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Attorneys for Plaintiff JUSTIN ABNEY, on
behalf of himself and others similarly situated

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

JUSTIN ABNEY, an individual on behalf
of himself and all others similarly situated,

Plaintiffs,

v.

COASTAL TRACTOR, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CLASS ACTION

Case No. 24CV002152

Assigned for All Purposes To:
Hon. Ian A. Rivamonte, Dept. 14

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

Hearing Information:

Date: April 24, 2026

Time: 8:30 a.m.

Department: 14

Action filed: May 24, 2024

FAC filed: July 29, 2024

Trial: None Set

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I, Enoch J. Kim, declare as follows:

1. I am an attorney licensed and admitted to practice before all courts of the State of California and the United States District Court for the Central, Southern, Eastern, and Northern Districts of California.

2. I am Senior Counsel at D.Law, Inc. and counsel for Plaintiff Justin Abney (Plaintiff”), on behalf of himself and all other similarly situated employees of Defendant Tractor (“Defendant”) (Plaintiff and Defendant are collectively referred to herein as “the Parties”). All of the matters set forth herein are within my personal knowledge. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of the Parties’ Class and Fairness Hearing Settlement Agreement (“Motion”). A true and correct copy of the Parties’ Class and Fairness Hearing Settlement Agreement (“Settlement Agreement” or “Settlement”) is attached hereto as **Exhibit 1**.

Procedural History

3. Plaintiff worked as a non-exempt, hourly employee for Defendant and seeks to represent approximately 79 current and former California non-exempt individuals who worked for Defendant during the Class Period. Defendant operates as a for-profit corporation, which is engaged in supplying, repairing, and selling construction and agricultural equipment to various customers throughout the Central Coast of California. Defendant operates various facilities including locations in Santa Maria, King City, and Paso Robles, California. Individuals employed by Defendant in Santa Maria as hourly, non-exempt employees during the Class Period, which is May 24, 2020, to the present, seek a preliminary approval. Class Members include those who worked for Defendant as sales representatives and repair/service technicians throughout California.

4. On May 24, 2024, Plaintiff commenced a Class Action by filing a Complaint
g causes of action against Defendant for (1) Failure to Pay Minimum Wages; (2) Failure
Overtime Under Labor Code § 510; (3) Failure to Pay Vacation Wages; (4) Failure to
y with Labor Code § 245 et seq. and 246; (5) Meal Period Liability Under Labor Code §
(6) Rest-Break Liability Under Labor Code § 226.7; (7) Failure to Provide Accurate Wage

1 Statements Under Labor Code § 226(a); (8) Failure to Maintain Records Under Labor Code §§
2 1174 and 1174.5; (9) Failure to Produce Requested Employment Records Under Labor Code §§
3 226 and 1198.5; (10) Failure to Timely Pay Wages Upon Termination Under Labor Code § 203;
4 (11) Failure to Reimburse Necessary Business Expenses § 2802; and (12) Violation of Bus. &
5 Prof. Code §§ 17200 *et seq.* (the “Class Action”).

6 5. On May 24, 2024, Plaintiff submitted a PAGA notice (LWDA-CM-1030452-24)
7 to the Labor and Workforce Development Agency (“LWDA”). A true and correct copy of the
8 PAGA notice is attached hereto as **Exhibit 2**. On July 29, 2024, Plaintiff filed a First Amended
9 Complaint (“Operative Complaint”) adding a claim for civil penalties under the California
10 Private Attorneys General Act.

11 6. Plaintiff contends that Defendant violated California’s wage and hour laws by
12 failing to pay minimum wage, failing to pay overtime wages, failing to pay vacation wages,
13 failing to pay sick pay wages, failing to provide compliant meal periods or meal break premium
14 pay, failing to provide compliant rest breaks or rest break premium pay, failing to provide
15 accurate, itemized wage statements, failing to maintain accurate records or provide requested
16 records, failing to timely pay wages during employment or upon separation, failing to pay
17 waiting-time penalties, failing to indemnify reasonable and necessary business expenses, and
18 violating Business and Professions Code 17200 *et seq.*

19 **Investigation**

20 7. Before filing the lawsuit, Class Counsel conducted a thorough investigation and
21 researched the facts and circumstances underlying the pertinent issues and applicable law. This
22 required thorough discussions and interviews between Class Counsel and Plaintiff, in addition to
23 the above-described research into the various legal issues involved in the case. After filing the
24 lawsuit, Class Counsel conducted a thorough investigation of the facts and claims giving rise to
25 the action, including (1) conducting informal discovery and meeting and conferring with defense
26 counsel about same; (2) reviewing and analyzing records and data, as well as employment-
27 related policies; (3) reviewing Plaintiff’s personnel file and other documentation; (4)
28 interviewing Plaintiff regarding potential Class Members; (5) researching the applicable law and

1 potential defenses; (6) constructing damage models based on interpretations of California law
2 and the facts and numbers provided by Defendant; and (7) reviewing information provided by
3 Defendant in response to informal discovery and in advance of the mediation. The Parties
4 conducted their own evaluations of the potential recoveries based on the claims alleged in the
5 Action, including consulting experts.

6 8. Defendant, for its part, vigorously contested liability, the amount of claimed
7 damages, and the propriety of class certification. After analyzing the relevant documents and
8 other gathered data, Class Counsel believed that this case was appropriate for resolution via
9 mediation. Given the high level of risk present for both sides, the Parties elected to mediate
10 Plaintiff's claims and attempt settlement.

11 **Settlement Efforts**

12 9. On May 6, 2025, the Parties attended an all-day mediation session with Hon.
13 Howard Broadman (Ret.), an experienced litigator and mediator in the field of wage and hour
14 class actions. Counsel for Plaintiff and Defendant discussed all aspects of the case, including the
15 risks of continued litigation and the risks to all parties of proceeding with a class certification
16 motion, as well as the merits of the primary claims in this case. Following mediation, the Parties
17 accepted a mediator's proposal outlining general settlement terms. The Parties continued to work
18 together on a long-form Settlement Agreement following mediation, which resulted in the
19 Settlement Agreement before the Court for approval.

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

25 **Summary of the Settlement**

26 11. Under the terms of the proposed Settlement Agreement, Defendant has agreed to pay
27 \$395,000.00 ("**Gross Settlement Amount**") on a non-reversionary basis. (Exhibit 1, Settlement
28 Agreement, ¶ 3.1.) In addition to and separate from the Gross Settlement Amount, Defendant

1 will pay the employer's portion of any payroll taxes on the wage allocation portion of the
2 individual settlement payments to Class Members. The Settlement Agreement defines the
3 Settlement Class ("**Class**") as, "all persons who worked for Defendant as non-exempt employees
4 in the State of California at any time during the Class Period", which is the period from May 24,
5 2020, through preliminary approval. (Exhibit 1, Settlement Agreement, ¶ 1.12.) The Settlement
6 Agreement also defines "**Aggrieved Employee**" as, "all individuals who are or previously were
7 employed by Defendant as non-exempt employees in the State of California at any time during
8 the PAGA Period," which is the period from May 24, 2023, through preliminary approval.
9 (Exhibit 1, Settlement Agreement, ¶ 1.4.) The "**Net Settlement Amount**" available for
10 distribution to Class Members, is the Gross Settlement Amount, less the following payments in
11 the amount approved by the Court: Class Counsel Fees Payment, Class Counsel Litigation
12 Expenses Payment, Class Representative Service Payment, the Administration Expenses
13 Payment, Individual PAGA Payments, and the LWDA PAGA Payment. (Exhibit 1, Settlement
14 Agreement, ¶ 1.28.) These amounts are detailed as follows:

- 15 • Class Counsel's Fees and Litigation Expenses Payment: Up to one-third of the Gross
16 Settlement Amount, or **\$131,666.67**, to Class Counsel as attorneys' fees for the litigation
17 and resolution of this Action and actual costs incurred in this Action currently estimated
18 to be \$16,355.05. (Exhibit 1, Settlement Agreement, ¶ 3.2.2.);
- 19 • Class Representative Service Payment to Named Plaintiff: Up to **\$7,500.00** to Plaintiff as
20 an award for his service as the class representative (Exhibit 1, Settlement Agreement, ¶
21 3.2.1.);
- 22 • Administration Expenses Payment: A not-to-exceed amount of **\$6,650.00** to the
23 Settlement Administrator for its costs of administration of the Settlement (Exhibit 1,
24 Settlement Agreement, ¶ 3.2.3);
- 25 • PAGA Payment: **\$40,000.00** for settlement of claims for civil penalties under PAGA,
26 with 25% (\$10,000.00) allocated to the Aggrieved Employees ("Individual PAGA
27 Payments") and 75% (\$30,000.00) allocated to the LWDA ("LWDA PAGA Payment")
28 (Exhibit 1, Settlement Agreement, ¶ 3.2.5).

1 12. If the Court approves the above allocations from the Gross Settlement Amount,
2 the Net Settlement Amount (“NSA”) is estimated to be approximately **\$192,828.28**. Twenty
3 percent (20%) of each Participating Class Member’s Individual Class Payment will be allocated
4 to settlement of wage claims (the “Wage Portion”). The Wage Portions are subject to tax
5 withholding and will be reported on an IRS W-2 Form. (Exhibit 1, Settlement Agreement, ¶
6 3.2.4.1.) Each Participating Class Member’s “Individual Class Payment” shall be calculated by
7 the Settlement Administrator using the following formula: “(a) dividing the Net Settlement
8 Amount by the total number of Workweeks worked by all Participating Class Members during
9 the Class Period and (b) multiplying the result by each Participating Class Member’s
10 Workweeks.” (Exhibit 1, Settlement Agreement, ¶ 3.2.4.) The “Individual Class Payment”
11 means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated
12 according to the number of Workweeks worked during the Class Period. (Exhibit 1, Settlement
13 Agreement, ¶ 1.23.) For the approximately 79 Class Members (if no exclusions), the average
14 Gross Individual Settlement Payment, using a straight average, is \$2,440.86. The estimated
15 average amount each Class Member will receive per workweek based on the Net Settlement
16 Amount and 11,356 workweeks is \$17.01.

