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Attorneys for Plaintiff MICHAEL GOLDBERG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

MICHAEL GOLDBERG, on behalf of the State of California and all Aggrieved Employees and Class Members,

Plaintiff,

v.

GENERAL PRODUCTION SERVICE OF CALIFORNIA, INC., a California Corporation; and DOES 1-100, inclusive,

Defendants.

Case No.: BCV-24-102628

Hon..: T. Mark Smith
Dept. T-2

BRANDON BROUILLETTE DECLARATION IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: May 29, 2025
Time: 8:30 a.m.
Dept. T-2

I, BRANDON BROUILLETTE, declare as follows:

1. I am an attorney duly licensed to practice in California and before this Court, and I am a partner with Crosner Legal, P.C., counsel of record for Plaintiff Michael Goldberg in the above-captioned matter. If called to testify as to the facts within, I would and could competently do so.

2. Attached hereto as **Exhibit 1** is a fully-executed, true and correct copy of the Parties' Class Action and PAGA Settlement Agreement ("Settlement Agreement"). Attached hereto as **Exhibit 2** is a true and correct copy of the proposed Class Notice. Attached hereto as **Exhibit 3** is a true and correct copy of Plaintiff's PAGA notice letter to the LWDA and defendant, and proof of submission. Attached hereto as **Exhibit 4** is a true and correct copy of the LWDA's acknowledgement of receipt of the proposed settlement via its online portal.

3. I am unaware of any other pending matters that would overlap with this matter as far as claims asserted or class membership, or that would be affected the release in this matter.

FACTUAL BACKGROUND AND PROCEDURAL POSTURE

4. Defendant GPS provides various services to the oil industry throughout the San Joaquin Valley, Ventura, and the Central Coast. Plaintiff Michael Goldberg ("Plaintiff") worked for GPS for only a short while from March 29, 2023 until he resigned the morning of May 9, 2023. Plaintiff's employment covered a four-week training period at Defendant's training yard in Taft, California and then a single day out in the oil field before he resigned.

5. Plaintiff alleged a number of wage and hour violations by Defendant. First, he alleged Defendant's failure to provide off-duty meal and rest breaks during the training portion of his employment, and contended employees were not allowed to leave the employer's premises while on break. He also alleged Defendant failed to provide a third rest break for shifts greater than 10 hours, and further failed to pay meal period premiums when employees worked shifts greater than 10 hours and did not expressly agree to waive their right to a second meal period. He next argued Defendant's wage statements did not accurately list the employee's total hours worked when vacation wages were paid and inaccurately included vacation "hours" in the tabulation of total hours worked. Based on these allegations, and after

notice the LWDA and GPS, Plaintiff filed a class and PAGA representative action complaint against Defendant on August 6, 2024, seeking damages and PAGA civil penalties for the above-alleged Labor Code violations.

6. GPS has at all times denied Plaintiff's allegations and maintained its meal and rest break and payroll policies and procedures comply with California law, that it provided employees with required meal and rest breaks or paid the required compensation for any documented meal/rest violations. Additionally, GPS strongly contends the case cannot be maintained as a class action, arguing for example that to the extent class members missed meal and/or rest breaks, or that such breaks were non-compliant, it was intermittent and infrequent and evidence of such missed breaks or phone use would be anecdotal, and therefore individualized issues would predominate. Lastly, GPS argued that a substantial number of putative class members signed valid and enforceable arbitration agreements with class action waivers, and accordingly would be unable to participate in a class action even if certification could be obtained.

7. Once the matter was at issue, the Parties began meeting and conferring regarding discovery, law and motion, and other case management issues, and ultimately agreed to attempt early mediation. The Parties also agreed on a protocol for an exchange of additional documents and information before the mediation to facilitate the settlement discussions. Consequently, Plaintiff's counsel reviewed payroll records, compensation plans, personnel policies/handbooks, meal and rest break policies, personnel files, and a random of sampling of Class Member paystubs and time records. Defendant also provided data regarding the total number of putative class members, the estimated total amount of workweeks and pay periods they worked, average pay rates, and information regarding other non-hourly compensation, among other relevant data.

8. The Parties then engaged Kevin Barnes, Esq., a respected professional neutral with substantial wage and hour and class action experience. In February 2025, the Parties participated in a full day mediation with Mr. Barnes. Throughout the day, the arms-length negotiations were hard-fought and adversarial as the Parties exchanged extensive information on their legal and factual positions, and made numerous offers and counter-offers, and ultimately reached agreement on all

major issues. The Parties then collaboratively drafted the Class Action and PAGA Settlement ("Settlement Agreement") setting forth the settlement terms now before the Court for approval.

THE PROPOSED SETTLEMENT TERMS

9. Under the settlement, GPS will pay $650,000 into a common fund, the Gross Settlement Amount ("GSA"). Attorney's fees of up to $216,666.67 (1/3 of the GSA), litigation costs of up to $20,000, settlement administration costs of no more than $13,500, a service award to Plaintiff of no more than $10,000, and PAGA civil penalties of $40,000, all will be paid from the GSA. The balance of around $349,822 will be allocated pro rata to the Class Members based on their weeks worked during the Class Period. No portion of the GSA will revert to GPS.

10. The settlement provides for conditional certification of a settlement class including all individuals employed by GPS in California and classified as non-exempt who worked for Defendant during the Class Period of June 16, 2019 to July 13, 2024. The Settlement Class consists of about 837 individuals.

11. As noted, the settlement obligates GPS to pay $650,000 to resolve the Settlement Class's claims, inclusive of attorney's fees and costs. At least $349,833 from the GSA will be distributed to the Participating Class Members. This is a cash settlement that does not require Participating Class Members to submit a claim form to receive their settlement share. Participating Class Members will receive their settlement checks automatically via First Class U.S. Mail. Fifteen percent of each settlement share will be allocated to wages and the remaining eighty-five percent will be allocated to penalties and interest, which allocation is consistent with GPS's potential liability. GPS will pay any and all applicable employer-side payroll taxes separately and in addition to the GSA. Subject to the Court's approval, any amounts not claimed (because a class member does not cash their settlement check) will be forwarded to the State Controller's Unclaimed Property Fund.

12. Each Participating Class Member will receive a share of the Net Settlement Amount based on his or her total weeks worked in California as a non-exempt employee during the Class Period, and the settlement awards further will account for whether the individual signed an arbitration agreement – members of the arbitration agreement subclass will receive a reduced pro

rata amount relative to the non-arbitration agreement subclass by a factor of fifty percent to account for Defendant's contention that such individuals are excluded from participating in a class action. Thus, each Class Member's Individual Settlement Payment will be calculated using criteria typically used in determining appropriate amounts of unpaid wages, unpaid premium wages for missed meal and rest breaks, and potential statutory penalties under applicable law, and further will account for the arbitration issue. These methods are intended to ensure each Class Member receives a settlement award corresponding to the relative value of their potential claims. The proposed allocation provides a reasonable way to compensate Class Members based on the amount of time they worked for GPS in California and the number of missed/non-compliant meal breaks and/or rest breaks, inaccurate wage statements, etc. I currently estimate the average award to be around $418.

13. Subject to the Court's approval, the Parties have agreed on Phoenix Settlement Administrators ("Phoenix") as the Settlement Administrator. Phoenix is qualified and has significant experience administering class action settlements, including numerous wage and hour matters. Phoenix's fees and costs will not exceed $13,500. If the Court approves less than the above amount, the difference will remain in the Net Settlement Amount for distribution to the Participating Class Members.

14. The proposed Notice of Class Action Settlement (Exhibit A to the Settlement Agreement) sets out information about this case and explains the basic settlement terms in plain language. The Notice also sets forth the individualized information used to calculate Class Members' Individual Settlement Payments and each Class Member's estimated settlement award. The Notice likewise details the procedures for Class Members to dispute their individual information, the procedure for submitting an objection to the Settlement, the procedure to request exclusion, and the fact that any final judgment will bind all class members who do not op out. Cal. Rules of Court 3.769(f) and 3.766(d). In sum, the Notice provides the Class Members with the information necessary to evaluate the Settlement and decide to participate in, opt out of, or object to the proposed Settlement, and meets all requirements imposed by the California Rules of Court. Coupled with the notice procedure, the Notice provides the best notice practicable.

15. Class Members will have forty-five (45) days to dispute the information in their Notice used to calculate their settlement award, and also have 45 days to submit any objections to the settlement or to request exclusion. If a Class Member disputes their individual information, the Settlement Administrator will review the Class Member's records and any other information submitted, and make a final determination.

16. All Participating Class Members will release GPS and the Released Parties (including the Clorox Defendants) from all claims alleged in the operative complaint, or that could have been brought based on the factual allegations in the complaint during the Class Period. The release is limited to the claims that were actually pleaded or could have been pleaded based on the alleged facts in the operative complaint.

17. A modest incentive award for Plaintiff is appropriate under applicable law, as he devoted time and resources to the litigation, provided documents, assisted Class Counsel with investigating the claims asserted and in preparing for mediation. Defendant will not oppose a request for an enhancement award to Plaintiff of not more than $10,000.00 in recognition of his time spent on this matter, the risks he undertook on behalf of the class, and the benefit conferred to the class, as addressed in his declaration filed herewith.

18. The terms of the Parties' settlement also allow Plaintiff's counsel to apply for an award of attorney's fees of up to one-third of the GSA, or $216,666.67 and reimbursement of actual costs and expenses of up to $20,000.00. Plaintiff's counsel will submit a request for attorney's fees and actual litigation costs at final approval per the terms of the Settlement Agreement and applicable law, and will provide the Court with appropriate information and evidence regarding hourly rates, tasks performed, and time expended on the case. If the Court approves less than the above amounts, the difference will remain in the Net Settlement Amount for distribution to the Participating Class Members.

