.sole@wilshirelawfirm.com
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

16. HOW WILL THE LAWYERS BE PAID?

Class Counsel will ask the Court to approve \$33,333.33 (or 1/3 of the GSA) for attorneys' fees incurred in investigating the facts, litigating the case, and negotiating the Settlement. Class Counsel will also seek Court-approval of up to \$15,000.00 in litigation costs and expenses incurred in this matter. The Court may award Class Counsel less than what they request. Class Counsel will also ask the Court to approve a payment to Plaintiffs Aaron Alvarez and Michael Armour in the amount of \$5,000.00 each, in addition to Plaintiffs' Individual Class Payment and Individual PAGA Payment for the initiative, risk, and time and energy Plaintiffs have spent in service to the Class as the Class Representative. The Court may award a Class Representative less than what is requested.

QUESTIONS? CALL 1-800-XXX-XXXX TOLL FREE

OBJECTING TO THE SETTLEMENT

You can and have the right to tell the Court you do not agree with the Settlement or some part of it.

17. HOW DO I TELL THE COURT THAT I OBJECT TO THE SETTLEMENT?

If you don't think the Settlement is fair, you can object to some or all of the Settlement. You can either object to the Settlement in person at the Final Approval Hearing or you can submit a written objection. Written objections and notices of intent to appear at the Final Approval Hearing must be mailed to the Settlement Administrator and postmarked on or before _____, 2025, at the following address:

Apex Class Action Administration
AMAROK LLC Settlement
XXXXX
City, State, XXXXX
Email:
Fax

The written objection should state your name and address and describe all legal and factual reasons that you object to the terms of the Settlement. You should also include or attach any documents upon which your objection is based. If the Court overrules the objection at the Final Approval hearing, the Settlement Agreement will be approved, and you will receive your payment. If you do not submit a written objection, you may still appear at the Final Approval hearing to voice your objection or to otherwise observe the proceedings.

18. WHAT'S THE DIFFERENCE BETWEEN OBJECTING AND REQUESTING EXCLUSION?

Objecting is simply telling the Court that you do not agree with something about the Settlement. You can object only if you stay in the Class.

Requesting exclusion is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. If you submit both an objection and a request to be excluded from the settlement, the request to be excluded will control and you will not get any money from this settlement.

THE COURT'S FAIRNESS HEARING

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

19. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court will hold a Final Approval Hearing at _____ on _____ in Department 23 of the Sacramento County Superior Court, located at Gordon D. Schaber Superior Court 720 Ninth Street, Sacramento, CA 95814, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. If there are objections, the Court will consider them at that time. The Court will

also be asked to approve the requests for the Class Representative Incentive Awards and the Class Counsel Fees and Costs Payments.

20. DO I HAVE TO COME TO THE HEARING?

No. Class Counsel will answer questions the Court may have. However, you are welcome to attend. If you send an objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection to the settlement administrator on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

IF YOU DO NOTHING

21. WHAT IF I DO NOTHING AT ALL?

If you do nothing, you will receive a Settlement payment, and you will be bound by the terms of Settlement, which means that you will not be able to start a lawsuit, continue a lawsuit, or be a part of any other lawsuit against the Defendant about the legal issues in the Action.

GETTING MORE INFORMATION

22. HOW DO I GET MORE INFORMATION?

You may contact Class Counsel at the contact information listed above in Section 15 if you have any questions about the Settlement. You may also contact the Court-appointed Settlement Administrator, [INSERT] by calling toll free 1-800_____, or you can write to the Administrator at the following address:

[INSERT]
AMAROK LLC Settlement
XXXXX
City, State, XXXXX
Email:
Fax

PLEASE DO NOT TELEPHONE THE COURT OR AMAROK LLC'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS. YOU MAY, HOWEVER, CALL CLASS COUNSEL OR THE SETTLEMENT ADMINISTRATOR, LISTED ABOVE.

EXHIBIT 2

Samantha Smith, Esq.