17 13. Not later than 15 days after the Court grants Preliminary Approval of the
18 Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the
19 form of a Microsoft Excel spreadsheet. (Exhibit 1, Settlement Agreement, ¶ 4.2.) Using best
20 efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class
21 Data, the Administrator will send to all 79 Class Members identified in the Class Data, via first-
22 class USPS mail, the Class Notice with Spanish translation. (Exhibit 1, Settlement Agreement, ¶
23 7.4.2.) The Class Notice includes a summary of the case and settlement terms and provides Class
24 Members with detailed instructions on how to exclude themselves, object to the settlement, and
25 dispute the number of workweeks and/or pay periods attributed to each Class Member per
26 Defendant’s records. (Exhibit 1, Exhibit A, Class Notice). No later than three (3) business days
27 after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the
28 Administrator shall re-mail the Class Notice using any forwarding address provided by the

1 USPS. (Exhibit 1, Settlement Agreement, ¶ 7.4.3.) If the USPS does not provide a forwarding
2 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class
3 Notice to the most current address obtained. (*Id.*) The Administrator has no obligation to make
4 further attempts to locate or send Class Notice to Class Members whose Class Notice is returned
5 by the USPS a second time. (*Id.*) Class Members who want to opt out must timely submit a
6 signed and dated written request to be excluded from the class portion of the Settlement to the
7 Settlement Administrator (“Opt-Out Request”). Class Members who wish to exclude themselves
8 from (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a
9 signed written Request for Exclusion not later than 45 days after the Administrator mails the
10 Class Notice (plus an additional 14 days for Class Members whose Class Notice is remailed).
11 (Exhibit 1, Settlement Agreement, ¶ 7.5.1.) The Parties have jointly selected ILYM Group, Inc.
12 to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
13 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
14 Agreement in exchange for the Administration Expenses Payment. (Exhibit 1, Settlement
15 Agreement, ¶ 7.1.) The Parties and their Counsel represent that they have no interest or
16 relationship, financial or otherwise, with the Administrator other than a professional relationship
17 arising out of prior experiences administering settlements. (*Id.*) ILYM Group, Inc. has
18 experience administering class action and PAGA settlements, has procedures in place to protect
19 the security of class data, adequate insurance in the event of a data breach or defalcation of
20 funds, and is qualified to administer the Settlement. (*See* Declaration of Kelsey Stern, which also
21 includes a breakdown of the anticipated costs of notice to the class.) In addition, ILYM Group,
22 Inc. will have a website for Class Members to review and reference for details regarding the
23 Final Approval Hearing and any Final Approval Order and Judgement. If the Court grants final
24 approval of the Settlement, a copy of the Final Approval Order and Judgment will be posted on
25 this website for Class Members to review. The website will be provided to Class Members in the
26 Class Notice that is mailed to them.

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Certification for Settlement Purposes Only is Appropriate

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

15. Numerosity and Ascertainability. The putative Class is so numerous that joinder of all members is impractical. Class Members are individuals who worked for Defendant in California as non-exempt, hourly employees during the period from May 24, 2020, through preliminary approval. Defendant has identified 79 Class Members based on a review of its payroll and personnel records. Thus, the requirements of numerosity and ascertainability are met here.

16. Well-Defined Community of Interest. Plaintiff contends, and Defendant does not dispute for settlement purposes only, that common issues of fact and law predominate as to each of the claims alleged by Plaintiff, and the Class is united in its proof. This action involves, *inter alia*, a determination about Defendant’s alleged failure to pay minimum wage, failure to pay overtime wages, failure to pay vacation wages, failure to pay sick pay wages, failure to provide compliant meal periods or meal break premium pay, failure to provide compliant rest breaks or rest break premium pay, failure to provide accurate, itemized wage statements, failure to maintain accurate records or provide requested records, failure to timely pay wages during employment or upon separation and for waiting-time penalties, failure to indemnify reasonable and necessary business expenses, and largely derivative claims under the UCL and PAGA.

1 Plaintiff contends Defendant's practices affected Class Members in the same way and presents
2 questions that are suitable for common adjudication because all Class Members were subject to
3 the same employment policies and practices. The outcome of litigation in this matter depends
4 upon questions that are common to Class Members.

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

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

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

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1 20. Plaintiff contends that class resolution is superior to other available methods for
2 the fair and efficient adjudication of the controversy as there is little interest or incentive for
3 Class Members to individually control the prosecution of separate actions. Although the alleged
4 injury resulting from Defendant's policies and practices are allegedly real and significant, the
5 cost of individually litigating each such case against Defendant would easily exceed the value of
6 any relief that could be obtained by any one Class Member individually. If Class Members are
7 forced to litigate their claims individually this would result in over 79 individual actions against
8 Defendant. Here, the alternative methods of resolution are individual suits for relatively small
9 amounts. Hence, an individual suit would prove uneconomical for potential Plaintiff because
10 litigation costs would dwarf a potential recovery.

11 **The Settlement is Fair, Adequate, and Reasonable**

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

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

21 22. The proposed settlement was reached as a result of arm's length negotiations after
22 the completion of pertinent discovery and the exchange of necessary Class Information. The
23 negotiations have been, at all times, adversarial and non-collusive in nature. *See*, 4 Newberg on
24 Class Actions § 13:45 (5th ed.) (due to the preference of settlement over litigation, "a court will
25 presume that a proposed class action settlement is fair when certain factors are present,
26 particularly evidence that the settlement is the product of arms-length negotiation, untainted by
27 collusion."). Although Plaintiff steadfastly maintain that his claims are meritorious, Plaintiff
28 acknowledges that there were substantial risks and uncertainty in proceeding with litigation. As

described below, Defendant presented multiple defenses to Plaintiff's claims, both on the merits and with respect to class certification. Thus, while Plaintiff was prepared to litigate these claims through class certification, and ultimately trial, success was far from certain. Assistance from a skilled mediator ensured that negotiations were non-collusive and well-informed.

B. Extent of Discovery and Stage of Proceedings.

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

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

24. Plaintiff's claims are based on Defendant's alleged failure to pay minimum wage, failure to pay overtime wages, failure to pay vacation wages, failure to pay sick pay wages, failure to provide compliant meal periods or meal break premium pay, failure to provide compliant rest breaks or rest break premium pay, failure to provide accurate, itemized wage statements, failure to maintain accurate records or provide requested records, failure to timely pay wages during employment or upon separation and for waiting-time penalties, failure to indemnify reasonable and necessary business expenses, and largely derivative claims under the UCL and PAGA.

25. Plaintiff alleges that Defendant failed to pay Plaintiff and Class Members at least minimum wages for all hours worked and proper overtime wages for hours worked in excess of eight hours in a day and 40 hours in a week. Specifically, Plaintiff alleges that Defendant rounded time punches to the nearest quarter hour. Furthermore, Plaintiff alleges that Defendant prohibited early clock ins and late clock outs without prior approval. Lastly, Plaintiff alleges that Defendant did not factor in quarterly commission payments into the regular rate of pay.

26. Defendant contends that it did not require off the clock work, paid for all reported hours worked, that Class Members were instructed and required to record all hours worked, that any alleged off the clock work was performed without Defendant's knowledge and was de

1 minimis, and that it paid wages at the proper rates. Defendant also argued that any bonuses or
2 incentive pay was discretionary and not includable in calculation of the regular rate of pay.
3 Defendant also argued that given its written policies and practices, any unrecorded hours are
4 likely subject to individualized inquiry and unlikely to be certified. Given the difficulty in
5 certifying this claim, Class Counsel applied a significant discount to damages based on this
6 theory.

7 27. Plaintiff also alleges that Defendant failed to provide Plaintiff and Class Members
8 with lawful first and second meal periods. For example, Plaintiff alleges that meal periods were
9 constantly missed, interrupted or cut short as Plaintiff and Class Members were required to carry
10 and monitor a work cell phone at all times during their shifts. To the extent Defendant required
11 Class Members to work over ten hours on a work shift, Plaintiff alleges that Defendant also
12 failed to provide second meal periods.

13 28. Defendant contends that Class Members were given a reasonable opportunity to
14 take their meal periods and that any meal periods not properly taken were at the voluntary
15 election of Class Members. Defendant further contends that the meal break claim requires
16 individualized inquiries which would preclude class certification. If Defendant's contentions
17 prevail in trial, the likely outcome would be no recovery for the Class Members on the meal
18 break claim.

19 29. Plaintiff also contends that Defendant did not provide Class Members with paid
20 **10-minute rest breaks** for every four hours or major fraction thereof. For example, Plaintiff
21 alleges that Class Members were not permitted to take all of their required rest breaks due to
22 their job duties and requirements imposed by Defendant. Further, Plaintiff alleges that Defendant
23 exerted control over Plaintiff and Class Members or otherwise required them to perform job-
24 related duties during any rest breaks they were authorized and permitted to take.

25 30. Defendant maintains that it did provide a reasonable opportunity for Class
26 Members to take duty-free rest breaks during their shifts and dispute all allegations that rest
27 breaks were not provided. Considering that unlike meal periods, rest breaks need not be
28 recorded, these violations would likely be difficult to prove at trial and potentially depress the

1 damages ultimately awarded. Therefore, Class Counsel applied significant and appropriate
2 discounts to the rest break claim.

3 31. Plaintiff also alleges that Defendant also required Plaintiff and Class Members to
4 incur necessary business expenses in the course of performing their required job duties without
5 **reimbursement**. These included the cell phone-related expenses Plaintiff and Class Members
6 incurred in responding to work related communications. Defendant denies this claim and argues
7 that Class Members were not required to incur expenses that are reimbursable under the law and
8 that such a claim requires individualized inquiries which would preclude class certification.

9 32. As for the wage statement and waiting time penalties claims, Plaintiff alleges that
10 Defendant consistently failed to provide Class Members with accurate and itemized wage
11 statements and all wages due to Class Members upon termination of their employment with
12 Defendant. Defendant contends that these claims are merely derivative of the underlying claims
13 and that Plaintiff and Class Members would be unable to first establish liability for the
14 underlying claims for the reasons described above. Defendant further contends that even if they
15 could first establish liability for the underlying claims, Plaintiff and Class Members would be
16 unable to establish that Defendant's conduct was willful and knowing as required by the relevant
17 statutes since Defendant acted in good faith to provide accurate wage statements and pay all
18 wages due to Plaintiff and Class Members. Thus, Defendant contends that the wage statement
19 and waiting time penalties claims to have little to no value.