19. As noted, the Parties allocated $40,000 to resolution of Plaintiff's alleged claims under PAGA, and I submit that amount is fair, reasonable, and adequate, and consistent with PAGA's underlying purposes. Per PAGA, $30,000 of that amount will go to the LWDA for the State's share of the civil penalties, while the remaining $10,000 will be distributed pro rata to

eligible Aggrieved Employees. Prior to filing this motion, my office provided notice of the proposed settlement of the PAGA claims and the approval hearing to the LWDA.

The Proposed Settlement Class Should Be Conditionally Certified

20. In the present matter, conditional certification is proper since this matter satisfies all requirements for class certification under Code of Civil Procedure section 382. First, the class is both sufficiently numerous, consisting of approximately 837 individuals, and ascertainable by reference to Defendant's personnel and payroll records.

21. Plaintiff is an adequate class representative, as his claims do not conflict with and are not antagonistic to the claims of other class members. Further, his claims are typical as he is a member of the class and his claims arise from the same employment practices and course of conduct giving rise to the claims of the other class members.

22. Common questions of law and fact predominate – particularly for purposes of a settlement class – as the Class Members all were paid via substantially similar company-wide policies that resulting in missed/non-compliant meal and rest breaks, etc. Since the focus of the claims against GPS concerns the legality of common policies applied uniformly to the entire class, common issues predominate over individualized inquiries concerning liability. For instance, GPS's policies regarding meal and rest breaks during training either resulted on "on duty" breaks or they did not. Regardless of that determination, it will decide liability for all Class Members one way or another.

23. Resolving this matter as a class action is superior to other available means for the fair and efficient adjudication of this controversy for multiple reasons, including inter alia: (a) individual joinder of all members of the class is impractical, (b) class action treatment will permit a large number of similarly situated persons to resolve their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of effort and expense; and (c) the damages suffered by many of the individual class members are relatively small and the expenses and burden of individual litigation would make it difficult or impossible for them to seek redress on their own.

The Proposed Settlement Meets the Dunk and Kullar Factors, is within the Range of Reasonableness, and Should be Preliminarily Approved

24. Prior to mediation, the parties engaged in extensive formal informal discovery to facilitate settlement discussions. As a result, Plaintiff reviewed documents and information regarding GPS's payroll practices, pay stubs and time records for a sampling of class members, meal and rest break policies, etc., and information from Defendant regarding class size and breakdown of job positions, work weeks, rates of pay, and other information used to formulate a damages model. This extensive information then was analyzed by a consulting expert to look for meal and rest break violation rates, time spent working off the clock, etc., and other issues relevant to liability and damages. Plaintiff's counsel are confident they obtained sufficient information to enable them to understand the law and facts of this case and make an informed decision regarding the proposed settlement and whether it is in the best interests of the class.

25. Using that data, Plaintiff ran various calculations and estimated GPS's likely maximum exposure on the class claims at approximately $15,633,150, including approximately $5,323,700 on the meal period claims, about $5,323,700 on the rest period claims, around $2,241,650 on the wage statement claims, and $2,444,100 on the waiting time penalty claims. While Plaintiff's complaint alleges claims for unpaid wages, his investigation and discovery did not suggest any potentially widespread violations for unpaid wages that could be addressed via a class or representative action. Accordingly no value was attributed to those claims for purposes of settlement.

26. We calculated these amounts as follows:

Meal Period Violations

198,127 violations * $26.87/hour avg. wage = $5,323,700

Rest Period Violations

198,127 violations * $26.87/hour avg. wage = $5,323,700

Wage Statement Violations

827 initial violations * $50/violation + 22,373 subsequent violations * $100/violation = $2,241,650

Waiting Time Penalties

379 former employees * (240 hours * $26.87/hour avg. wage) = $2,444,100

27. On the meal and rest break claims, Plaintiff alleged multiple violations. First, he argued that during four weeks of training to learn the technical and safety requirements of the job, Defendant provided Plaintiff with a timely 30-minute meal period and two rest breaks for shifts that were generally 8 hours long. However, Plaintiff alleges that per company policy he and other trainees were not permitted to leave the premises for these meal and rest breaks and Defendant failed to provide Plaintiff meal and rest period premiums to compensate for these breaks during which Plaintiff and class members were not relieved from all duty. Unlike working in an oil field, the training was not in a remote setting – it was in Taft with multiple restaurants and gas stations nearby – and there were no practical limitations that would have prevented employees from leaving the training site for a meal and rest break. Moreover, Plaintiff argued the training would not satisfy the requirements for an on-duty meal period and, regardless GPS did not require written on-duty meal period agreements as mandated by the applicable Wage Order.

28. Next, Plaintiff alleged Defendant failed to provide employees with second breaks when they worked greater than 10 hours and maintained a policy that entitlement to a second meal break was "dependent upon their work schedule." Further, there was no evidence that GPS obtained blanket meal waivers from its employees as part of its onboarding process. Rather, its meal policy provided that second meal breaks may be waived, in some circumstances, by the mutual consent of GPS and the employee but must be disclosed on the time card. Thus, per Plaintiff, under Defendant's own policy an employee's failure to state they waived a meal period on the time card would invalidate any voluntary waiver argument made by Defendant.

29. In addition, Plaintiff argued Defendant maintained an unlawful rest period policy that only provided employees with two 10-minute rest breaks per shift and did not provide for the required third break on shifts of 10+ hours. Nothing in the policy indicated that employees ever were entitled to or provided with more than two rest breaks if they work shifts more than 10 hours, all in violation of the Labor Code and Wage Orders.

30. In response, GPS argued its written meal and rest break policies are fully compliant, and that it provided employees with the opportunity to receive all required breaks, including second meal breaks and third breaks. On the second meal break claim, GPS also argued

employees regularly waived their second break, regardless of whether it was noted on a time card or not, and that determining whether a waiver occurred would require innumerable individualized inquiries that would render class certification impossible on that issue. Defendant also argued were not subject to employee control while on a break, including during their training period, and otherwise were permitted to leave the work premises as appropriate. On the rest break issue, GPS also noted the applicable Wage Order provides that rest periods "shall take place at employer designated areas, which may include or be limited to the employees' immediate work area." Wage Order 16, § 11(A). Lastly, GPS maintained that, in light of its compliant policies, whether a class member missed a meal period, received a late meal period, or missed a rest break would have been aberrational and against company policy, and accordingly these issues again would not be amenable to class or representative treatment since their resolution would require individualized inquiries as to why a break was missed or non-compliant.

31. On the inaccurate wage statement claim, Plaintiff contended Defendant issued wage statements that failed to correctly list the total hours worked when vacation wages were paid. For example, for pay date May 12, 2023, Plaintiff worked 11.75 hours and was paid out 3.08 hours of vested vacation time. However, the wage statement states in inaccurate total for the total hours worked by Plaintiff, providing 14.83 total hours worked, presumably due to a systematic error to include certain non-working hours, including vacation time as 'hours worked.' Accordingly, per Plaintiff, each wage statement that included any vacation pay automatically misstated the actual hours worked for that pay period, in violation of Labor Code section 226 (a)(2).

32. The claims under Labor Code sections 203 and 226 also are derivative of the primary claims for failure to pay premium wages for meal/rest break violations, and accordingly are subject to the same risks and uncertainties plus additional risks posed by the need to take into account the discretionary nature of such awards and the "good faith" and other defenses available to Defendant. Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1203-4 (employer did not willfully fail to pay wages under Labor Code § 203 even though class prevailed on underlying

claim for failure to pay living wages). Thus, while these claims largely are derivative of the unpaid wage claim, they also are subject to additional defenses.

33. As far as potential PAGA liability, the allegedly aggrieved employees theoretically are entitled to penalties totaling around $6 million in civil penalties should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections as to each and every pay period at issue. As with the class claims, Plaintiff discounted the potential PAGA penalties based on Defendant's various defenses on the merits and also accounted for the Court's wide discretion to reduce such penalties, or to decline to award penalties at all. Accordingly, the Parties allocated $40,000 to PAGA penalties, and Plaintiff submits this amount is reasonable under the circumstances and in line with comparable settlements in other wage and hour class actions in California. Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement, and will be able to weigh in as necessary.

34. The settlement obviates the significant risk that this Court may find any kind of class or representative resolution unachievable or deny certification of all or some of Plaintiff's claims. Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued litigation would be lengthy and expensive as the parties pursued merits discovery, a probable motion to decertify, as well as trial and possible appeals, and would further and substantially delay any recovery by the class with no assurance of recovering significantly more than the proposed settlement. While Plaintiff is confident in the merits of these claims, legitimate controversies exist regarding each one of them. Plaintiff also recognizes proving the amount of wages and penalties due each Class Member would be an expensive, time-consuming, and uncertain proposition.

35. Plaintiff and I discounted the value of the class claims consistent with the risks discussed above, and carefully weighed the likelihood of the class receiving substantially greater benefit if the litigation continued. We concluded – in light of these very real and substantial risks – settlement on the proposed terms and without prolonged and costly litigation was in the best interests of the class, and the overall $650,000 recovery represents a significant percentage of Defendant's potential exposure. Given these risks, a total recovery for the class of $650,000, which will result in average award of over $418 per class member, is a significant result well

within the range of reasonableness considering all potential outcomes, and it will provide direct monetary awards to all Class Members without further delay.