From: DIR PAGA Unit <no-reply@formassembly.com>
Sent: Thursday, April 24, 2025 11:25 AM
To: Samantha Smith, Esq.
Subject: Thank you for your Proposed Settlement Submission

04/24/2025 11:25:02 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C02%7Csamantha.smith%40wilshirelawfirm.com%7C8e0199375c254d908f5508dd835d5dbd%7C9ada260a4f194da187b814d372333753%7C1%7C0%7C638811159229155837%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIlwLjAuMDAwMCIslIAiOiJXaW4zMilslkFOljoitWFBpCjllUljoyfQ%3D%3D%7C0%7C%7C%7C&sdata=9p2BCrG3bPuOZCm%2BWRQ28HDnk9goxrEMcHHvmlL%2BScE%3D&reserved=0

EXHIBIT 3

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Colin M. Jones, Esq.	Wesley Shelton, Esq.
Justin F. Marquez, Esq.	Jennifer Leinbach, Esq.
John Yslas, Esq.	Jeffrey Bils, Esq.
Jon Teller, Esq.	Nathan Kingery, Esq.
Tae Kim, Esq.	Elizabeth Votra, Esq.
Daniel DeSantis, Esq.	Benjamin Haber, Esq.
Jennifer P. Burkes, Esq.	Ghazaleh Attaran, Esq.
Mary Caruso, Esq.	Adam Sherman, Esq.
Nicol Hajjar, Esq.	Jesenia Martinez, Esq.
Stephanie Mazepa, Esq.	Arrash Fattahi, Esq.
Thiago Coelho, Esq.	Jesse Chen, Esq.
Cameron Stewart, Esq.	Arsine Grigoryan, Esq.
Shahin Rezvan, Esq.	Diego Aviles, Esq.

April 30, 2024

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

CSC - Lawyers Incorporating Service
Agent for Service of Process
Amarok LLC
2710 Gateway Oaks Dr., Ste. 150
Sacramento, CA 95833
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6621 6035 41

Wendy A. Walker, Esq.
Julia Zuchkov, Esq.
Jackson Lewis P.C.
400 Capitol Mall, Ste. 1600
Sacramento, CA 95814
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6621 6035 27

Amarok LLC
550 Assembly St., 5th Floor
Columbia, SC 29201
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6621 6035 34

Re: ***Aaron Alvarez and Michael Armour v. Amarok LLC***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Aaron Alvarez and Michael Armour ("Employees") to pursue a Labor Code Private Attorneys General Act of 2004 ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against their former employers, Amarok LLC ("Amarok" or "Employers"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employees and some or potentially all of Employers' Aggrieved Employees.

Employees wish to pursue this action on behalf of Employees as Aggrieved Employees, on behalf of the State of California, as well as on behalf of some or potentially all other persons who worked for Employers in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Employees and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

Employees' Employment with Amarok

Amarok is a commercial security company specializing in full-perimeter electric fencing. Employers employed Employees as technicians. In performing their duties, Employees were

regularly required to perform work (off-the-clock), without compensation. Due to high workloads, Employees were also frequently deprived of an opportunity to take legally compliant meal and rest breaks. Moreover, Employers failed to provide Employees and other Aggrieved Employees with the meal and rest break premiums as required by the Labor Code. Additionally, Employees were expected to and did incur business-related expenses, but Employers failed to reimburse such business-related expenses. These are just non-exhaustive examples of the facts and theories the Employees assert, which are described in more detail below.

Employers own/owned and operate/operated an industry, business, and establishment within the State of California. As such and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Employee Aaron Alvarez is a resident of Clearlake, California who worked for Employers in Sacramento County, California as an hourly-paid, non-exempt employee from approximately January 2020 to approximately December 2023.

Employee Michael Armour is a resident of Fallon, Nevada who worked for Employers in Sacramento County, California as an hourly-paid, non-exempt employee from approximately February 2022 to approximately August 2023.