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

27 34. Defendant generally denies all claims alleged in the Action and further denies
28 class and/or representative treatment is appropriate for any purpose other than this Settlement

1 and that it complied with all applicable laws. However, Defendant has concluded that further
2 litigation would be protracted and expensive and that it is desirable that the Action be fully and
3 finally settled in the manner and upon the terms and conditions herein.

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

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

13 36. Plaintiff has not yet filed his motion for class certification, and as such, the extent
14 to which Plaintiff proposed classes were certifiable is somewhat speculative. Absent a
15 settlement, there was a risk that there would not be a certified class at the time of trial, or if there
16 were, it could consist of a significantly smaller group of employees than the proposed Settlement
17 Class, resulting in less overall recovery.

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

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

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

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

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

10 40. The strength of the Plaintiff's case in light of the settlement amount is deemed by
11 courts to be the "most important." *Clark v. American Residential Services, LLC* (2009) 175
12 Cal.App.4th 785, 799 (citing *Kullar*). Here, Plaintiff alleges that Defendant failed to pay
13 minimum wage, failed to pay overtime wages, failing to pay vacation wages, failed to pay sick
14 pay wages, failed to provide compliant meal periods or meal break premium pay, failed to
15 provide compliant rest breaks or rest break premium pay, failed to provide accurate, itemized
16 wage statements, failed to maintain accurate records or provide requested records, failed to
17 timely pay wages during employment or upon separation and for waiting-time penalties, failed to
18 indemnify reasonable and necessary business expenses all in violation of California law. Plaintiff
19 seeks related violations of California's Business & Professions Code, penalties pursuant to Labor
20 Code § 2699 *et seq.* Summary calculations for estimated liability for each of these claims are
21 below.

22 Failure to Pay Minimum and Overtime Wages:

23 41. Plaintiff alleges that Defendant failed to pay Plaintiff and Class Members at least
24 minimum wages for all hours worked and proper overtime wages for hours worked in excess of
25 eight hours in a day and 40 hours in a week.

26 42. Class Counsel's expert estimated Defendant's exposure on the unpaid wages due to
27 off the clock work to be approximately \$485,233.00 (assuming 10 minutes of off the clock work
28 per shift and 79.6% of off the clock hours attributable to overtime. However, given Defendant's

defenses and the potential hurdles facing certification of off-the-clock claims, Class Counsel applied an 80% discount making for an adjusted realistic exposure of **\$97,046.60** for Defendant.

Meal Periods and Rest Breaks:

43. Plaintiff alleges that Defendant had a common practice and policy of denying compliant meal periods including second meal periods.

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

45. Class Counsel’s expert estimated Defendant’s maximum exposure on the meal period claim at approximately \$1,019,029.00 (meal period premiums due with an offset for meal period premiums paid). However, given Defendant’s defenses and the potential hurdles facing certification of the meal break claim, Class Counsel applied an 80% discount making for an adjusted realistic exposure of **\$203,805.80** for Defendant.

46. Rest Breaks: Plaintiff contends that Defendant did not provide Class Members with timely paid 10-minute rest breaks for every four hours or major fraction thereof. For example, job requirements and duties required of Plaintiff and Class Members along with the demands from management and participants manifested in a failure to authorize and permit Plaintiff and Class Members to take all their required rest breaks. Further, Defendant exerted control over Plaintiff and Class Members or otherwise required them to perform job-related duties during any rest breaks they were authorized and permitted to take. Furthermore, Plaintiff reports that he missed a rest period daily because otherwise it would be impossible to keep up with work demands and his daily assignments.

47. Class Counsel’s expert estimated Defendant’s maximum liability exposure on the rest

break period claim at approximately \$481,742.50 assuming a 25% violation rate. However, given Defendant's contentions and the difficulties facing certification of rest break claims, Class Counsel applied an 80% discount making for an adjusted realistic exposure of **\$96,348.50** for Defendant. Owing to the arguments above and the fact that the recording of rest periods is not required, this claim was substantially discounted.

Inaccurate Wage Statement Violations:

48. Under Labor Code § 226(a), Plaintiff and the Class are entitled to recover \$50 for initial violations for inaccurate wage statements and \$100 for subsequent violations, up to a maximum of \$4,000 per employee. Plaintiff alleges that Defendant made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed during the liability period, because they did not implement and preserve a record-keeping method as required.

49. Class Counsel's expert estimated Defendant's maximum total exposure on the section 226 claim at approximately \$204,000.00 (assuming \$50/\$100 for initial and subsequent violations and 51 employees during the relevant period and a maximum of \$4,000 per employee). After considering Defendant's contentions and the potential class certification issues, Class Counsel discounted this amount by 80% to get an adjusted realistic exposure of **\$40,800.00**.

Failure to Pay Final Wages at Termination or Separation:

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

51. Section 203 further provides that if an employer willfully fails to pay an employee all wages due at termination or within 72 hours of resignation, then that employee's wages will continue as a penalty until paid for a period of up to 30 days from the date they were due. Because Class Members stopped working for Defendant but were allegedly not paid their full

1 compensation for the reasons discussed above, Class Members did not receive all wages due
2 upon termination of employment.

3 52. Class Counsel estimated Defendant's maximum total exposure on the section 203
4 claim at approximately \$202,324.00 (27 terminated employees during the relevant period x 30
5 days x average hourly rate per year x 8.0 hours per workday). Given the foregoing arguments,
6 Class Counsel discounted this amount by 80% to get an adjusted realistic exposure of
7 **\$40,464.80.**

8 Failure to Reimburse for Necessary Business Expenditures:

9 53. Under Labor Code § 22802(a) Defendant must indemnify Plaintiff and Class Members
10 for all necessary expenditures or losses incurred in direct consequence of the discharge of their
11 duties. As discussed above, Plaintiff alleges that Plaintiff and Class Members incurred necessary
12 expenditures in the performance of their job duties for Defendant, including cell phone-related
13 expenses Plaintiff and Class Members incurred in responding to work related communications
14 but were not reimbursed for those expenses by Defendant. Defendant contends that they had an
15 expense reimbursement policy and did reimburse Plaintiff and Class Members for any business
16 expenses incurred pursuant to their policy.

17 54. Plaintiff's Counsel's expert estimated Defendant's total exposure on the unreimbursed
18 business expenses claim at approximately \$89,327.00 (\$25/month x 78 Class Members).
19 However, given Defendant's reimbursement policy and the potential for the need for
20 individualized inquiries making class certification of this claim difficult, Class Counsel applied
21 an 80% discount to get an adjusted realistic exposure of **\$17,865.40.**

22 PAGA Penalties:

23 55. The Labor Code Private Attorneys General Act, Labor Code § 2698 *et seq.*, allows
24 Plaintiff to obtain civil penalties on behalf of himself and other aggrieved employees for
25 Defendant's violation of any provision of the Labor Code enumerated under Labor Code §
26 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable;
27 where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one
28 (\$100) for each aggrieved employee per pay period for the initial violation and two hundred

dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), sixty-five percent (75%) of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining thirty-five percent (25%) allocated to the affected employees. The limitations period for all penalties is one year prior to the filing of the complaint.

56. The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 201, 202, 203, 204, 226, 226.2, 226.7, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, and 2698 *et seq.* PAGA penalties are not mandatory and are instead permissive. Labor Code § 2699(e)(2) states that “a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” *See Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision). Defendant contested Plaintiff’s claim for PAGA penalties.

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

58. Plaintiff estimated Defendant’s total exposure on the PAGA claim at approximately \$220,000.00 (2,200 PAGA Pay Periods x \$100). However, Class Counsel also estimated any PAGA recovery would be substantially reduced and applied a discount in light of the countervailing arguments with regard to the other causes of action and the Court’s power to award “a lesser amount than the maximum civil liability.” Class Counsel applied a discount of 80% (equivalent to a \$20 penalty per pay period) to the PAGA claim to get an adjusted realistic exposure of \$44,000.00. The PAGA allocation agreed upon by the Parties therefore was \$40,000. subject to the Court’s final approval. 75% of that amount (\$30,000.00) will be paid to the LWDA

1 out of the Gross Settlement Amount, and the remaining 25% (\$10,000.00) will remain in the
2 PAGA Settlement Fund for distribution to the Aggrieved Employees.

3 Unfair Business Practices

4 59. Plaintiff pled this cause of action to augment their other causes of action and aid in
5 their prosecution. Business & Professions Code § 17208 extends the statute of limitations on
6 Plaintiff's wage claims, which qualify as unfair business practices, to four years rather than the
7 three years provided by statute.

8 Summary

9 60. The foregoing discussion establishes the adequacy of the Settlement amount in light of
10 the merits of Plaintiff's case and establishes the fairness of the class-action settlement in the
11 instant case, including by analyzing it in light of the *Clark* and *Kullar* decisions. It does so by
12 explaining the legal basis for each of Plaintiff's causes of action, summarizing the evidence that
13 Class Counsel gathered in support of those causes of action, and relating to Defendant's legal
14 and factual arguments that worked to detract from the strength of Plaintiff's case.

15 61. Class Counsel applied reasonable and justified discounts, considering the facts and
16 legal contexts outlined above. These substantial discounts were necessary in light of Defendant's
17 contentions and denial of liability. This Settlement, like most others, was the product of
18 compromise. As addressed above, Plaintiff estimated that Defendant faced approximately
19 \$540,331.10 in total realistic exposure on Plaintiff's main claims. The Gross Settlement Amount
20 of \$395,000.00 therefore represents a recovery for the Class Members of approximately 73% of
21 the total realistic exposure Plaintiff estimated Defendant could face on these class-wide claims.
22 Class Counsel submits that this is an optimal result for the Class in light of all of the factors
23 described above.