CROSNER LEGAL'S QUALIFICATIONS

36. I am a graduate of Loyola Law School, Los Angeles, from which I received a *juris doctorate* degree in 2009. Prior to attending law school, I attended the University of Southern California, from which I received a *bachelors of science* in Business Administration in 2006.

37. I have been a Partner at Crosner Legal since February 1, 2023. Prior to joining Crosner Legal, I was a Senior Associate and Team Director of a Wage and Hour Litigation Team at Capstone Law APC, which I originally joined as an associate attorney in May 2016.

38. Since being admitted to the California State Bar in 2010, my entire legal career has been dedicated to protecting employee and consumer rights through the prosecution of class action and representative actions filed on behalf of plaintiffs in class actions and statewide representative actions. Throughout my career I have managed or co-managed more than 100 class action and PAGA representative cases, from initial filing of the complaint through final resolution.

39. In particular, I have served as class counsel in several certified class action cases, including:

a. *Party City Wage and Hour Cases*, JCCP4781 (class counsel for certified class of non-exempt hourly employees who worked for Defendants in California)

b. *Lewis v. Express Messenger Systems*, Los Angeles Superior Court Case No. BC501521 (class counsel for certified class of last-mile delivery drivers who were alleged to be misclassified as independent contractors)

c. *Ramirez-Vivar v. Grifols Diagnostic Solutions, Inc.*, *et al.*, Alameda County Superior Court, Case No. RG21099519 (class counsel for certified classes of non-exempt hourly employees who worked for Defendants in California)

d. *Jones v. LA Live* , Los Angeles County Case No. BC687908 (class counsel for certified issue classes consisting of hourly employees who worked at Staples Center and Nokia Theater)

40. The following is a representative sample of settlements in wage and hour class

action and PAGA representative cases in which I was listed as an attorney of record and either managed, or co-managed with attorneys at my firm and other co-counsel:

e. *Cruz v. Walmart*, Los Angeles County Super. Ct. Case No. 18STCV03128 ($15 million global PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations.)

f. *Vorise v. 24 Hour Fitness USA, Inc.*, Contra Costa County Super. Ct., Case No. C 15-02051 ($11 million global PAGA settlement on behalf of over 36,000 employees for Labor Code violations.)

g. *Gross v. Sodexo*, Kern County Super Ct., Case No. BCV-18-101746 Capstone ($4.75 million class and PAGA settlement on behalf of class of non-hourly employees for Labor Code violations.)

h. *Campbell v. AEG* ($1.8M class and PAGA settlement on behalf of group of hourly employees who worked at concert venues in California for alleged Labor Code violations)

i. *Fiebelkorn v. AEG*, et al. Los Angeles Superior Court Case No. BC717337 ($1.75M class settlement on behalf of group of hourly employees who worked at Oakland Coliseum for alleged Labor Code violations)

j. *Amaro v. Anaheim Arena Management*, Orange County Superior Court Case No. 30-2017-00917542 ($2,212,500 class and PAGA settlement on behalf of group of hourly employees who worked at Honda center in Anaheim California for alleged Labor Code violations)

k. *Espindola v. Panda Express,* San Bernardino Superior Court Case No. CIVDS1931455 ($3.125M class and PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations)

l. *Gold v. Benihana*, San Diego Court Superior Court Case No. 37-2016-00022320-CU-OE-NC ($2.25M class and PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations)

m. *Party City Wage and Hour Cases*, JCCP4781 ($6.5M class and PAGA settlement on behalf of hourly employees statewide for alleged Labor Code violations)

n. *Lewis v. Express Messenger Systems*, Los Angeles County Super Court Case No. BC501521 ($10.5M class and PAGA settlement on behalf of a statewide group of independent contractor last-mile delivery drivers alleged to be misclassified)

o. *Flores v. Tesla*, Alameda County Superior Court Case No. RG18907072 ($4M class and PAGA settlement on behalf of statewide group of hourly employees for alleged Labor Code violations)

p. *Ruiz v. Disney Stores*, San Bernardino Superior Court Case No. CIVDS2016983 ($2M class and PAGA settlement on behalf of statewide group of hourly employees who worked at retail stores in California for alleged Labor Code violations)

q. *Ramirez v. Yin Management*, Sacramento County Superior Court Case No. 34-2021-00301530 ($1.8M class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's McDonald's franchises in California for alleged Labor Code violations).

r. *Suhartono v. RRG Besh*, Los Angeles County Superior Court Case No. 19STCV22184 ($2.25 class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's McDonald's franchises in California for alleged Labor Code violations).

s. *Gomes v. Kura Sushi*, Los Angeles County Superior Court Case No. 19STCV18977 ($1.75M class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's restaurants in California for alleged Labor Code violations)

t. *Saldana v. Hydrochem*, Contra Costa Superior Court Case No. CIVMSC19-02624 ($1.38M class and PAGA settlement on behalf of statewide group of hourly employees for alleged Labor Code violations).

41. In addition, below are settlements in consumer class action cases in which I was listed as an attorney of record and either managed, or co-managed with attorneys at my firm:

u. *Lopez v. Seterus*, *et al.*, Los Angeles Superior Court Case No. BC484297 ($3M Class settlement on half of thousands of borrowers in California, Florida, and Texas for UCL violations premised on improper late fee collections)

v. *McGill v. Citibank*, Riverside County Superior Court Case No. RIC 1109398 (in landmark case that established the 'McGill rule' precluding the waiver of public injunctive relief in pre0dsipute arbitration agreements, negotiated confidential settlement on behalf of consumer who sued for damages and class injunctive relief stemming from marketing of credit protector plan)

42. Finally, I have been selected by my peers as a Super Lawyers 'Rising Star' every year since 2016 through 2022, which is a recognition that is provided to only 2.5% of active lawyers practicing within the State of California

43. Zachary Crosner is a 2010 graduate of University of San Diego School of Law. He has some fourteen years of experience as a practicing attorney, all of which have focused on litigation of employment, labor law, consumer, and class action claims. Following graduation, he immediately began working for a nationally recognized plaintiff-side complex litigation firm, CaseyGerry, where he had the fortune of working directly with past presidents of the consumer attorneys and recipients of trial attorneys of the year awards. He also worked for former CAALA and CLAY trial attorney of the year recipient, attorney Conal Doyle, as his sole associate attorney. During his tenure at these firms, he focused on advocating for the rights of consumers and employees in class action litigation, civil rights and employment litigation, catastrophic injuries, insurance bath faith, and appellate litigation.

44. In 2013, he founded the law firm of Crosner Legal, P.C., which since its inception has focused almost exclusively on wage and hour class actions and other labor and employment law cases representing plaintiffs. Currently, over ninety percent (90%) of the firm's practice is dedicated exclusively to the prosecution of wage and hour class actions, and the law firm is currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty (50) wage and hour class actions and/or PAGA representative actions in both federal and state courts throughout California.

45. Mr. Crosner currently is an executive board member of the Wage and Hour Committee and the Legislative Committee for the California Employment Lawyers Association; a

member of the Grassroots Advocacy Team for the National Employment Lawyers Association; Wage and Hour Committee member and Class Action Committee member for the National Trial Lawyers; a member of the American Association for Justice; and a member of the Pound Civil Justice Institute. He also was selected by Super Lawyers as a "Southern California Rising Star" for employment and labor law for 2018-2020.

46. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class action settlements while serving as lead class counsel in recent years, including but not limited to a $1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America, Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a $4.1 million wage and hour class action settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252 (Sacramento Cty. Super Ct.)); a $1.35 million wage and hour class action settlement in 2017 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a $1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc. dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a $1.3 million wage and hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160 JGB (C.D. Cal.)), a $1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v. Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.), a $1.15 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*, Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a $2.2 million wage and hour class action settlement in 2021 (*Ghorchian, et al. v. West Hills Hospital, et al.,* Case No. LS029737 (Los Angeles Cty. Super. Ct.)); a $2.85 million dollar wage and hour settlement in 2021 (*Valencia v. The Original Mowbray's Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a $1 million wage and hour class action settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No. 21CV382467 (Santa Clara Cty. Super. Ct.)), a $1.4 million wage and hour class action settlement in 2023 in *Correa, et al. v. FedEx Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino Cty. Super. Ct.), a $2.38 million wage and hour class action settlement in 2023 in *Michel, et al. v. Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los Angeles Cty. Super. Ct.); and a $2.5 million wage and hour class action

settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No. CIVDS1931464 (San Bernardino Cty. Super. Ct.).

47. For all the foregoing reasons, I believe the settlement is fair, reasonable, and in the best interests of the class.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 6th day of May 2025, at Los Angeles, California.

Declarant

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement ("Agreement" or "Settlement") is made by and between Plaintiff Michael Goldberg ("Plaintiff") and Defendant General Production Service, Inc. ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as the "Parties," or individually as "Party."

1. DEFINITIONS

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

1.1. "Action" means the lawsuit alleging wage and hour violations against Defendant captioned *Goldberg v. General Production Service, Inc.,* Superior Court of the State of California, County of Kern, Case No. BCV-24-102628, initiated on August 6, 2024.

1.2. "Administrator" means Phoenix Settlement Administrators, 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.

1.4. "Aggrieved Employees" means all non-exempt employees who worked for Defendant in the State of California at any time during the PAGA Period.

1.5. "Class" means all individuals who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period.

1.6. "Class Counsel" means Brandon Brouillette, Zachary Crosner, and Jamie Serb of Crosner Legal PC.