During their employment for Employers, Employers paid Employees an hourly wage and classified them as non-exempt from overtime. Employers typically scheduled Employees to work at least five days in a workweek and at least eight hours per day, but Employees also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Employees' employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employees with legally compliant meal periods, failed to authorize and permit Employees to take rest periods, failed to timely pay all final wages to Employees when Employers terminated Employees' employment, failed to furnish accurate wage statements to Employees, failed to indemnify Employees for business expenditures, and failed to timely produce Employees' requested employment records. As discussed below, Employees' experience working for Employers was typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

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Throughout the statutory period, Employers at times failed to pay Employees and the Aggrieved Employees, or some of them, for all hours worked, including minimum, straight time, and overtime wages. Employers at times required Employees and the Aggrieved Employees, or some of them, to work “off-the-clock,” uncompensated, by, for example, requiring Employees and the Aggrieved Employees to perform work during uncompensated meal periods and rest periods, and requiring Employees and the Aggrieved Employees to perform work before clocking in and/or after clocking out. Some of this unpaid work should have been paid at the overtime rate. California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek. Employer at times failed to properly calculate Employees’ regular rate of pay when paying overtime, by failing to include all compensation in Employees’ overtime calculations. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employees and the Aggrieved Employees, or some of them, worked.

Throughout the statutory period, Employers also engaged, at times, in a practice of improper rounding. Under *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, because Employers could and did track the exact time in minutes that Employees worked, they must pay for all time worked. When an employer uses an electronic timekeeping system to record time worked, this ability to “precisely capture time worked” means that “the employer must pay the employee for that worktime when due.” (Id. at 671.) As a result of Employers’ rounding policy, Employees consistently were not compensated at least minimum wage for all hours that Employees worked.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Employers at times wrongfully failed to provide Employees and the Aggrieved Employees, or some of them, with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing at times to provide Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take meal periods). Employers also continued to assert control over Employees and the Aggrieved Employees, or some of them, by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employees and the Aggrieved Employees, or some of them, permission to take a meal period under the conditions required by law, and without properly compensating Employees and the Aggrieved Employees, or some of them, for meal periods that were not provided as required by law. Employers also did not inform Employees of their right to, nor permitted them to take, all of Employees’ second meal periods when they worked at least ten hours of work in a workday and otherwise unlawfully pressured Employees to waive such breaks.

Accordingly, Employers at times failed to provide meal periods to Employees and the Aggrieved Employees, or some of them, in compliance with California law.

Employees and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, at times failed to pay Employees and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Employers at times have wrongfully failed to authorize and permit Employees and the Aggrieved Employees, or some of them, to take legally compliant rest periods in a manner required by law (and also including but not limited to failing, at times, to authorize and permit Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take rest periods). Employers at times required Employees and the Aggrieved Employees, or some of them, to work in excess of four consecutive hours a day without Employers authorizing and permitting Employees to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employees and the Aggrieved Employees, or some of them, for rest periods that were not authorized or permitted. Instead, Employers at times continued to assert control over Employees and the Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Employees and the Aggrieved Employees, or some of them, permission to take a rest period. Accordingly, Employers at times failed to authorize and permit Employees and the Aggrieved Employees, or some of them, to take rest periods in compliance with California law.

Employees and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not authorized and permitted to take all required rest period(s). Employers, however, at times failed to pay Employees and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on Employers' failure at times to pay Employees and the Aggrieved Employees, or some of them, for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, at times, Employers failed and refused to pay the Employees all wages due, and failed to pay those wages twice a month, in that Employees were not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employees the legally required wages for unpaid wages, and Employees and the Aggrieved Employees, or some of them, suffered damages in those amounts.

Moreover, Employers are liable to Employees and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employees seek penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Employers, however, at times failed to maintain accurate records of hours worked and all meal periods taken or missed by Employees and the Aggrieved Employees, or some of them.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employees and the Aggrieved Employees, or some of them, the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employees and the Aggrieved Employees, or some of them, had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employees and the Aggrieved Employees, or some of them, have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure, at times, to comply with the California Labor Code and applicable IWC Wage Orders, Employees and the Aggrieved Employees, or some of them, have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 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 that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous 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. Direct deposits of wages to an employee's bank, saving and loan, or credit union account that were previously authorized by the employee are immediately terminated when an employee quits or is discharged, and the payment of wages upon termination of

employment in the manner described above shall apply unless the employee has voluntarily authorized that deposit and provided that the employer complies with the provisions of Labor Code § 213(d) relating to the payment of wages upon termination or quitting of employment.