24 Class Counsel Fees Payment is Fair and Reasonable

25 62. Under the Settlement, Class Counsel requests, without opposition from Defendant, an
26 award of \$131,666.67 for attorneys' fees and reasonable expenses incurred to prosecute the
27 Action. This request is fair, reasonable, and adequate to compensate Class Counsel for the
28 substantial work they have put into this case and, moreover, the risk they assumed by taking it in

1 the first place as they will not receive any compensation for their efforts until recovery is
2 obtained for the Class. The attorneys' fees award is intended to reimburse Class Counsel for all
3 uncompensated work that they have already done and for all the work they will continue to do in
4 carrying out and overseeing the notification to Class Members, communicating with Class
5 Members regarding their claims, and assisting in the administration of the Settlement if it is
6 preliminarily approved. The requested fee is reasonable for the services provided to Class
7 Members and for the benefits they are to receive. Class Counsel's costs incurred to date and
8 estimated future costs currently total \$16,355.05. D.Law, Inc.'s cost log for this matter is
9 attached hereto as **Exhibit 3**.

10 **Class Representative Service Payment is Fair and Reasonable**

11 63. Plaintiff is entitled to a reasonable service payment for his efforts and initiative in
12 bringing and helping to prosecute this action. Plaintiff spent significant time better apprising
13 themselves of their rights, deciding whether remedial action should be taken and how it should
14 be taken, searching for attorneys, and communicating with Class Counsel. Plaintiff was
15 consistently communicative with counsel, routinely checked-in, and was responsive to Class
16 Counsel's requests for information for discovery, documentation, and meetings.

17 64. Both before and after the filing of this lawsuit, Plaintiff conferred with Class Counsel
18 on to discuss every aspect of his case. Plaintiff performed the following tasks, among others:

- 19 • Assisted counsel in investigating and substantiating the claims alleged in this action;
- 20 • Provided Class Counsel with information about Defendant and about the industry
21 generally;
- 22 • Consulted with Class Counsel regarding litigation strategy and monitored the progress of
23 the litigation;
- 24 • Produced evidentiary documents to his counsel;
- 25 • Identified witnesses;
- 26 • Attended mediation on behalf of the Class;
- 27 • Reviewed and signed the Settlement Agreement; and
- 28 • Reviewed and signed his declaration in support of preliminary and final approval.

1 *See Abney Decl.*

2 65. In agreeing to be the named plaintiff in this litigation, Plaintiff accepted a number of
3 risks. For example, Plaintiff accepted the potential risk of being liable for Defendant's costs and
4 potentially the company's fees if the lawsuit was unsuccessful. Further, Plaintiff risked the
5 potential stigma of being a class representative in a class action labor dispute, which may affect
6 his future employability.

7 66. Plaintiff seeks an enhancement in the amount not to exceed \$7,500.00. Plaintiff
8 secured a benefit for the Class worth \$395,000.00. In the aggregate, the requested enhancement
9 represents only a small percentage of the settlement consideration. The total amount which
10 Plaintiff is requesting to be allocated to a service award is approximately 1.9% of the total
11 settlement amount. In light of the foregoing, Class Counsel believes that the \$7,500.00 incentive
12 awards to the Class Representative is fair and reasonable.

13 **Proposed Class Notice Provides Adequate Notice**

14 67. The notification procedure set out in the Settlement Agreement provides the greatest
15 likelihood that each and every Class Member will receive the Class Notice, attached to the
16 Settlement as Exhibit A. Under the Settlement, no later than 15 days after the Court grants
17 Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to
18 the Administrator, in the form of a Microsoft Excel spreadsheet. No later than 14 days after
19 receiving the Class Data, the Administrator will send to all Class Members identified in the Class
20 Data, via first-class USPS mail, the Class Notice with Spanish translation. (Exhibit 1, Settlement
21 Agreement, ¶ 4.2, 7.4.2.) The Class Notice includes a summary of the case and settlement terms
22 and provides Class Members with detailed instructions on how to exclude themselves, object to
23 the settlement, and dispute the number of workweeks and/or pay periods attributed to each Class
24 Member per Defendant's records. (Exhibit A, Class Notice). Settlement Class Members who want
25 to opt out must timely submit a signed and dated written request to be excluded from the class
26 portion of the Settlement to the Settlement Administrator ("Opt-Out Request"). Class Members
27 who wish to exclude themselves from (opt-out of) the Class Settlement must send the
28 Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45

1 days after the Administrator mails the Class Notice (plus an additional 14 days for Class
2 Members whose Class Notice is remailed). (Exhibit 1, Settlement Agreement, ¶ 7.5.1.) A
3 Request for Exclusion is a letter from a Class Member or his/her representative that reasonably
4 communicates the Class Member's election to be excluded from the Settlement and includes the
5 Class Member's name, address and email address or telephone number. (*Id.*) To be valid, a
6 Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
7 (*Id.*) This is the best and most practicable way to ensure the greatest possible number of Class
8 Members will receive the Notice.

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

21 **Qualifications and Adequacy of Class Counsel**

22 69. D.Law prosecutes wage and hour cases, including class actions and PAGA actions on
23 behalf of employees and others who have had their rights violated. D.Law, either on its own or
24 with co-counsel, is currently serving as Plaintiff's counsel of record in numerous wage and hour
25 and employment class action and PAGA action cases pending in both state and federal court.

26 70. D.Law is well-qualified and has ample experience, knowledge, and resources to act as
27 counsel and represent Plaintiff and the putative Class and Aggrieved Employees in this action.
28 Our practice is exclusively focused on employment matters and representing Plaintiff in wage

1 and hour actions with the same or similar causes of actions brought forth in the matter pending
2 before this Court.

3 71. D.Law has litigated and successfully resolved many wage and hour class action cases
4 involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. De La
5 Rosa v. The Coca Cola Company et al. (Superior Court of California in Napa, 17CV000787),
6 Harvey v. Bed Bath & Beyond of California Limited Liability Company (Superior Court of
7 California in Alameda, RG17885153), Paredes v. Bottling Group LLC et. al. (Superior Court of
8 California in Kern), Ramirez v. Harris Ranch Beef Company (Superior Court of California in
9 Fresno, 16CECG04103), Gates v. Gate Gourmet, Inc. et. al. (Southern District of California, 16-
10 cv-01084-L-AGS), Hargrave v. Antelope Valley Hospital (Superior Court of California in Los
11 Angeles, BC663252), Ramirez v. Milton Roy et. al. (Superior Court of California in Los
12 Angeles, BC 632 276), Hawkins v. AvalonBay Communities (Superior Court of California in
13 Santa Clara, 17CV316492), Jones Tharpe et al. v. Sprint Corporation et al. (Superior Court of
14 California in Los Angeles, BC644645), Ortega et al. v. Nestle Waters North America, Inc. et al.
15 (Superior Court of California in Los Angeles, BC623610), Schultz v. Jimbo's Natural Family,
16 Inc. (Superior Court of California in San Diego, 37-2017-00022348-CUE-OE-CTL), Ambrose v.
17 Victor Valley Global et al. (Superior Court of California in San Bernardino, CIVDS1709289),
18 Puerta-Gildardo v. Real Time Staffing Services LLC et. al. (Superior Court of California in Los
19 Angeles, BC565445), Vargo v. Pregis Innovative Packaging LLC (Superior Court of California
20 in Tulare, 270836), Conlin v. Aegis Senior Communities LLC (Northern District of California,
21 17-cv-05534-LHK), Galarza v. Kloeckner Metals Corporation (Central District of California,
22 2:17-cv-04910-FMO), Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-
23 cv-02356-H-JMA), Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-
24 DSF-RAO), Leach v. The Claremont Colleges, Inc. (Superior Court of California in Los
25 Angeles, BC686451), Vaesau v. PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of
26 California, County of Contra Costa MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area
27 Beverage Company (Superior Court of the State of California, County of Contra Costa, MSC18-
28 00859), Roach v. Westcare California, Inc. (Superior Court of California in Kern County, BCV-

1 17-102367-SDS), Patton v. Church & Dwight Co., Inc. (Central District of California, EDCV
2 18-903-MWF (KKx)), Juarez v. ISL Employees, Inc. (Superior Court of California in Madera,
3 MCV074787), Ferraro v. USC Verdugo Hill s Hospital, et al. (Superior Court of California in
4 Los Angeles, 18STCV09463), Ford v. Account Control Technology, Inc., et al. (Superior Court
5 of California in Los Angeles, 19STCV09369), Ornelas v. iStorage, et al. (Superior Court of
6 California in San Francisco, CGC-18-571421), Martinez v. Ronpak, Inc. (Superior Court of
7 California in Riverside, RIC1901307), Barrera et al. v. Exclusive Wireless, Inc. (Superior Court
8 of California in Stanislaus, 9000687), Barajas v. Mancha Development Company LLC (Superior
9 Court of California in Orange County, 30-2018-00974707-CU-OE-CXC), Prado v. IMAX
10 Corporation dba IMAC Worldwide Home (Superior Court of California in San Bernardino,
11 CIVDS1820265), Rodriguez v. ND Industries, Inc. (Superior Court of California in Los Angeles,
12 19STCV38096), Singletary v. Motel 6 Operating LP, et al. (Southern District of California, 3:20-
13 cv-0270-LAB-AHG), Quizon v. CF Watsonville East, LLC, et al. (Superior Court of California
14 in Santa Cruz, 20CV01868), Stephenson v. Bakersfield Dodge, Inc. (Superior Court of
15 California in Kern, BCV-20-102693), Bacerra v. Hugo Boss Retail, Inc. (Superior Court of
16 California in San Diego, 37-2021-00002933-CU-OE-CTL), Walker v. Ariat International, Inc.
17 (Superior Court of California in Alameda, HG19026439), Orr v. Petvet Care Centers (California)
18 Inc. (Superior Court of California in Santa Clara, 19CV354063), Jimenez v. OEC Distribution
19 Services, Inc. (Superior Court of California in San Bernardino, CIVDS1915743), Viridi v.
20 Absolute Security International (Superior Court of California in San Bernardino, CIVDS
21 1909589), Raj v. First Transit, Inc (Superior Court of California in Sacramento, 34-2021-
22 00295895-CU-OE-GDS), Marchbanks v. Torrid Administration, Inc. (Superior Court of
23 California in San Diego, 37-2020-00008179-CU-OE-NC), among others.