1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the

Action.

1.8. "Class Data" means Class Member identifying information for which Defendants will use their best efforts to provide, including the Class Member's name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.

1.9. "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 by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.

1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, if applicable in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Notice Packet" means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).

1.13. "Class Period" means the period of time from March 8, 2022, through the date the court signs the Preliminary Approval Order, or April 27, 2025, whichever is sooner.

1.14. "Class Representative" means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as the Class Representative.

1.15. "Class Representative Service Payment" means the service payment made to the Plaintiff as Class Representative in order to compensate him for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant's expenses, and for the general release of all claims by the Plaintiff.

1.16. "Court" means the Superior Court of California, County of Kern.

1.17. "Defendant" means General Production Service, Inc.

1.18. "Defendant's Counsel means Richard Frey and Alejandro Castro of Nixon Peabody LLP.

1.19. "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 court day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the court day after the appellate court affirms the Judgment and issues a remittitur.

1.20. "Final Approval" means the Court's order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

1.21. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

1.22. "Gross Settlement Amount" means Six Hundred Fifty Thousand Dollars ($650,000.00) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.

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 Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

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

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

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

1.29. "Non-Participating Class Member" means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.

1.30. "Operative Complaint" means the Complaint filed on August 6, 2024.

1.31. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least on day during the PAGA Period.

1.32. "PAGA Period" means the period of time from May 21, 2023, through the date the court signs the Preliminary Approval Order, or April 27, 2025, whichever is sooner.

1.33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.34. "PAGA Notice" means Plaintiff's May 21, 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, allocated 25% to the Aggrieved Employees (currently $10,000.00) and the 75% to LWDA (currently $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.

1.37. "Plaintiff" means Michael Goldberg, the named plaintiff in the Action.

1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.

1.39. "Released Class Claims" means all any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged or that reasonably could have been alleged based on the facts alleged in the Complaint filed August 6, 2024, including but not limited to claims for (a) minimum wage violations, (b) overtime wage violations, (c) meal break violations, (d) rest break violations, (e) wage statement violations, (f) failure to timely pay wages at termination, (g) failure to reimburse business expenses, (h) unfair business practices, and (i) civil penalties under the Private Attorneys General Act, California Business and Professions Code 17200, and all applicable Wage Orders, including claims for violations of Labor Code Sections 98, 201, 202, 203, 218, 218.5, 221, 222, 223, 224, 226, 226.7, 510, 511, 512, 558, 1174, 1194, 1194.2, 1197, 1198, 1199, 2802, California Business and Professions Code section 17200, California Code of Regulations, Title 8, Section 3395, and all other applicable Wage Order(s). Except as expressly set forth in 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.

1.40. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and/or the PAGA Notices, which occurred during the PAGA Period, including claims for violations of Labor Code Sections 201, 202, 203, 204, 208, 210, 212, 216, 218.5, 221, 222, 223, 225.5, 226, 226.6, 226.7, 227.3, 233, 234 245, 246, 247, 247.5, 248, 248.6, 256, 432, 432.5, 432.6, 432.7, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2 1197, 1197.1, 1198, 1198.5, 1199, 2698, 2699, 2699.3, 2699.5 2802, 2804, 2810.5, California Code of Regulations, Title 8, Section 3395, and all other applicable Wage Order(s). The Released PAGA Claims do not include underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

1.41. "Released Parties" means: Defendant and each of its former and present parents, subsidiaries and affiliated companies and entities, franchisors and franchisees, and their current, former, and future owners, officers, shareholders, directors, members, managers, operators, employees, consultants, vendors, partners, affiliates, subsidiaries, shareholders, attorneys, insurers, payroll providers, joint venturers, and agents, and any successors, assigns, or legal representatives, both individually and in their business capacities, and any individual or entity who or which could be jointly liable with Defendants and all persons or entities acting by, through under or in concert with any of them, including but not limited to any and all staffing agencies and professional employment organizations that supplied employees to Defendants, or performed professional employment organization services, as applicable, Doe Defendants, and anyone that can be held legally responsible for the claims alleged in the Operative Complaint.

1.42. "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.

1.43. "Response Deadline" means forty-five (45) calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.45. "Subclasses" means the two subclasses into which the Participating Class Members are divided for the purposes of settlement, including: (i) the arbitration agreement subclass, and (ii) the non-arbitration agreement subclass. The arbitration agreement subclass includes all Participating Class Members who have executed a valid and binding arbitration agreement with the Defendant, which includes a class-action waiver. These members are generally prohibited from participating in class actions. To reflect Defendant's contention that such individuals are excluded from participating in a class action, the arbitration agreement subclass will receive a reduced pro rata amount from the Class Settlement Amount. Accordingly, the arbitration agreement subclass will receive a reduced pro rata amount relative to the non-arbitration agreement subclass by a factor of fifty percent (50%).

1.46. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

2. RECITALS

2.1. On May 21, 2024, Plaintiff filed a PAGA Notice with the LWDA alleging various violations of the Private Attorney General Act, Cal. Labor Code §§ 2698, et seq.

2.2. On August 6, 2024, Plaintiff filed a class and representative action complaint against Defendant in the Superior Court of the State of California, County of Kern, seeking civil penalties pursuant to Labor Code § 2699, et seq. for alleged violations of the Labor Code, as well as seeking damages for those alleged labor code violations, among others.

2.3. On February 25, 2025, the Parties participated in an all-day mediation presided over by Kevin Barnes, a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator's proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

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

2.5. Prior to mediation, Plaintiff obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th116, 129-130 ("*Dunk/Kullar*").

2.6. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay Six Hundred Fifty Thousand Dollars ($650,000.00) and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.

(a) To Plaintiff: A Class Representative Service Payment to the Class Representative of not more than $10,000 (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 Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments 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 and indemnify and hold Defendant and the Released Parties harmless from any tax liability or penalties whatsoever that may arise from this Settlement.

(b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be $216,666.66, and a Class Counsel Litigation Expenses Payment of not more than Twenty Thousand Dollars and Zero Cents ($20,000.00). Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

(c) <u>To the Administrator:</u> An Administration Expenses Payment not to exceed Thirteen Thousand and Five Hundred Dollars and No Cents ($13,500.00) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than Thirteen Thousand and Five Hundred Dollars and No Cents ($13,500), the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.

(d) <u>To the LWDA and Aggrieved Employees:</u> PAGA Penalties in the amount of $40,000 to be paid from the Gross Settlement Amount, with 75% ($30,000) allocated to the LWDA PAGA Payment and 25% ($10,000) allocated to the Individual PAGA Payments.

i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($10,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

ii. 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.

iii. Aggrieved Employees are not permitted to opt-out of the receipt of PAGA Penalties regardless of whether they are a Participating or Non-Participating Class Member.

(e) 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.

i. Tax Allocation of Individual Class Payments. 15% 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. 85% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, 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.

ii. 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.

4. SETTLEMENT FUNDING

4.1. Estimated Class Workweeks and Aggrieved Employee Pay Periods. Based on Defendant's good faith estimate, Defendant has represented that the Class consists of 837 Class Members who collectively worked a total of Seventy Thousand Seven Hundred Eighteen (70,718) Workweeks, and 827 Aggrieved Employees who worked a total of Twenty-Five Thousand Two Hundred Eighty (25,280) PAGA Pay Periods.

4.2. Class Data. Not later than thirty (30) days after the Court grants Preliminary Approval of the Settlement, Defendant will 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 the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

5.1. Within fourteen (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 Payments.

5.2. 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 "void date", which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. 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 Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.

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

5.4. 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 ("CCP") Section 384, subd. (b).]

5.5. 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.

6. RELEASE 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, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

6.1. <u>Plaintiff's Release</u>. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notices ("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, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now 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.

(a) <u>Plaintiff's Waiver of Rights Under Civil Code Section 1542</u>. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA 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 the Released PAGA Claims.

7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to work jointly to prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's procedures and instructions.

7.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defendant's Counsel, no later than thirty (30) days after the full execution of this Agreement, 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 Defendant's 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; and (v) 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)).

7.2. 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 Defendant's 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 Defendant's 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.

8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. 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.

8.2. 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.

8.3. 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.

8.4. Notice to Class Members.

(a) No later than three (3) calendar 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.

(b) Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation, if applicable, 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.

(c) Not later than seven (7) 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.

(d) 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 Response Deadline 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.

(e) If the Administrator, the Parties, Defendant's Counsel 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 fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5. Requests for Exclusion (Opt-Outs).

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

(b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

(c) 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 Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

(d) 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 claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks 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 Defendant's Counsel and Class Counsel and the Administrator's determination as to the challenges.

8.7. Objections to Settlement.

(a) 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.

(b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, 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 no later than the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

(c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.8. 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.

(a) 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.

(b) Request 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 seven (7) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defendant's 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).

(c) 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 Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

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

(e) Administrator's Declaration. Not later than seven (7) 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 Defendant's 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.

(f) Final Report by Administrator. Within ten (10) days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defendant's Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least seven (7) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defendant's 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. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least seven (7) days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

9. **CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE**. Based on its records, Defendant provided figures as to the Class size as set forth in Paragraph 4.1 above. Should the Workweeks worked by the Class Members during the Class Period ultimately increase by more than 10% of the estimate stated herein in Paragraph 4.1 (i.e., if the total Workweeks exceed 77,789), Defendant, at its option, can either choose to: (1) cut off the end date for the Class Period as of the date on which the number of Workweeks exceed Seventy-Seven Thousand Seven Hundred Eighty-Nine (77,789), or (2) the Gross Settlement Amount shall be increased on pro rata basis at a value of Nine Dollars Nineteen Cents ($9.19) per workweek.