Within the applicable statute of limitations, the employment of Employees and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers at times failed, and continue at times to fail to pay Employees and terminated Aggrieved Employees, or some of them, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages. Employers also violated, and continue to violate, Labor Code section 213(d) by paying final wages (if any are paid at all) via direct deposit without the employee's voluntary authorization.

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

Accordingly, Employees and the Aggrieved Employees, or some of them, are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203. Moreover, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination, and for unlawfully making any such payment (if any) via direct deposit without the employee's voluntary authorization.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (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 the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (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. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers at times failed to, and continue at times to fail, to timely furnish Employees and the Aggrieved Employees, or some of them, with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Employers at times violated Labor Code § 226, Employees and similarly Aggrieved Employees, or some of them, suffered injury and damage to their statutorily protected rights. Accordingly, Employees and similarly Aggrieved Employees, or some of them, are entitled to recover from Employers the greater of their actual damages caused by Employers' failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee. Moreover, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers at times wrongfully required Employees and the Aggrieved Employees, or some of them, to pay expenses that they incurred in direct discharge of their duties for Employers. Employees and the Aggrieved Employees, or some of them, at times paid out-of-pocket for necessary employment-related expenses. Employees and the Aggrieved Employees, or some of them, incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employees and the Aggrieved Employees for these employment-related expenses.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employees and the Aggrieved Employees, or some of them, for necessary business expenditures.

Failure to Produce Requested Employment Records

Labor Code § 226 provides that current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request. Labor Code § 1198.5(a) also provides that every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employees' performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions. Labor Code § 432 provides that if an employee or applicant signs any instrument relating to the obtaining or holding of employment, he or she shall be given a copy of the instrument upon request.

On information and belief, Employees and the Aggrieved Employees, or some of them, submitted written request(s) to Employers for their payroll records, timecards, and personnel records but did not timely receive them as required by the Labor Code.

As a result, Employers are liable to Employees and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 226(f), 1198.5(k), and 2699 for failing to timely produce the requested records.

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by Employees and Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers at times failed, and continue at times to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employees and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers at times failed and continue at times to fail to keep accurate and complete records showing total hours worked by Employees and Aggrieved Employees, or some of them, by virtue of Employers’ time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices. Employers at times failed and continue at times to fail to keep accurate and complete records showing total hours worked by virtue of Employers’ failure to relieve Employees and Aggrieved Employees, or some of them, of all duties and Employers’ control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Employers further failed at times, and continue at times to fail, to record the true start and end times of Employees’ and Aggrieved Employees’ meal periods, or some of them.

Based on further information and belief, Employers further failed at times and continue at times to fail, to record the true start and end times of Employees’ and Aggrieved Employees’ work shifts, or some of them. Additionally, Employers at times failed, and continue at times to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Employees and Aggrieved Employees, or some of them.

Employers’ failure to keep “accurate and complete” payroll records for Employees and Aggrieved Employees, or some of them, violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each Aggrieved Employees (or some of them), results in a separate civil penalty.¹

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”).

Violation of Wage Theft Protection Act of 2011

Based on information and belief, Employers failed at times, and continue at times to fail, to comply with the notice requirements of Labor Code section 2810.5 (i.e., the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employees and Aggrieved Employees, or some of them, with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employers, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employers under Labor Code section 2810.5. Employees are informed and believe that failure to provide such information, including rates of pay that are in effect, has permitted Employers to pay Aggrieved Employees, or some of them, at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California.

Employees are additionally informed and believe that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting. Among other relief, Aggrieved Employees, or some of them, may collect from Employers in connection with these violations’ civil penalties pursuant to Labor Code sections 558 and 2699.