24 72. I was admitted to the California Bar in December 2008, and I am Senior Counsel at
25 D.Law. I received my J.D. from Pepperdine University School of Law and B.S. from the
26 University of Southern California. Since graduating from law school, I have dedicated virtually
27 my entire career on the practice of employment law. I have practiced employment law from the
28 plaintiff's side, from the defense side, and from an in-house position. I have significant

1 experience specifically working on wage and hour class actions from the plaintiff's side as well
2 as the defense side, with the majority of my experience coming from the plaintiff's side.

3 73. Senior Counsel Natalie Haritounian received her Bachelor of Arts in political science
4 from the University of California, Los Angeles, in 2014. She then earned her Juris Doctorate
5 from the University of Southern California, Gould School of Law in May of 2018. Upon
6 graduating from law school, she has exclusively focused her practice on representing employees
7 including in wage-and-hour class actions. She is experienced and qualified to evaluate the class
8 and representative claims, having obtained six and seven figure settlements against a range of
9 defendants, having been appointed as class counsel for dozens of other putative wage-and-hour
10 class-action lawsuits pending in various state and federal jurisdictions throughout California. She
11 is experienced and qualified to evaluate settlement versus trial on a fully informed basis, and to
12 evaluate the viability of the defenses.

13 74. Associate Attorney Matthew Carraher earned his bachelor's degree from Loyola
14 Marymount University and his Juris Doctorate from Loyola Law School. He was admitted to the
15 California Bar in December 2022 and has devoted the majority of his legal career to the practice
16 of employment law. He has been appointed as class counsel for many class and representative
17 action settlements in California state court involving the gamut of wage-and-hour claims,
18 including claims for failure to pay minimum wages, unpaid wages and overtime, inaccurate pay
19 statements, failure to pay timely wages, and failure to reimburse necessary business expenses -
20 similar to claims at issue in the present matter.

21 75. Associate Attorney Antonia McKee received her bachelor's degree from the
22 University of California, Davis in 2020, and her Juris Doctorate degree from Southwestern Law
23 School, accelerated SCALE program, in 2021. Since starting her professional career, she has
24 focused on plaintiff's side employment law and has been appointed as class and PAGA counsel
25 in other wage and hour settlements in California state court.

26 76. The collective experience of the D.Law attorneys in litigating employment wage and
27 hour matters has been integral in identifying legal issues, evaluating the strengths and
28 weaknesses of a case, and generally negotiating fair and reasonable class and representative

1 action settlements. Practice in the narrow field of wage and hour litigation requires skill and
2 knowledge concerning the constantly evolving substantive law (state and federal), as well as the
3 procedural law of class and representative action litigation. In this action, the attorneys at D.Law
4 are fully equipped to use the skills and knowledge developed over decades of prosecuting and
5 defending wage and hour class actions to fairly and adequately represent the interests of the
6 Class Members and aggrieved employees. Therefore, based on our resources, experience, and
7 knowledge, the attorneys at D.Law are well-qualified to act as class counsel and represent the
8 Plaintiff and the putative Class Members and aggrieved employees in this action.

9 77. We understand the responsibilities owed as counsel to the Settlement Class Members
10 and aggrieved employees we represent. The attorneys at D.Law thoroughly investigated the
11 claims asserted in this action and have remained committed to dedicating the resources necessary
12 to represent the Settlement Class and vigorously pursue their claims. Based upon my experience
13 and understanding of the claims and defenses in this action, I believe the settlement is fair,
14 adequate, and reasonable for the Class Members and aggrieved employees and all involved, and
15 that the Settlement is well within the range of reasonableness that would permit it to be finally
16 approved. I am not aware of any conflict of interest with Plaintiff or any other Class Member that
17 would interfere with the duties as Class Counsel.

18 78. On March 19, 2026, Plaintiff submitted the Parties' Class and PAGA Action
19 Settlement Agreement and Plaintiff's Motion for Preliminary Approval of Class Action and
20 PAGA Settlement Agreement and supporting documents to the LWDA. A true and correct copy
21 of the confirmatory email from the LWDA is attached hereto as **Exhibit 4.**

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

24 Executed this 19th day of March 2026, in Pasadena, California.

25 Enoch J. Kim

26 Enoch J. Kim
27
28

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Justin Abney (“Plaintiff”) and Defendant Coastal Tractor (“Defendant”), subject to court approval. The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Justin Abney v. Coastal Tractor*, filed on May 24, 2024, in Superior Court of the State of California, County of Monterey, Case No. 24CV002152.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all individuals who are or previously were employed by Defendant as non-exempt employees in the State of California at any time during the PAGA Period.
- 1.5. “Class” means all persons who worked for Defendant as non-exempt employees in the State of California at any time during the Class Period.
- 1.6. “Class Counsel” means D.Law, Inc.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, number of relevant workweeks during the Class Period, and number of PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources,

methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

- 1.11. “Class Notice” means the NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12. “Class Period” or “Settlement Class Period” means the period from May 24, 2020, through preliminary approval subject to Paragraph 8.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Monterey.
- 1.16. “Defendant” means the named Defendant Coastal Tractor.
- 1.17. “Defense Counsel” means Noland, Hamerly, Etienne & Hoss, A Professional Corporation.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” or “GSA” means \$395,000.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class

Counsel Expenses, Class Representative Service Payment and the settlement Administrator's Expenses.

- 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency.
- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Net Settlement Amount" or "NSA" means Gross Settlement Amount, less the following payments in the amount approved by the Court: Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, the Administration Expenses Payment, Individual PAGA Payments, and the LWDA PAGA Payment.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "Operative Complaint" means the operative First Amended Complaint filed in the Action on July 29, 2024.
- 1.31. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32. "PAGA Period" means the period from May 24, 2023, through preliminary approval subject to Paragraph 8.
- 1.33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.)
- 1.34. "PAGA Notice" means Plaintiff's May 24, 2024, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$40,000.00), allocated 25% to the Aggrieved Employees (\$10,000.00) and 75% to the LWDA (\$30,000.00) in settlement of PAGA Claims.

- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. “Plaintiff” means Justin Abney, the named plaintiff in the Action.
- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Class Action and PAGA Settlement.
- 1.40. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.42. “Released Parties” means Defendant and its present and former parent companies, subsidiaries, divisions, related entities, or affiliated companies, and each of their former and present officers, owners, directors, employees, agents, attorneys, insurers, re-insurers, successors and assigns, whether in their individual or official capacities.
- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.44. “Response Deadline” means 45 days after the Administrator mails the Class Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On May 24, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Under Labor Code § 510; (3) Failure to Pay Vacation Wages; (4) Failure to Comply with Labor Code § 245 *et seq.* and 246; (5) Meal Period Liability Under Labor Code § 226.7; (6) Rest-Break Liability Under Labor Code § 226.7; (7) Failure to Provide Accurate Wage Statements Under Labor Code § 226(a); (8) Failure to Maintain Records

Under Labor Code §§ 1174 and 1174.5; (9) Failure to Produce Requested Employment Records Under Labor Code §§ 226 and 1198.5; (10) Failure to Timely Pay Wages Upon Termination Under Labor Code § 203; (11) Failure to Reimburse Necessary Business Expenses § 2802; and (12) Violation of Bus. & Prof. Code §§ 17200 *et seq.* On the same day, May 24, 2024, Plaintiff gave timely notice to the LWDA and Defendant that Plaintiff intended to proceed with a representative action under PAGA (LWDA-CM-1030452-24) pursuant to Labor Code § 2699.3, subd.(a). On July 29, 2024, Plaintiff filed First Amended Complaint, which added claims for Civil Penalties under Labor Code § 2698, *et seq.* (“Operative Complaint”).

2.2. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged.

2.3. On May 6, 2025, the Parties participated in an all-day private mediation presided over by Judge Howard R. Broadman (Ret.). The Parties were subsequently able to reach a settlement..

2.4. In advance of mediation, Class Counsel conducted a thorough investigation into the facts of, and applicable law to, the Action. Prior to mediation, Plaintiff also obtained and analyzed a sampling of time and payroll data for Class Members and the necessary policy documents through informal discovery to properly evaluate the strength and weaknesses of the claim and engage in meaningful settlement discussions. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008) (“*Dunk/Kullar*”).

2.5. The Court has not granted class certification and the Parties are stipulating to class certification for settlement purposes only.

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

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant agrees to pay the Gross Settlement Amount of Three Hundred Ninety-Five Thousand Dollars and Zero Cents (\$395,000.00), and no more, on a non-reversionary basis. The Gross Settlement Amount includes Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses. Defendant has no obligation to pay the Gross Settlement Amount (or any employer payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the

entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant. The Gross Settlement Amount does not include employer payroll taxes owed on the wage portions of the Individual Class Payments, which Defendant will pay separately.

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

3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$131,666.67, and a Class Counsel Litigation Expenses Payment of actual and reasonable litigation costs and expenses incurred to prosecute the Action. Defendant will not oppose requests for these payments. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of these Payments.

3.2.2.1 In the event that the Court reduces or does not approve the requested Class Counsel Fees Payment and/or Class

Litigation Expenses Payment, Class Counsel reserve their right to appeal such order, however, Plaintiff and/or Class Counsel will not request or demand an increase to the Gross Settlement Amount on that basis.

- 3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$6,650.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$6,650.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
 - 3.2.4.1 Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - 3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.
- 3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$40,000.00 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00) allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the Individual PAGA Payments.
 - 3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$10,000.00) by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's Pay Periods. Aggrieved Employees

assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant represents that there are approximately 79 Class Members who collectively worked a total of 11,634 Workweeks during the Class Period, and 51 Aggrieved Employees who worked a total of 2,529 Pay Periods.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than one (1) year from the date of Mediation, or June 23, 2026, whichever date is later.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The

Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys (including Class Counsel), heirs, administrators, successors, and assigns generally release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in

the Operative Complaint and the PAGA Notice (“Plaintiff’s Release”). Plaintiff’s release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, claims that cannot be released as a matter of law, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

5.1.1 Plaintiff’s Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff’s Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits of any of section 1542 of the Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.2 Release by Participating Class Members: Plaintiff and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint (“Released Class Claims”) and arising during the Class Period. These include (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Under Labor Code § 510; (3) Failure to Pay Vacation Wages; (4) Failure to Comply with Labor Code § 245 *et seq.* and 246; (5) Meal Period Liability Under Labor Code § 226.7; (6) Rest-Break Liability Under Labor Code § 226.7; (7) Failure to Provide Accurate Wage Statements Under Labor Code § 226(a); (8) Failure to Maintain Records Under Labor Code §§ 1174 and 1174.5; (9) Failure to Produce Requested Employment Records Under Labor Code §§ 226 and 1198.5; (10) Failure to Timely Pay Wages Upon Termination Under Labor Code § 203; (11) Failure to Reimburse Necessary Business Expenses § 2802; and (12) Violation of Bus. & Prof. Code §§ 17200 *et seq.* Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation or claims based on facts occurring outside the Class Period.