10. **DEFENDANT'S RIGHT TO WITHDRAW**. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw. 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 Defendant's Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.

11. **MOTION FOR FINAL APPROVAL**. Unless otherwise ordered by the Court, 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(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defendant's Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defendant's Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

    11.1. <u>Response to Objections</u>. 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.

    11.2. <u>Duty to Cooperate</u>. 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 a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this Paragraph.

11.3. 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 under CCP section 664.6 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.

11.4. Waiver of the Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected 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.

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. 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.

12. AMENDED JUDGMENT. If any amended judgment is required under CCP section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

13. ADDITIONAL PROVISIONS.

13.1. 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 not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2. <u>Confidentiality Prior to Preliminary Approval</u>. Plaintiff, Class Counsel, Defendant and Defendant's Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them 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. Plaintiff, Class Counsel, Defendant and Defendant's Counsel 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.

13.3. <u>No Solicitation</u>. The Parties separately agree that they and their respective counsel and employees have not and 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.

13.4. <u>Integrated Agreement</u>. 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.

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

13.6. 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.

13.7. 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.

13.8. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defendant's 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.

13.9. 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.

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

13.11. 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.

13.12. 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.

13.13. 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.

13.14. 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 ninety (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 and/or Administrator shall destroy, all paper and electronic versions of Class Data received from Defendant.

13.15. 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.

13.16. 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 court day thereafter.

13.17. 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 calendar day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff and the Class:

Brandon Brouillette
Zachary Crosner
Jamie Serb
Crosner Legal PC
9440 Santa Monica Blvd Suite 301
Beverly Hills, CA 90210
Tel.: 1 (866) 276-7637
Fax: (310) 510-6429_
E-Mail: bbrouillette@crosnerlegal.com

To Defendant:

Richard Frey
Alejandro Castro
Nixon Peabody LLP
300 South Grand Ave., Suite 4100
Los Angeles, CA 90071
Tel.: (213) 629-6140
Fax: (833) 778-3212
E-Mail: rfrey@nixonpeabody.com
acastro@nixonpeabody.com

13.18. 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.

13.19. 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 from the mediation on February 25, 2025 until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defendant's Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Print Name	Counsel / Party	Signature	Date
Brandon Brouillette	Class Counsel		04/14/2025
Michael Goldberg	Plaintiff	Michael Goldberg	04 / 14 / 2025
Richard Frey Alejandro Castro	Defendant's Counsel		04/22/2025
Oreste Risi	Defendant General Production Service of California, Inc.	DocuSigned by: Oreste Risi ACA68E0F5BA7412...	4/16/2025

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR FINAL COURT APPROVAL]

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

Michael Goldberg v. General Production Service of California, Inc.

Kern County Superior Court Case No. BCV-24-102628

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

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

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendant General Production Service of California, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by Plaintiff Michael Goldberg ("Plaintiff"), a former employee of Defendant and seeks payment of back wages and penalties for a class of current and former non-exempt employees that worked for Defendant in California ("Class Members") at any time during the Class Period (March 8, 2022 to April 27, 2025); and (2) penalties under the California Private Attorney General Act ("PAGA") for all current and former non-exempt employees that worked either directly or via a staffing agency for Defendant at any location in California ("Aggrieved Employees") at any time during the PAGA Period (May 21, 2023 to April 27, 2025).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Settlement Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA"). The Class Settlement is comprised of two subclasses, including: (i) the arbitration agreement subclass, and (ii) the non-arbitration agreement subclass. The arbitration subclass includes all Participating Class Members who have executed a valid and binding arbitration agreement with the Defendant, which includes a class-action waiver. These members are generally prohibited from participating in class actions. To reflect Defendant's contention that such individuals are excluded from participating in a class action, the arbitration agreement subclass will receive a reduced pro rata amount from the Class Settlement Amount. Accordingly, the arbitration agreement subclass will receive a reduced pro rata amount relative to the non-arbitration agreement subclass by a factor of fifty percent (50%).

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

The above estimates are based on Defendant's records showing that you did or did not enter into an arbitration agreement, that you worked ________ Workweeks during the Class Period, and that you worked ________ pay periods during the PAGA Period. If you believe that you worked more

Workweeks and/or Pay Periods during either period, you can submit a challenge by the deadline date. See Section 3 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval of the Settlement. Your legal rights are affected whether you act or do not act. Read this Notice carefully. 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 Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period, you have two basic options under the Settlement:

1. **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Settlement Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims against Defendant.

2. **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Settlement Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant 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 Settlement Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).

You Can Opt-Out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is DATE . If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Settlement 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. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue PAGA Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by DATE. All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court's Final Approval Hearing is scheduled to take place on [DATE] at [TIME]. 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 even if you did not submit a written objection. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by [DATE]. The amount of your Individual Settlement Payment and PAGA Payment (if any) depend on how many Workweeks you worked during the Class Period and how many Pay Periods you worked during the PAGA Period, respectively. The number of Workweeks and number of Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [DATE]. See Section 3 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by, among other things: (1) recovery of unpaid minimum wages and liquidated damages; (2) recovery of unpaid overtime wages; (3) failure to provide meal periods of compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to furnish accurate itemized wage statements; (6) failure to timely pay all wages due upon separation of employment; (7) failure to reimburse business expenses; and, (8) unfair competition, and any other potential claims based on the foregoing facts and claims; and any other applicable provisions of state or federal law, including the applicable IWC wage order. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys ("Class Counsel") in the Action.

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

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

The Court has made no determination whether Defendant violated any laws. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant 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, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine whether to finally approve the Settlement.

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

Defendant Will Pay Six Hundred Fifty Thousand Dollars ($650,000.00) as the Gross Settlement Amount (Gross Settlement). Defendant 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 Settlement 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, Defendant will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed. Any Judgment entered by the Court will be posted on the Administrator's website for at least 180 days, see Section 8 below for the website address.

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

- Up to Two Hundred Sixteen Thousand Six Hundred Sixty-Six Hundred Dollars and Sixty-Six Cents ($216,666.66) (one-third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to Twenty Thousand Dollars and Zero Cents ($20,000.00) for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- Up to Ten Thousand Dollars ($10,000.00) to Plaintiff as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class.
- Up to Thirteen Thousand Five Hundred Dollars ($13,500.00) to the Administrator for services administering the Settlement.
- Forty Thousand Dollars ($40,000.00) for PAGA Penalties, allocated 75% to the LWDA for the PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

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

Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of twenty percent (15%) of each Individual Settlement Payment to taxable wages ("Wage Portion") and eighty percent (85%) to penalties and interest ("Non-Wage Portion.). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant 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 Settlement Payments on IRS 1099 Forms.

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

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

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than DATE, that you wish to opt-out. The deadline to submit an opt out request will be extended by fifteen (15) calendar days, to DATE, if your Notice is remailed. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from you or your representative setting forth your name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Settlement Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

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

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

Administrator. The Court has approved the appointment of a neutral company, Phoenix Settlement Administration (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 8 of this Notice.

Plaintiff's and the Participating Class Members' Release. Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, Plaintiff and the Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or successors and related entities for wages based on the Class Period facts and PAGA penalties based on the facts, as alleged in the Operative Complaint and resolved by this Settlement.

All members of the Settlement Class, except those that make a valid and timely request to be excluded from the Class, waive, release, and discharge all any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged or that reasonably could have been alleged based on the facts alleged in the Complaint filed August 6, 2024, including but not limited to claims for (a) minimum wage violations, (b) overtime wage violations, (c) meal break violations, (d) rest break violations, (e) wage statement violations, (f) failure to timely pay wages at termination, (g) failure to reimburse business expenses, (h) unfair business practices, and (i) civil penalties under the Private Attorneys General Act, California Business and Professions Code 17200, and all applicable Wage Orders, including claims for violations of Labor Code Sections 98, 201, 202, 203, 218, 218.5, 221, 222, 223, 224, 226, 226.7, 510, 511, 512, 558, 1174, 1194, 1194.2, 1197, 1198, 1199, 2802, California Business and Professions Code section 17200, California Code of Regulations, Title 8, Section 3395, and all other applicable Wage Order(s). Except as expressly set forth in 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.

PAGA Release. Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the facts alleged in the Operative Complaint and resolved by this Settlement. You will be bound by this PAGA Release even if you do not cash your settlement check.

Plaintiff and all Aggrieved Employees "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and/or the PAGA Notices, which occurred during the PAGA Period, including claims for violations of Labor Code Sections 201, 202, 203, 204, 208, 210, 212, 216, 218.5, 221, 222, 223, 225.5, 226, 226.6, 226.7, 227.3, 233, 234 245, 246, 247, 247.5, 248, 248.6, 256, 432, 432.5, 432.6, 432.7, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2 1197, 1197.1, 1198, 1198.5, 1199, 2698, 2699, 2699.3, 2699.5 2802, 2804, 2810.5, California Code of Regulations, Title 8, Section 3395, and all other applicable Wage Order(s). The Released PAGA Claims do not include underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing twenty-five percent of the PAGA Penalties ($10,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of Pay Periods worked by each individual Aggrieved Employee.

Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until DATE to challenge the number of Workweeks and/or Pay Periods credited to you. The deadline to submit a challenge will be extended by fourteen (14) days, to DATE, if your Notice is re-mailed. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 8 Sof 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 Defendant's calculation of Workweeks and/or Pay Periods based on Defendant'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 Defendant's Counsel. Although the settlement administrator may make the initial decision regarding disputes pertaining to the calculation of Workweeks, the Court may review any decision made by the settlement administrator regarding a dispute pertaining to the calculation of Workweeks.