Violation of California Labor Code §§ 245-248.5

Throughout the relevant time period, Employers at times failed to provide proper paid sick leave to Employees and other Aggrieved Employees, or some of them. Employers either failed at times to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to Employees and other Aggrieved Employees, or some of them, by failing at times to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to Employers’ premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, Employers further failed to provide notice of the correct sick leave amount balance available to Employees and other Aggrieved Employees on their wage statements or other written statement.

Based on information and belief, Employers failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, Employers failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, Employers failed to provide notice of sick leave amount balance left for Employees and other Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for this failure, Employees and other Aggrieved Employees would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and Employees seek all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of Employees and all Aggrieved Employees. In violation of Labor Code section 247.5, Employers failed to maintain records documenting the hours worked and paid sick days accrued and used by Employees and all Aggrieved Employees, permitting the presumption that Employees and all Aggrieved Employees were entitled to the maximum number of hours accruable under this article.

Upon information and belief, Employers further failed and continue to fail to comply with Labor Code section 246, by failing to provide Employees and all Aggrieved Employees with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages. Employers unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of Employers' failure to properly institute a paid sick leave program.

On information and belief, Employees allege that all of these practices were experienced and continue to be experienced by other Aggrieved Employees. Employees request all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to Employers' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Employees and other Aggrieved Employees are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. Employees request all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave

Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, Employers violated Labor Code section 248.2 by not providing Aggrieved Employees with required 2021 COVID-19 Supplemental Paid Sick Leave.

Refusal to Make Payment

Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due. Employers violated and continue to violate Labor Code section 216 by failing to pay Employees and all Aggrieved Employees for all hours worked at the proper wage rate and by failing to pay Employee and all Aggrieved Employees an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject Employers to civil penalties under Labor Code section 225.5. Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.²

² Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

Seating Violations

Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, Employers failed to provide Aggrieved Employees with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that Aggrieved Employees were working. Lastly, based on information and belief, there were periods of time when Aggrieved Employees were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

Employers' Aggrieved Employees worked in various positions. The nature of Employees' and other Aggrieved Employees' work reasonably permitted the use of seats. However, Employers failed to provide suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting Employers to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.³

Statutory Wage Violations

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, Employers willfully and systematically denied Employees and other Aggrieved Employees of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. Employers acted

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, Employers paid Employees and other Aggrieved Employees lower wages than those they were entitled to while purporting that Employees and all Aggrieved Employees were properly paid. As such, Employees and all Aggrieved Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination.

Based on information and belief, Employers had and continue to have a uniform policy and practice of failing to allow Aggrieved Employees and Exempt Aggrieved Employees to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to Aggrieved Employees and/or Exempt Aggrieved Employees upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Failure to Timely Provide Temporary Workers with Owed Wages

On information and believe, Employers had and have a policy of failing to provide all temporary workers with owed wages weekly by not later than the regular payday of the following week. As a result, pursuant to Labor Code section 201.3, Employers would be liable for civil penalties pursuant to Labor Code sections 201.3.

Unlawful Agreements/ Unlawful Criminal History Inquiries

Unlawful Agreements

Labor Code section 432.5 provides that "no employer ... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer ... to be prohibited by law." Based on information and belief, Employers required Employees, Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to unlawful conditions of employment including but not limited to, unlawful non-compete and/or non-solicitation agreements as well as unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA - CA Civil Code section 1786, et seq.) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, et seq.) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting

requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, Employers ordered unlawful financial credit checks on Aggrieved Employees and Exempt Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved Employees and Exempt Aggrieved Employees to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, Employers also required Aggrieved Employees and Exempt Aggrieved Employees to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA. For example, based on information and belief, Employers required Employees to submit and/or agree to submit in writing to an unlawful background check as a condition of obtaining and/or holding employment in violation of, including but not limited to, Labor Code section 432.5.

Based on information and belief, Employers required Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, et seq. and 15 U.S.C. section 1681, et seq., including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, Employers violated Labor Code section 432.5.