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

6. **MOTION FOR PRELIMINARY APPROVAL**. Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6.1. Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval Order to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

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

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

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

7.4. Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

- 7.4.3 Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves from (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a signed letter from a Class Member that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address and telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the

Class Member's identity. The Administrator's determination of validity and authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.1 and 5.2 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the Released PAGA Claims identified in Paragraph 5.2 of this Agreement and are eligible for an Individual PAGA Payment.

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

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the

Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator shall remove information about the settlement from its website after the check cashing period expires.

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

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Class Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Class Workweeks and/or PAGA Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator's Declaration. Not later than fourteen (14) days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.
8. **CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**. Based on its records, Defendant represents that as of the date of mediation, there were approximately 79 Class Members who collectively worked a total of 11,356 Workweeks during the Class Period. If the total number of Workweeks during the Class Period is more than 10% higher (i.e., more than 1,137 workweeks), then Defendant shall increase the GSA proportionally by the Workweeks worked in excess of 12,493 Workweeks multiplied by the per Workweek value. For example, if the total Workweeks for the Class Period represent an 11% increase in the number of Workweeks, then the Gross Settlement Amount will increase by 1%. Alternatively, Defendant may elect to modify the end date of the Class Period (and the corresponding PAGA Period) such that the total Workweeks does not exceed 12,493. If this provision is triggered and the GSA is increased, the Parties agree that the portion of the GSA allocated to attorneys' fees will increase proportionally such that the total amount of attorneys' fees remains one-third of the GSA after the upward adjustment required by this provision is implemented. Defendant must exercise either option under this provision within 14 days of entry of the Preliminary Approval Order.

9. **DEFENDANT'S RIGHT TO WITHDRAW.** Defendant shall have the right to withdraw from this Settlement or terminate this Settlement if more than 10% of the Class Members submit timely requests to opt out of the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided however, Defendant will remain responsible for the Administration Expenses incurred to date upon its election to withdraw from the Settlement. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 10.1. **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 10.2. **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
 - 10.3. **Continuing Jurisdiction of the Court.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
 - 10.4. **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the

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

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

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

12. **ADDITIONAL PROVISIONS.**

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reason, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 12.2. Confidentiality Prior to Preliminary Approval. The Parties separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and their respective counsel and employees will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. The Parties separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. Attorney Authorization. The Parties separately warrant and represent that Class Counsel and Defense Counsel, respectively, are authorized by Plaintiff and Defendant, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to

implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

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

To Plaintiff:

D.Law, Inc.
Emil Davtyan
Emil@d.law
David Yeremian
d.yeremian@d.law
Natalie Haritounian
n.haritounian@d.law
Enoch J. Kim
e.kim@d.law
Matthew Carraher
m.carraher@d.law
Antonia McKee
a.bliznets@d.law

450 N. Brand Blvd., Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Fax: (818) 962-6469

To Defendant:

Noland, Hamerly, Etienne & Hoss
Ana C. Toledo
atoledo@nheh.com
Charles W. Mullaney
cmullaney@nheh.com

333 Salinas Street
P.O. Box 2510
Salinas, CA 93902
Telephone: (831) 424-1414
Fax: (831) 424-1975

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

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330

to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

APPROVED:

DATED: 11/22/2025

BY:  Signed by:
DAD6C42B1BA9492...
Justin Abney

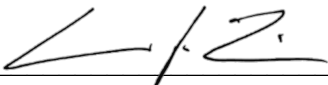
DATED:

BY: _____
Michael F. Rianda
Title: CEO,
Coastal Tractor

APPROVED AS TO FORM:

DATED: 11/25/2025

D.LAW, INC.

BY:  _____
David Yeremian
Natalie Haritounian
Enoch J. Kim
Matthew Carraher
Antonia McKee
Counsel for Plaintiff Justin Abney

DATED:

Noland, Hamerly, Etienne & Hoss

BY: _____

Ana C. Toledo
Charles W. Mullaney
Counsel for Defendant Coastal Tractor

to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

APPROVED:

DATED:

BY: _____

Justin Abney

DATED:

11-24-2025

BY: Michael F. Rianda

Michael F. Rianda

Title: CEO,

Coastal Tractor

APPROVED AS TO FORM:

DATED:

D.LAW, INC.

BY: _____

David Yeremian
Natalie Haritounian
Enoch J. Kim
Matthew Carraher
Antonia McKee
Counsel for Plaintiff Justin Abney

DATED:

11/25/25

Noland, Hamerly, Etienne & Hoss

BY: Ana C. Toledo

Ana C. Toledo
Charles W. Mullaney
Counsel for Defendant Coastal Tractor

EXHIBIT A

[PROPOSED NOTICE OF CLASS ACTION AND PAGA SETTLEMENT]

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

Justin Abney v. Coastal Tractor | Monterey County Superior Court Case No. 24CV002152

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

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) entitled *Justin Abney v. Coastal Tractor* for alleged wage and hour violations. The Action was filed by Justin Abney, a former Coastal Tractor employee (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly, non-exempt employees (“Class Members”) who worked for Coastal Tractor during the Class Period from May 24, 2020, to [REDACTED] and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly, non-exempt employees who worked for Coastal Tractor during the PAGA Period from May 24, 2023, to [REDACTED] (“Aggrieved Employees”). For the purposes of this Notice, Coastal Tractor shall be referred to here as the “Company.”

The Company denies and disputes all of Plaintiff’s claims. The Company further contends that the Action cannot be maintained as a class action.

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

Based on the Company’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to the Company’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 the Company’s records showing that **you worked [REDACTED] workweeks** during the Class Period and **you worked [REDACTED] pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment

that requires the Company to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against the Company.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against the Company that are covered by this Settlement (defined below).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [REDACTED]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. The Company must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue the Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [REDACTED]	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [REDACTED] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by [REDACTED]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Workweeks and number of Pay Periods you worked according to the Company's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.
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1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of the Company. The Action accuses the Company of violating California labor laws by failing to pay overtime wages, minimum wages, sick pay, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). The Company denies Plaintiff's claims.

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

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

The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

- a. The Company Will Pay \$395,000 as the Gross Settlement Amount (Gross Settlement). The Company has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, the Company will fully fund the Gross Settlement no later than June 23, 2026.

- b. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - i. Up to \$131,666.67 (One-Third of the Gross Settlement) to Class Counsel for attorneys' fees and actual litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - ii. Up to \$7,500 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - iii. Up to \$6,650 to the Administrator for services administering the Settlement.
 - iv. Up to \$40,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their Pay Periods.
- c. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Workweeks.
- d. Taxes Owed on Payments to Class Members. The Settlement shall be broken down as follows: 20% ("Wage Portion") of each Individual Class Payment to taxable wages and 80% ("Non-Wage Portion") to penalties and interest. The Wage Portion is subject to withholding and will be reported on IRS W-2 Forms. The Company will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and the Company have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.
- e. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date

when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

- f. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against the Company.
- g. You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert the Released PAGA Claims against the Company.
- h. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and the Company have agreed that, in either case, the Settlement will be void: the Company will not pay any money and Class Members will not release any claims against the Company.
- i. Administrator. The Court has appointed a third-party company, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
- j. Participating Class Members' Release. Unless you exclude yourself from the settlement, upon final approval of the settlement by the Court, you will be deemed to have released any and all claims against Defendant and its present and former parent companies, subsidiaries, divisions, related entities, or affiliated companies, and each of their former and present officers, owners, directors, employees, agents, attorneys, insurers, re-insurers, successors and assigns, whether in their individual or official capacities ("Released Parties") from all claims that were

alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and arising during the Class Period. These include (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Under Labor Code § 510; (3) Failure to Pay Vacation Wages; (4) Failure to Comply with Labor Code § 245 *et seq.* and 246; (5) Meal Period Liability Under Labor Code § 226.7; (6) Rest-Break Liability Under Labor Code § 226.7; (7) Failure to Provide Accurate Wage Statements Under Labor Code § 226(a); (8) Failure to Maintain Records Under Labor Code §§ 1174 and 1174.5; (9) Failure to Produce Requested Employment Records Under Labor Code §§ 226 and 1198.5; (10) Failure to Timely Pay Wages Upon Termination Under Labor Code § 203; (11) Failure to Reimburse Necessary Business Expenses § 2802; and (12) Violation of Bus. & Prof. Code §§ 17200 *et seq.*

- k. Aggrieved Employees' PAGA Release. For those who worked during the PAGA Period (for which you cannot exclude yourself, after the Court's judgment is final, and the Company has fully funded the Gross Settlement and separately paid all employer payroll taxes, all Aggrieved Employees will be bound by the following release:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from any and all claims for civil penalties under PAGA that were alleged or reasonably could have been alleged based on the facts stated in the Operative Complaint and in the PAGA Notice ("Released PAGA Claims") arising during the PAGA Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

- a. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
- b. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$10,000 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
- c. Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of Pay Periods you worked during the PAGA Period, as recorded in the Company's records, are stated on the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and

sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, email address, and telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Justin Abney v. Coastal Tractor*, and include your identifying information (full name, address, email address, and telephone number). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and the Company are asking the Court to approve. At least 16 court days before the [REDACTED] Final Approval Hearing, Class Counsel

and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [REDACTED] or the Court's website [REDACTED].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Justin Abney v. Coastal Tractor* and include your name, current address, email address and telephone number, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] in Department 14 of the Monterey Superior Court, located at 1200 Aguajito Road, Monterey, CA 93940. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via (<https://www.monterey.courts.ca.gov/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything the Company and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Monterey County Superior Court website by going to

(<https://www.monterey.courts.ca.gov/>) and entering the Case Number for the Action, Case No. 24CV002152. You can also make an appointment to personally review court documents in the Clerk's Office at the Monterey Courthouse by calling (831) 647-5800.