4. HOW WILL I GET PAID?

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 Settlement Payment and the Individual PAGA Payment.

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 Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 8 of this Notice has the Administrator's contact information.

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

You can exclude yourself from the Settlement, or "opt out," by sending the Administrator a written Request for Exclusion. 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 *Michael Goldberg v. General Production Service of California, Inc.,* Kern County Superior Court, Case No. BCV-24-102628, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You may also use the Request for Exclusion Form included with this Notice. You must make the request yourself. If someone else makes the request for you, it will not be valid. You may send your request by mail to the Administrator. The Administrator must be sent your request to be excluded by DATE, or it will be invalid. The deadline to submit an opt out request will be extended by fourteen (14) days, to DATE, if your Notice is re-mailed. Section 8 of the Notice has the Administrator's contact information.

6. 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 Defendant are asking the Court to approve. Upon reasonable request, Class Counsel (whose contact information is in Section 8 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 (INSERT URL) or the Court's website (https://odyprodportal.kern.courts.ca.gov/PORTALPROD/).

A Participating Class Member who disagrees with any aspect of the Agreement or the Motion for Final Approval may wish to object. The deadline for sending written objections to the Administrator is DATE. The deadline to submit a written objection will be extended by fourteen

(14) days, to DATE, if your Notice is re-mailed. 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, *Michael Goldberg v. General Production Service of California, Inc.*, Kern County Superior Court, Case No. BCV-24-102628, and include your name, current address, telephone number, and approximate dates of employment with Defendant and sign the objection. You may also use the Objection Form included with this Notice. You may send your written objection by mail to the Administrator. Section 8 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 for specifics regarding the Final Approval Hearing.

7. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [DATE] at [TIME] in Department T-2 of the Kern County Superior Court, located at 1215 Truxtun Ave., Bakersfield, CA 93301. 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 comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via Civil Remote Hearings (https://video.courtcall.com/conference/entry). 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 Court's website beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

8. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Operative Complaint, PAGA Notice Letter, Settlement Agreement and any Amendments, the Class Notice, Orders Granting Preliminary and Final Approval, the Judgment, or any other Settlement documents is to go to Phoenix Class Action Administration Solutions' website at INSERT URL. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to (https://odyprodportal.kern.courts.ca.gov/PORTALPROD/) and entering the Case Number for the Action, Case No.: BCV-24-102628, Year Filed: 2024.

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

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Beverly Hills, CA 90210
Tel.: 1-866-CROSNER

Settlement Administrator:

Name of Administrator:
Email Address:
Mailing Address:
Telephone:

9. 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.

10. 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 B

[ORDER GRANTING PRELIMINARY APPROVAL]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

MICHAEL GOLDBERG, on behalf of the State of California and all Aggrieved Employees and Class Members, Plaintiff, v. GENERAL PRODUCTION SERVICE OF CALIFORNIA, INC., a California Corporation; and DOES 1-100, inclusive, Defendants.	Case No.: BCV-24-102628 Hon..: T. Mark Smith Dept. T-2 **[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: May 29, 2025 Time: 8:30 a.m. Dept. T-2

The Court, having read the papers filed regarding Plaintiff's unopposed Motion for Preliminary Approval of Class Action Settlement, and having heard argument on the Motion, hereby finds and ORDERS as follows:

1. The Class Action and PAGA Settlement Agreement attached as Exhibit 1 to the Declaration of Brandon Brouillette in support of Plaintiff's unopposed Motion for Preliminary Approval of Class Action Settlement, filed on or about May 6, 2025 (the "Settlement Agreement"), is within the range of possible recovery and, subject to further consideration at the Final Approval Hearing described below, is preliminarily approved as fair, reasonable, and adequate, and in the best interests of the Class Members. The Court, for purposes of this Order, adopts all defined terms as set forth in the Settlement Agreement.

2 For purposes of settlement only, the Court provisionally and conditionally certifies the class defined as all individuals who are or previously were employed by Defendant General Production Service, Inc. ("GPS" or "Defendant") in California and classified as non-exempt employees at any time during the Class Period of March 8, 2022 through April 27, 2025.

3. The Court finds the Settlement Class, consisting of approximately 837 members, is so numerous that joinder of all members is impracticable, and that the Settlement Class is ascertainable by reference to the business records of Defendant.

5. The Court finds further there are questions of law and fact common to the entire Settlement Class, which common questions predominate over any individualized questions of law or fact. These common questions include, without limitation: (1) whether GPS provided Settlement Class Members with required meal and/or rest breaks on a fully compliant basis, or compensation in lieu thereof; (2) whether GPS provided Settlement Class Members with proper itemized wage statements, and (3) whether GPS timely paid the Settlement Class Members all wages due on separation of employment.

6. The Court finds further the claims of named Plaintiff Michael Goldberg are typical of the claims of the Settlement Class, and that she will fairly and adequately protect the interests of

the Settlement Class. Accordingly, the Court appoints Michael Goldberg as the Class Representative, and appoints her counsel of record, Brandon Brouillette and Zachary Crosner, and Crosner Legal, PC, as Class Counsel.

7. The Court finds further that certification of the Settlement Class is superior to other available means for the fair and efficient adjudication of the controversy.

8. The Court finds further that, in the present case, the proposed method of providing notice of the Settlement to the Settlement Class via First Class U.S. Mail to each Settlement Class Member's last known address, is reasonably calculated to notify the Settlement Class Members of the proposed Settlement and provides the best notice possible under the circumstances. The Court also finds the Notice of Class Action Settlement form is sufficient to inform the Settlement Class Members of the terms of the Settlement and their rights thereunder, including the right to object to the Settlement or any part thereof and the procedure for doing so, their right to exclude themselves from the Settlement and the procedure for doing so, their right to obtain a portion of the Settlement proceeds, and the date, time and location of the Final Approval Hearing. The proposed Notice of Class Action Settlement (Exhibit A to the Settlement Agreement) and the procedure for providing Notice set forth in the Settlement Agreement, are approved by the Court.

9. Under the terms of the Settlement Agreement, the Court approves the Parties' selection of Phoenix Settlement Administrators as the Settlement Administrator. The Settlement Administrator is ordered to mail the Class Notice to the Settlement Class Members via First-Class U.S. Mail as specified in the Settlement Agreement, and to otherwise carry out all other duties set forth in the Settlement Agreement. The Parties are ordered to carry out and comply with all terms of this Order and the Settlement Agreement, and particularly with respect to providing the Settlement Administrator all information necessary to perform its duties under the Settlement Agreement.

10. Any member of the Settlement Class who wishes to comment on or object to the Settlement or any term thereof, including any proposed award of attorney's fees and costs to Class Counsel or any proposed representative enhancement to the Class Representative, shall have forty-

five (45) days from the mailing of the Class Notice to submit his or her comments and/or objection to the Settlement Administrator, as set forth in the Settlement Agreement and Class Notice.

11. Any member of the Settlement Class who wishes to exclude themselves from the Settlement shall have forty-five (45) days from the mailing of the Class Notice to submit his or her Request for Exclusion to the Settlement Administrator, as set forth in the Settlement Agreement and Class Notice.

12. A Final Approval Hearing is hereby set for October 30, 2025, at 8:30 a.m. in Department T-2 of the Kern County Superior Court, to consider any objections to the Settlement, determine if the proposed Settlement should be found fair, adequate and reasonable and given full and final approval by the Court, and to determine the amount of attorney's fees and costs awarded to Class Counsel, the amount of any representative enhancement award to the Class Representative, and to approve the fees and costs payable to the Settlement Administrator. All legal memoranda, affidavits, declarations, or other evidence in support of the request for final approval, the award of attorney's fees and costs to Class Counsel, the enhancement award to the Class Representative, and the fees and costs of the Settlement Administrator, shall be filed no later than sixteen (16) court days prior to the Final Approval Hearing. The Court reserves the right to continue the Final Approval Hearing without further notice to the Settlement Class Members.

13. Provided he or she has not submitted a timely and valid Request for Exclusion, any Settlement Class Member may appear, personally or through his or her own counsel, and be heard at the Final Approval Hearing regardless of whether he or she has submitted a written objection.

IT IS SO ORDERED.

Dated: __________ ________________________________

Judge of the Superior Court

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

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Attorneys for Plaintiff MICHAEL GOLDBERG
on behalf of the State of California and all Aggrieved Employees and Class Members

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

MICHAEL GOLDBERG, on behalf of the State of California and all Aggrieved Employees and Class Members, Plaintiff, v. GENERAL PRODUCTION SERVICE OF CALIFORNIA, INC., a California Corporation; and DOES 1-100, inclusive, Defendants.	Case No.: BCV-24-102628 Hon.: T. Mark Smith Dept. T-2 **[PROPOSED] ORDER GRANTING MOTION FOR FINAL APPROVAL AND REQUEST FOR ATTORNEY'S FEES AND COSTS, AND JUDGMENT THEREON** Complaint Filed: August 6, 2024 Trial Date: None Set

EXHIBIT
1

EXHIBIT

2

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

Michael Goldberg v. General Production Service of California, Inc.