Based on information and belief, Employers also required Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to provide ongoing consent to Employers to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, Employers knew that requiring Aggrieved Employees and Exempt Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful. By requiring Aggrieved Employees and Exempt Aggrieved Employees agree in writing to unlawful provisions as a condition of employment, Employers violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, Employers asked Aggrieved Employees, and Exempt Aggrieved Employees about arrests not resulting in convictions on their employment application, in violation of California law.

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Upon information and belief, Employers, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked Aggrieved Employees and Exempt Aggrieved Employees about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, Employers violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, Employers violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, Employers violated Labor Code section 432.5 by requiring Employees, Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, Employers required Employees, Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring Employees, Aggrieved Employees and Exempt Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, Employers required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5. As such, Employees, Aggrieved Employees and Exempt Aggrieved Employees continue to be subject to various unlawful provisions as a condition of employment.

Preventing Employees from Using or Disclosing Skills, Knowledge, and Experience

On information and belief, Employers had and have a policy or practice of preventing Employees and/or other Aggrieved Employees from using or disclosing the skills, knowledge, and experience they obtained at Employers for purposes of competing with Employers, including, without limitation, preventing Employees from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employers and under what circumstances they might be receptive to an offer from a rival employer.

As such, Employees are informed and believe that this violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code,

including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employers would be liable for civil penalties pursuant to Labor Code section 2699.

Whistleblower Violations

On information and belief, Employers had and have a policy or practice of preventing Employees and/or other Aggrieved Employees from disclosing violations of state and federal law, either within Employers to their managers or outside Employers to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition, Employees are informed and believe that these policies and/or practices prevent Employees and/or other Aggrieved Employees from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code sections 98.6, 232, and 232.5. These violations of the Labor Code would expose Employers to liability for civil penalties pursuant to Labor Code section 2699.

Workplace Health and Safety Violations

On information and belief, Employers had and have a policy or practice of failing to furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations and processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. Employees are informed and believe, and based thereon allege that Employers had and have a policy or practice of requiring or permitting employees to go or be in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. Employees are informed and believe, and based thereon allege that Employers had and have a policy or practice of failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403. Employees are informed and believe, and based thereon allege that these failures include, without limitation, failing to disinfect time clocks and other surfaces after use by Employees and/or other Aggrieved Employees; failing to provide adequate protection equipment to Employees and/or other Aggrieved Employees; and failing to provide adequate distance in working conditions between Employees and/or other Aggrieved Employees.

On information and belief, Employers violated section 1527, 3366, 3457 and 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each sex of employee.

Action for Civil Penalties Under PAGA

In light of the above, Employees allege that Employers violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;

3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements;
8. Labor Code § 2802 by failing to indemnify for necessary expenditures;
9. Labor Code §§ 226, 432, and 1198.5 by failing to timely produce requested payroll records, timecards, and personnel records;
10. Labor Code § 1174 by failing to keep accurate and complete payroll records;
11. Labor Code §§ 245-248.5 by failing to provide proper sick leave and supplemental paid sick leave;
12. Labor Code § 216 for refusal to pay wages due and payable and/or denial of the validity of any claim to wages due;
13. Labor Code § 223 for secretly paying wages lower than required by statute while purporting to pay legal wages;
14. Labor Code § 227.3 for failure to pay vested vacation and/or paid time off;
15. Section 14(A-B) of all applicable IWC Wage Orders for failure to provide suitable seating;
16. Labor Code § 432.5 for unlawful agreements;
17. Labor Code § 201.3 for failure to timely provide temporary workers with wages;
18. Labor Code §§ 98.6, 232, 232.5, 1102.5, and 1197.5 for preventing employees from using or disclosing the skills, knowledge and experience they obtained at Employers, and whistleblower violations;
19. Labor Code § 432.7 for unlawful inquiries into criminal histories; and
20. Labor Code §§ 1527, 3366, 3457, 8397.4, 6401, and 6401 for workplace health and safety violations.

Therefore, on behalf of potentially all Aggrieved Employees, Employees seek applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699. Employees have placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



John G. Yslas, Esq.