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

The contact information for the Settlement Administrator is as follows:

Email Address:

Mailing

Address:

Telephone:

Fax Number:

The contact information for the Parties' counsel are as follows:

Class Counsel	Counsel for Defendant
Emil Davtyan David Yeremian Natalie Haritounian D.Law, Inc. 450 N. Brand Blvd., Suite 840 Glendale, CA 91203 Tel.: (818) 962-6465 Fax: (818) 962-6499 E-Mail: e.davtyan@d.law d.yeremian@d.law n.haritounian@d.law	Ana C. Toledo Charles W. Mullaney Noland Hamerly Etienne & Hoss, APC333 Salinas St Salinas, CA 93901 Tel.: (831) 424-1414 Fax: (831) 373-3622 E-Mail: atoledo@nheh.com cmullaney@nheh.com

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT 2

May 24, 2024

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128> (copy by certified mail to all Defendants)

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

Coastal Tractor

c/o Michael F. Rianda
10 Harris Place
Salinas, CA 93901
Certified Mail Tracking Number: 9414 8112 0620 4133 2990 58

**Re: Labor Code § 2698, *et seq.* Penalties – PAGA Notice Letter to the LWDA
Justin Abney v. Coastal Tractor
Superior Court for the County of Monterey**

LWDA No. : LWDA-CM-1030452-24

Gentlepersons:

This office represents Plaintiff Justin Abney (“Plaintiff”) and other similarly situated aggrieved non-exempt, hourly employees aggrieved employees (collectively “Aggrieved Employees”) for violations of California Labor Code §§ 201, 202, 203, 210, 221, 226, 226.3, 226.7, 227.3, 245, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, 2751 and 2802; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants Coastal Tractor, a California corporation; and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

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



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

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt, hourly employee based out of Defendants' location in California. Aggrieved Employees include all non-exempt hourly employees of Defendants within the state of California from one year prior to the date of this letter and continuing through the present. Plaintiff and Aggrieved Employees are collectively referred to herein as "Aggrieved Employees." Aggrieved Employees consistently worked at Defendants' behest and under their control and subject to their policies and practices without being paid all wages due. Plaintiff is also informed and believes that there are other Aggrieved Employees employed by Defendants as non-exempt employees within the state of California within the statutory time period who suffer or suffered from the same wage and hour violations outlined below.

Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Aggrieved Employees all wages due and owing, including by requiring off the clock work; rounding time entries; failing to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime pay, double time pay, sick pay, and meal and rest break premiums; failing to pay on-call or standby pay; failing to provide meal and rest breaks; failing to furnish accurate wage statements; failing to timely pay wages including final wages; failing to maintain accurate records; and failing to reimburse for necessary business expenses all in violation of various provisions of the California Labor Code and applicable Wage Orders.

During the course of Aggrieved Employees' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Aggrieved Employees were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants' control. For example, Plaintiff was required to arrive early to open the shop, disarm the alarm, relock the door, and turn on the air compressor and lights prior to clocking in. Several times a week Plaintiff would also have to fuel his work truck prior to clocking in. After clocking out, Plaintiff would have to close and lock up the facility. Defendants also required Aggrieved Employees to respond to phone calls from supervisors on their personal cell phones at all times, including times when they were off the clock. Upon information and belief, Aggrieved Employees were subject to similar pre- and post-shift off the clock work.

Further, Defendants failed to pay all bonus and/or commissions earned by Aggrieved Employees.



Defendants maintained a non-discretionary bonus and/or commission program whereby bonus and/or commissions were paid to Aggrieved Employees when Aggrieved Employees hit certain sales goals and/or quotas. Upon information and belief, Defendants would *post-facto* change or alter the terms of the non-discretionary bonus and/or commission program in order to avoid paying Aggrieved Employees all earned bonus and/or commission wages. Upon information and belief, Defendant would make these post-facto changes and/or alterations without proper written notice in violation of Labor Code § 2751.

Additionally, pursuant to the Labor Code § 2751, when employees are compensated all or in part by a commission plan, the terms of the commission plan must be provided in writing to the employee. Aggrieved Employees were partially compensated according to a commission plan, but Defendants never provided Aggrieved Employees with the commission plan in writing.

Further, Defendants followed a uniform policy and practice of rounding all time entries rather than paying Plaintiff and Aggrieved Employees for all hours and minutes they actually worked, and generally did so to the detriment of the Aggrieved Employees, and these unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created. Defendants did so with the ostensible intent of paying Aggrieved Employees only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results, over time, to the detriment of Aggrieved Employees by systematically undercompensating them.

Defendants also failed to pay Aggrieved Employees all wages due and owing because Defendants failed to incorporate non-discretionary, performance-based bonuses and/or commissions into the regular rate of pay. Contrary to the requirements of the Labor Code and IWC Wage Orders under California law, Defendants did not incorporate these non-discretionary bonuses and/or commissions paid to the Aggrieved Employees into the regular rate of pay Defendants used to calculate and pay for overtime, double time pay, vacation pay, sick pay, and meal and rest break premiums.

Defendants also required Aggrieved Employees to participate in on-call shifts without proper compensation. Specifically, during certain busy times of the year Defendants would require Employees to be on-call to respond customer needs. Aggrieved Employees' activities were restricted during on-call times as they needed to be near the job site. During this time, Aggrieved Employees were under Defendants' control because they had to immediately report to work. However, they were not paid on-call or standby pay.

By implementing policies, programs, practices, procedures and protocols which resulted in off the clock work, rounding of time, the failure to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay, and the failure to pay on-call or standby time, Defendants' willful actions resulted in the systematic underpayment of wages and overtime pay to Aggrieved Employees. For example, the off the clock work addressed above caused Aggrieved Employees to begin receiving overtime pay later than they should have.



As a result of the above-described unlawful practices, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. Moreover, the uncompensated time, discussed above, was worked by Aggrieved Employees in excess of eight (8) hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code and applicable Wage Orders.

Additionally, Defendants failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during a shift but were often required to do so without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants also required Aggrieved Employees to respond to work demands, including responding to phone calls on their personal cell phones, at all times, including times when they were clocked out for meal breaks. Defendants placed their needs over Aggrieved Employees' lawful meal and rest breaks and this resulted in Aggrieved Employees often having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off duty meal and/or rest break.

On the occasions when Aggrieved Employees worked over 10 hours in a shift, Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective hourly rate of pay, including their earned commission, for each meal period or rest break that Defendants failed to provide or deficiently provided.

Therefore, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective hourly rate of pay, including their earned commission, for each meal period that Defendants failed to provide or deficiently provided.

Aggrieved Employees were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks and were not provided with one (1) hour's wages in lieu thereof. Additionally, as described above, Defendants also required Aggrieved Employees to respond to work demands, including responding to phone calls on their personal cell phones, at all times, including times when they were on rest breaks. Thus, Aggrieved Employees were restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest periods. Therefore, Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten



minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

Defendants also had a common policy and practice of systemically failing to pay Aggrieved Employees the requisite and accrued vacation time pay in accordance with California law. Specifically, during their employment Aggrieved Employees accrued vested vacation time and/or paid time off; however, Defendants failed to pay all accrued vacation time and/or paid time off owed to Aggrieved Employees at their final rate of pay upon their separation from employment.

Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Aggrieved Employees failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay overtime compensation, double time, sick pay, and meal and rest break premiums. Thus, the wage statements do not comply with Labor Code § 226(a)(9). Moreover, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages and overtime because their actual hours worked were under-reported due to off the clock work and because Defendants unlawfully rounded hours worked to the detriment of Aggrieved Employees. Additionally, the wage statements given to Aggrieved Employees failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

Defendants have consistently failed to keep accurate time and wage records as required by California wage-and-hour laws. Likewise, Defendants have had a consistent policy of denying Aggrieved Employees the right to inspect and receive all of their payroll records, timecards, and personnel records in a timely fashion.

Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203. Additionally, Aggrieved Employees were not paid all regular and overtime wages because Defendants failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime pay, double time pay, sick pay, and meal and rest break premiums. And, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

Defendants also failed to reimburse Aggrieved Employees for necessary business expenses. Defendants required Plaintiff to incur business expenses in the course of performing his required job duties for Defendants including for cell phone expenses. Plaintiff was also required to purchase and/or use his own tools. Upon information and belief, Aggrieved Employees incurred similar costs. These expenses incurred by Plaintiff and Aggrieved Employees were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Plaintiff and Aggrieved Employees for all such necessary expenditures, thus entitling them to reimbursement according to proof as required under Labor Code § 2802 and the applicable provisions of the IWC Wage Orders.



PAGA Claim Details, Legal Bases for Violations and Penalties:

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

Failure to Pay Minimum Wages

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

In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H) of the applicable IWC Wage Orders defines “Hours Worked” as “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.” Additionally, pursuant to Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states: “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The minimum wage provisions of California Labor Code are enforceable by private civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees and costs of suit.”

As described in California Labor Code §§ 1185 and 1194.2, any action for wages incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in the absence of a contractually agreed upon one. The underpayment of wages to Aggrieved Employees is and has been a direct consequence of Defendants’ unlawful compensation policies and practices, which applied uniformly to the Aggrieved Employees working at locations and work sites throughout California.

During the course of Aggrieved Employees’ employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Aggrieved Employees were required to perform pre-shift and post-shift off the clock work which they were not compensated for despite being subject to Defendants’ control. For example, Plaintiff was



required to arrive early to open the shop, disarm the alarm, relock the door, and turn on the air compressor and lights prior to clocking in. Several times a week Plaintiff would also have to fuel his work truck prior to clocking in. After clocking out, Plaintiff would have to close and lock up the facility. Defendants also required Aggrieved Employees to respond to phone calls from supervisors on their personal cell phones at all times, including times when they were off the clock. Upon information and belief, Aggrieved Employees were subject to similar pre- and post-shift off the clock work.