Kern County Superior Court Case No. BCV-24-102628

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

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

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendant General Production Service of California, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by Plaintiff Michael Goldberg ("Plaintiff"), a former employee of Defendant and seeks payment of back wages and penalties for a class of current and former non-exempt employees that worked for Defendant in California ("Class Members") at any time during the Class Period (March 8, 2022 to April 27, 2025); and (2) penalties under the California Private Attorney General Act ("PAGA") for all current and former non-exempt employees that worked either directly or via a staffing agency for Defendant at any location in California ("Aggrieved Employees") at any time during the PAGA Period (May 21, 2023 to April 27, 2025).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Settlement Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA"). The Class Settlement is comprised of two subclasses, including: (i) the arbitration agreement subclass, and (ii) the non-arbitration agreement subclass. The arbitration subclass includes all Participating Class Members who have executed a valid and binding arbitration agreement with the Defendant, which includes a class-action waiver. These members are generally prohibited from participating in class actions. To reflect Defendant's contention that such individuals are excluded from participating in a class action, the arbitration agreement subclass will receive a reduced pro rata amount from the Class Settlement Amount. Accordingly, the arbitration agreement subclass will receive a reduced pro rata amount relative to the non-arbitration agreement subclass by a factor of fifty percent (50%).

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

The above estimates are based on Defendant's records showing that you did or did not enter into an arbitration agreement, that you worked ________ Workweeks during the Class Period, and that you worked ________ pay periods during the PAGA Period. If you believe that you worked more

Workweeks and/or Pay Periods during either period, you can submit a challenge by the deadline date. See Section 3 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval of the Settlement. Your legal rights are affected whether you act or do not act. Read this Notice carefully. 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 Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period, you have two basic options under the Settlement:

1. **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Settlement Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims against Defendant.

2. **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Settlement Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant 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 Settlement Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).

You Can Opt-Out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is DATE . If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Settlement 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. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue PAGA Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written objections must be submitted by DATE. All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff. Other than the PAGA portion of this Settlement, you can object to any aspect of this Settlement. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court's Final Approval Hearing is scheduled to take place on [DATE] at [TIME]. 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 even if you did not submit a written objection. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by [DATE]. The amount of your Individual Settlement Payment and PAGA Payment (if any) depend on how many Workweeks you worked during the Class Period and how many Pay Periods you worked during the PAGA Period, respectively. The number of Workweeks and number of Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [DATE]. See Section 3 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by, among other things: (1) recovery of unpaid minimum wages and liquidated damages; (2) recovery of unpaid overtime wages; (3) failure to provide meal periods of compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to furnish accurate itemized wage statements; (6) failure to timely pay all wages due upon separation of employment; (7) failure to reimburse business expenses; and, (8) unfair competition, and any other potential claims based on the foregoing facts and claims; and any other applicable provisions of state or federal law, including the applicable IWC wage order. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys ("Class Counsel") in the Action.

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

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

The Court has made no determination whether Defendant violated any laws. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant 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, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine whether to finally approve the Settlement.

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

Defendant Will Pay Six Hundred Fifty Thousand Dollars ($650,000.00) as the Gross Settlement Amount (Gross Settlement). Defendant 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 Settlement 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, Defendant will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed. Any Judgment entered by the Court will be posted on the Administrator's website for at least 180 days, see Section 8 below for the website address.

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

- Up to Two Hundred Sixteen Thousand Six Hundred Sixty-Six Hundred Dollars and Sixty-Six Cents ($216,666.66) (one-third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to Twenty Thousand Dollars and Zero Cents ($20,000.00) for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- Up to Ten Thousand Dollars ($10,000.00) to Plaintiff as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class.
- Up to Thirteen Thousand Five Hundred Dollars ($13,500.00) to the Administrator for services administering the Settlement.
- Forty Thousand Dollars ($40,000.00) for PAGA Penalties, allocated 75% to the LWDA for the PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

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

Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of twenty percent (15%) of each Individual Settlement Payment to taxable wages ("Wage Portion") and eighty percent (85%) to penalties and interest ("Non-Wage Portion.). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant 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 Settlement Payments on IRS 1099 Forms.

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

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

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you notify the Administrator in writing, not later than DATE, that you wish to opt-out. The deadline to submit an opt out request will be extended by fifteen (15) calendar days, to DATE, if your Notice is remailed. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be a letter from you or your representative setting forth your name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Settlement Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

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

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

Administrator. The Court has approved the appointment of a neutral company, Phoenix Settlement Administration (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 8 of this Notice.

Plaintiff's and the Participating Class Members' Release. Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, Plaintiff and the Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or successors and related entities for wages based on the Class Period facts and PAGA penalties based on the facts, as alleged in the Operative Complaint and resolved by this Settlement.

All members of the Settlement Class, except those that make a valid and timely request to be excluded from the Class, waive, release, and discharge all any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged or that reasonably could have been alleged based on the facts alleged in the Complaint filed August 6, 2024, including but not limited to claims for (a) minimum wage violations, (b) overtime wage violations, (c) meal break violations, (d) rest break violations, (e) wage statement violations, (f) failure to timely pay wages at termination, (g) failure to reimburse business expenses, (h) unfair business practices, and (i) civil penalties under the Private Attorneys General Act, California Business and Professions Code 17200, and all applicable Wage Orders, including claims for violations of Labor Code Sections 98, 201, 202, 203, 218, 218.5, 221, 222, 223, 224, 226, 226.7, 510, 511, 512, 558, 1174, 1194, 1194.2, 1197, 1198, 1199, 2802, California Business and Professions Code section 17200, California Code of Regulations, Title 8, Section 3395, and all other applicable Wage Order(s). Except as expressly set forth in 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.

PAGA Release. Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the facts alleged in the Operative Complaint and resolved by this Settlement. You will be bound by this PAGA Release even if you do not cash your settlement check.

Plaintiff and all Aggrieved Employees "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and/or the PAGA Notices, which occurred during the PAGA Period, including claims for violations of Labor Code Sections 201, 202, 203, 204, 208, 210, 212, 216, 218.5, 221, 222, 223, 225.5, 226, 226.6, 226.7, 227.3, 233, 234 245, 246, 247, 247.5, 248, 248.6, 256, 432, 432.5, 432.6, 432.7, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2 1197, 1197.1, 1198, 1198.5, 1199, 2698, 2699, 2699.3, 2699.5 2802, 2804, 2810.5, California Code of Regulations, Title 8, Section 3395, and all other applicable Wage Order(s). The Released PAGA Claims do not include underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing twenty-five percent of the PAGA Penalties ($10,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of Pay Periods worked by each individual Aggrieved Employee.

Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until DATE to challenge the number of Workweeks and/or Pay Periods credited to you. The deadline to submit a challenge will be extended by fourteen (14) days, to DATE, if your Notice is re-mailed. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 8 Sof 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 Defendant's calculation of Workweeks and/or Pay Periods based on Defendant'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 Defendant's Counsel. Although the settlement administrator may make the initial decision regarding disputes pertaining to the calculation of Workweeks, the Court may review any decision made by the settlement administrator regarding a dispute pertaining to the calculation of Workweeks.

4. HOW WILL I GET PAID?

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 Settlement Payment and the Individual PAGA Payment.

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 Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 8 of this Notice has the Administrator's contact information.

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

You can exclude yourself from the Settlement, or "opt out," by sending the Administrator a written Request for Exclusion. 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 *Michael Goldberg v. General Production Service of California, Inc.,* Kern County Superior Court, Case No. BCV-24-102628, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You may also use the Request for Exclusion Form included with this Notice. You must make the request yourself. If someone else makes the request for you, it will not be valid. You may send your request by mail to the Administrator. The Administrator must be sent your request to be excluded by DATE, or it will be invalid. The deadline to submit an opt out request will be extended by fourteen (14) days, to DATE, if your Notice is re-mailed. Section 8 of the Notice has the Administrator's contact information.

6. 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 Defendant are asking the Court to approve. Upon reasonable request, Class Counsel (whose contact information is in Section 8 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 (INSERT URL) or the Court's website (https://odyprodportal.kern.courts.ca.gov/PORTALPROD/).

A Participating Class Member who disagrees with any aspect of the Agreement or the Motion for Final Approval may wish to object. The deadline for sending written objections to the Administrator is DATE. The deadline to submit a written objection will be extended by fourteen

(14) days, to DATE, if your Notice is re-mailed. 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, *Michael Goldberg v. General Production Service of California, Inc.*, Kern County Superior Court, Case No. BCV-24-102628, and include your name, current address, telephone number, and approximate dates of employment with Defendant and sign the objection. You may also use the Objection Form included with this Notice. You may send your written objection by mail to the Administrator. Section 8 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 for specifics regarding the Final Approval Hearing.

7. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [DATE] at [TIME] in Department T-2 of the Kern County Superior Court, located at 1215 Truxtun Ave., Bakersfield, CA 93301. 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 comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via Civil Remote Hearings (https://video.courtcall.com/conference/entry). 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 Court's website beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

8. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Operative Complaint, PAGA Notice Letter, Settlement Agreement and any Amendments, the Class Notice, Orders Granting Preliminary and Final Approval, the Judgment, or any other Settlement documents is to go to Phoenix Class Action Administration Solutions' website at INSERT URL. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to (https://odyprodportal.kern.courts.ca.gov/PORTALPROD/) and entering the Case Number for the Action, Case No.: BCV-24-102628, Year Filed: 2024.

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

Class Counsel:

Zachary Crosner

zach@crosnerlegal.com
Jamie Serb
jamie@crosnerlegal.com
Brandon Brouillette
brandon@crosnerlegal.com
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210
Tel.: 1-866-CROSNER

Settlement Administrator:

Name of Administrator:
Email Address:
Mailing Address:
Telephone:

9. 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.