Further, Defendants followed a uniform policy and practice of rounding all time entries rather than paying Plaintiff and Aggrieved Employees for all hours and minutes they actually worked, and generally did so to the detriment of the Aggrieved Employees, and these unlawfully rounded time entries were inputted into Defendants' payroll system from which wage statements and payroll checks were created. Defendants did so with the ostensible intent of paying Aggrieved Employees only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results, over time, to the detriment of Aggrieved Employees by systematically undercompensating them.

Defendants also failed to pay Aggrieved Employees all wages due and owing because Defendants failed to incorporate non-discretionary, performance-based bonuses and/or commissions into the regular rate of pay. Contrary to the requirements of the Labor Code and IWC Wage Orders under California law, Defendants did not incorporate these non-discretionary bonuses and/or commissions paid to the Aggrieved Employees into the regular rate of pay Defendants used to calculate and pay for overtime pay, double time pay, vacation pay, sick pay, and meal and rest break premiums.

Defendants also required Aggrieved Employees to participate in on-call shifts without proper compensation. Specifically, during certain busy times of the year Defendants would require Employees to be on-call to respond customer needs. Aggrieved Employees' activities were restricted during on-call times as they needed to be near the job site. During this time, Aggrieved Employees were under Defendants' control because they had to immediately report to work. However, they were not paid on-call or standby pay.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved Employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees.



Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

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

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

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime and double time. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates, or of miscalculating them by not including all forms of remuneration in the regular rate of compensation, as addressed above, and by under-reporting actual hours worked. Defendants, and each of them, have intentionally and improperly caused Aggrieved Employees to work off the clock and work unpaid on-call shifts to avoid paying them all earned and owed straight time and overtime wages and other benefits. Additionally, as discussed above Defendants improperly rounded, changed, adjusted and/or modified Plaintiff and Aggrieved Employees hours in order to avoid paying them for all hours worked.

Defendants have violated Labor Code § 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees wages for all hours worked, including by requiring off the clock work and unpaid on-call shifts as addressed above and by under-reporting actual hours worked. With work shifts generally requiring eight hours or more of work on a given day, this unpaid work resulted in Aggrieved Employees working past eight hours on a shift or more than forty hours in a week, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.

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



In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

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

Failure to Set Forth in Writing the Method by Which Commissions Shall be Computed and Paid

Labor Code §2751(a) states: "Whenever an employer enters into a contract of employment with an employee for services to be rendered within this state and the contemplated method of payment of the employee involves commissions, the contract shall be in writing and shall set forth the method by which the commissions shall be computed and paid." Further, Labor Code §2751(b) states in pertinent part: "The employer shall give a signed copy of the contract to every employee who is a party thereto and shall obtain a signed receipt for the contract from each employee."

Defendants had a consistent and uniform policy, practice and procedure, when entering into contracts of employment with Aggrieved Employees for services to be rendered within California and the contemplated method of payment involved commissions, of failing to utilize a written contract signed by both the employer and employee setting forth the method by which the commissions shall be computed and paid. Aggrieved Employees were entitled to bonus and/or commission wages at a given rate. However, to avoid paying Aggrieved Employees all earned bonus and/or commission wages, Defendants *post-facto* changed and/or altered the terms of the non-discretionary bonus and/or commission program without proper written notice in violation of Labor Code § 2751.

Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code § 2751 and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code § 2751 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Vacation Wages

Pursuant to California Labor Code § 227.3, whenever a contract of employment or employment policy provides for paid vacation and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with said contract of employment or policy respecting eligibility or time served. Specifically, during their employment Aggrieved Employees accrued vested vacation time and/or paid time off;



however, Defendants failed to pay all accrued vacation time and/or paid time off owed to Aggrieved Employees upon their separation from employment. Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 227.3. Plaintiff accordingly seeks this relief available for Defendants' violations of section Labor Code § 227.3 in connection with Aggrieved Employees and seeking the civil and statutory penalties available and applicable under Labor Code § 227.3, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Comply with Labor Code §§ 245 *et seq.* and 246

California Labor Code § 245 *et seq.* requires that Defendants provide paid sick time to Aggrieved Employees, including at the amount, terms, and rate of compensation set forth in said law. At times relevant, Defendants have failed compute the amount due for paid sick time in conformance with the pay calculation under California Labor Code § 246(l). Defendants paid non-discretionary bonuses and/or commissions to Aggrieved Employees but Defendants failed to include these forms of remuneration in the regular rate of pay from which sick pay was calculated and paid. Rather than calculating the amount of paid sick time due when sick time is used according to the requirements set forth in California Labor Code § 246(l), Defendants paid sick leave to Aggrieved Employees at a lower rate, in violation of the law. As a result of Defendants' conduct, Defendants have violated California Labor Code §§ 245 *et seq.* and 246. Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 245 *et seq.* and 246. Plaintiff accordingly seeks this relief available for Defendants' violations of section Labor Code §§ 245 *et seq.* and 246 in connection with Aggrieved Employees and seeking the civil and statutory penalties available and applicable under Labor Code §§ 245 *et seq.* and 246, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

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

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



not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Defendants also miscalculated the rate at which they paid any meal period or rest period premiums when Defendant did attempt to pay them, resulting in further violations of section 226.7.

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

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations. On the occasions when Aggrieved Employees were provided with a rest break, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, including responding to phone calls on their personal cell phones, in violation of the Labor Code and applicable Wage Orders.

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

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

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

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



reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Any wage statements given to Employees by Defendants necessarily failed to accurately account for wages, overtime, and premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours worked or at the correct rate of pay and for providing deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(c) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

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

Waiting Time Penalties Pursuant to Labor Code § 203

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

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil



penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, double time, premium pay, etc., and by not accurately recording meal period start and end times, all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records accurately showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

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

Failure to Produce Requested Employment Records Under Labor Code §§ 226 and 1198:

Pursuant to California Labor Code § 226, 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

Pursuant to California Labor Code § 1198.5(a), 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 employee's 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. Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and 226(f).



Plaintiff sent written requests through his counsel to Defendants for his payroll records, timecards, and personnel records. However, Plaintiff has not received all of his requested records as of the date of this Notice. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely produce the required records requested by Plaintiff. On information and belief, Defendants' failure to provide Plaintiff with all of his requested employment records is not an isolated incident, but was instead consistent with Defendants' policy and practice that applied to Plaintiff and Aggrieved Employees.

Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§226 and 1198.5. Plaintiff accordingly seeks this relief available for Defendants' violations of section Labor Code §§ 226 and 1198.5 in connection with Aggrieved Employees and seeking the civil and statutory penalties available and applicable under Labor Code §§ 226, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse for Necessary Business Expenditures in Violation of Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work-related expenses they incurred. Defendants required Plaintiff to incur business expenses in the course of performing his required job duties for Defendants including for cell phone expenses and purchasing and using his own tools. Upon information and belief, Aggrieved Employees incurred similar costs.

Defendants systematically and uniformly failed to reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees. Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). to Labor Code §2699(g)(1).

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

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

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

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and



the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: §§ 201, 202, 203, 204, 210, 226, 226(b), 226.3, 226.7, 227.3, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, 2751, and 2802 including as follows:

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

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

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

(d) Failure to Pay Vacation Wages: For Defendants' failure pay all accrued vacation time and/or paid time off owed to Aggrieved Employees at their final rate of pay upon their separation from employment in violation of Labor Code § 227.3 and seeking the civil and statutory penalties



available and applicable under Labor Code § 227.3, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Failure to Properly Pay Sick Day Wages: For Defendants' failure to properly pay Employees all their required and earned sick days in violation of Labor Code §§ 245 *et seq.* and 246 the civil and statutory penalties available and applicable under Labor Code §§ 245 *et seq.* and 246, 1194.2, 1197.1, 1198, 1199, 2699.3(b), and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

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

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

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

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

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

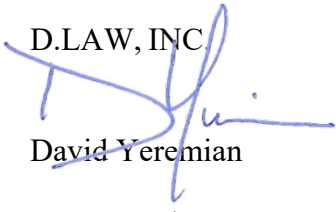
Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved



Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW, INC.



David Yermian

Cc: Coastal Tractor

EXHIBIT 3

Abney v. Coastal Tractor
Litigation Costs

Service Date		Details		Provider		Amount
5/24/24		LWDA Letter		LWDA		\$ 75.00
5/28/24		Summons & Complaint		Proceed		\$ 1,493.24
5/31/24		Process of Service - Summons & Complaint - Coastal Tractor		Proceed		\$ 128.75
6/5/24		POS of Summons		Proceed		\$ 15.19
7/9/24		Notice of Remote Appearance & Posting Jury Fees		Proceed		\$ 169.69
8/15/24		First Amended Complaint		Proceed		\$ 15.19
9/13/24		Case Management Statement		Proceed		\$ 15.19
10/1/24		Notice of Change of Address		Proceed		\$ 15.19
12/18/24		Notice of Unavailability		Proceed		\$ 15.19
2/18/25		Joint Stipulation to Continue CMC		Proceed		\$ 35.79
5/28/25		Case Management Statement		Proceed		\$ 15.27
7/1/25		Expert Mediation Analysis		Berger Consulting Group		\$ 6,600.00
7/16/25		Mediation Fee		Howard Broadman		\$ 7,500.00
8/20/25		Case Management Statement		Proceed		\$ 15.27
10/20/25		Case Management Statement		Proceed		\$ 15.27
12/19/25		Notice of Unavailability; Disassociation of Counsel		Proceed		\$ 15.27
2/12/26		Case Management Statement		Proceed		\$ 15.01
3/19/26		Motion for Preliminary Approval of Settlement		Proceed		\$ 85.00
FUTURE		Motion for Final Approval of Settlement		Proceed		\$ 85.00
FUTURE		Decl of Class Admin re Final Distribution		Proceed		\$ 15.27
FUTURE		Ntc of Entry of Final Order & Judgment		Proceed		\$ 15.27

Total	\$ 16,355.05
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EXHIBIT 4