10. 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
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Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (866) 276-7637
fax: (310) 510-6429

May 21, 2024

VIA PAGA ONLINE FILING ONLY:
California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAfilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

Oresti Risi
Agent for Service of Process for:
General Production Service of California, Inc.
1333 Kern St
Taft, CA 93268

General Production Service of California, Inc.
Attn: Human Resources / Legal Department
PO Box 344
Taft, CA 93268

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To:	California Labor and Workforce Development Agency and General Production Service Of California, Inc.
Date:	May 21, 2024
Subject:	*Michael Goldberg v. General Production Service Of California, Inc.*

Introduction

This office represents PLAINTIFF, Michael Goldberg (hereinafter "PLAINTIFF") in connection with PLAINTIFF's claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entity and individual managing agents of said entity: General Production Service Of California, Inc. (hereinafter, this entity and its managing agents are collectively referred to as "DEFENDANTS"). DEFENDANTS may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, PLAINTIFF, on behalf of PLAINTIFF, and on behalf of all current and former non-exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice ("NON-EXEMPT AGGRIEVED EMPLOYEES") and on behalf of all current and former exempt employees employed by any one or more of the DEFENDANTS at any location in California within one year of the date of this notice ("EXEMPT AGGRIEVED EMPLOYEES"), hereby gives written notice ("NOTICE") of PLAINTIFF's claims against DEFENDANTS. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency ("LWDA") and DEFENDANTS via certified mail to their Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State and/or the address of the Secretary of State of the State of incorporation and/or the entity address as provided on wage statements issued by DEFENDANTS to NON-EXEMPT AGGRIEVED EMPLOYEES.

This NOTICE also serves to demonstrate PLAINTIFF's reasonable attempt at settlement with DEFENDANTS. If DEFENDANTS are interested in settling this matter before a lawsuit is filed, DEFENDANTS may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by PLAINTIFF to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—PLAINTIFF reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, DEFENDANTS are on notice that PLAINTIFF continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFF will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which PLAINTIFF will base PLAINTIFF's claims, PLAINTIFF requests that the LWDA regard this NOTICE as written notice of PLAINTIFF's intent to seek civil penalties against DEFENDANTS. Under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, a PAGA representative has authority to seek penalties for all known violations committed by the employer – regardless of whether the representative experienced all violations personally. *Id.* at 760-761. Moreover, under *Johnson v.*

Maxim Healthcare Servs., Inc., (2021) 66 Cal. App. 5th 924, 929, an employee may pursue a claim under PAGA even when that employee's individual claim is time-barred.

PLAINTIFF, on behalf of PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 208, 216, 221-223, 226, 226.7, 227.3, 245-248.6, 432, 432.5, 432.7, 510, 511, 512, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of "employer" for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

PLAINTIFF is informed and believes and thereon alleges that at all relevant times DEFENDANTS and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/Abc, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

PLAINTIFF believes and hereon asserts that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant times herein, so as to be considered the joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. For example, DEFENDANTS, and each of them, maintain the same agent for service of process and principal business office as provided to the Secretary of State of California and/or the state of incorporation and/or based on information and belief, maintain some of the same attorneys and/or human resources personnel to oversee employment related matters. By reason of their status as joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, DEFENDANTS are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

PLAINTIFF intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. PLAINTIFF will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. PLAINTIFF asks and demands that DEFENDANTS put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, PLAINTIFF also offers to DEFENDANTS to place those individuals on notice if DEFENDANTS voluntarily provides their contact information.

General Information

DEFENDANTS own, operate, manage and/or staff its employees to work at including but not limited to, the field locations, offices and/or facilities and/or other location(s) in California, including but not limited to the field locations, offices and/or facilities in Taft and Belridge, California. DEFENDANTS, through its various locations, serve including but not limited to, the oil industry.[1] Although DEFENDANTS may operate a successful company or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for DEFENDANTS as a non-exempt employee with a job title(s) of well puller and/or a similar title(s) and/or job position(s) from in or around February 2024 through in or around April 2024. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Taft and Belridge, California location(s). PLAINTIFF regularly worked at least eight (8) hours per day, often working at least fourteen (14) to sixteen (16) hours per day, at least five (5) days per week.

At times during PLAINTIFF's employment with DEFENDANTS, including but not limited to, during the approximately first four (4) weeks of PLAINTIFFS' employment with DEFENDANTS, DEFENDANTS assigned PLAINTIFF to work out of DEFENDANTS' office(s) during which

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[1] *See* https://www.genprod.com/. Last visited on May 21, 2024.

time PLAINTIFF typically worked shifts lasting at least eight (8) hours per day. At times during PLAINTIFF's employment, DEFENDANTS assigned PLAINTIFF to work in DEFENDANTS' field(s) and/or other similar location(s) where PLAINTIFF typically worked shifts lasting at least fourteen (14) to sixteen (16) hours per day.

DEFENDANTS paid PLAINTIFF an hourly rate for time counted by DEFENDANTS as hours worked. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also compensated with non-discretionary compensation, such as but not limited to, non-discretionary bonus/incentive pay and/or shift differential pay and/or other non-discretionary compensation.

Among other things, DEFENDANTS (1) failed and continue to fail to keep accurate and complete time records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continue to fail to pay PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continue to fail to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continue to fail to place PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continue to fail to timely pay wages to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continue to fail to reimburse PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of DEFENDANTS; (12) required and continue to require PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into PLAINTIFF's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (13) failed and continue to fail to provide suitable seating; and (14) required and continue to require PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which allowed meal periods were provided each day.

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

Based on information and belief, DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of DEFENDANTS' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of DEFENDANTS' failure to relieve PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, DEFENDANTS further failed, and continue to fail, to record the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods.

Based on further information and belief, DEFENDANTS further failed and continue to fail, to record the true start and end times of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES' work shifts.

Additionally, DEFENDANTS failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

DEFENDANTS' failure to keep "accurate and complete" payroll records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.[2]

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

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

Time and Pay Records
Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar ($750) penalty from the employer. Lab. Code section 226(f).

Personnel Records
In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar ($750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, DEFENDANTS failed to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. Based on information and belief, DEFENDANTS failed and continue to fail to timely produce complete payroll and personnel records when requested by NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject DEFENDANTS to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant*

Corp. v. Superior Court (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid*. Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid*. Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout PLAINTIFF's employment by DEFENDANTS.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra,* 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra,* 53 Cal.4th 1004.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to take late meal periods in order to complete assigned job duties.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times and/or always interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises due to the need to continue assigned job duties.

For example, at times during PLAINTIFF's employment, including but not limited to when DEFENDANTS assigned PLAINTIFF to work at DEFENDANTS' field location(s), PLAINTIFF was restricted to the work site/DEFENDANTS' work premises during any meal periods and as such was not relieved of all duties and DEFENDANTS' control during unpaid meal periods, resulting in denied meal periods and DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the underpayment of wages owed to PLAINTIFF.

Similarly, when PLAINTIFF was assigned to work in DEFENDANTS' office(s) for including but not limited to, the approximately first four (4) weeks of PLAINTIFF's employment with DEFENDANTS, DEFENDANTS required PLAINTIFF to remain on the worksite premises/at his immediate workspace during purportedly off-duty meal periods, and as such PLAINTIFF was not relieved of all duties and DEFENDANTS' control during unpaid meal periods, resulting in denied meal periods and DEFENDANTS' failure to compensate PLAINTIFF for all hours worked and the further underpayment of wages owed to PLAINTIFF.

Moreover, per DEFENDANTS unlawful meal period policies and practices, PLAINTIFF was only afforded a maximum of a single meal period each shift even when working shifts lasting longer than ten (10) and/or twelve hours and as described herein, that single meal period was legally non-compliant due to including but not limited to DEFENDANTS' requirement that PLAINTIFF remain tethered to the worksite premises during any meal periods.

For example, when PLAINTIFF worked shifts lasting longer than ten (10) and/or twelve (12) hours, PLAINTIFF was not afforded any version of a second meal period, and when PLAINTIFF worked shifts lasting longer than fifteen (15) hours, PLAINTIFF was not afforded any version of a third meal period.

Additionally, including but not limited to, when PLAINTIFF was assigned by DEFENDANTS to work in DEFENDANTS' field location(s), PLAINTIFF was often forced to take his single meal period late (i.e. after working more than five (5) hours).

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet DEFENDANTS' goals and expectations.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during unpaid meal periods.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their policies and practices resulted in the denial of uninterrupted meal periods which were free of DEFENDANTS' control owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

For example, when PLAINTIFF worked shifts lasting longer than ten (10) and/or twelve (12) hours, PLAINTIFF was not afforded any version of a second meal period.

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than fifteen (15) hours did not receive a third legally compliant thirty (30) minute third meal break.

For example, when PLAINTIFF worked shifts lasting longer than fifteen (15) hours, PLAINTIFF was not afforded any version of a third meal period.

Based on information and belief, despite DEFENDANTS' failure to provide lawful meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end times of PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to DEFENDANTS' premises), despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, DEFENDANTS failed to keep accurate records of the true start and end times of PLAINTIFF's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, DEFENDANTS did not have a compliant written meal break policy, nor did DEFENDANTS have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra,* 53 Cal.4th 1004.

PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.[3] DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

<u>Rest Period Violations</u>: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v Restaurant Corp. v. Superior Court,* 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.,* (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

[3] See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "<u>[i]n addition to any other civil penalties provided by law</u>, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty…for each underpaid employee for each pay period during which the employee was underpaid").

Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. Id. at 268 (relying on January 3, 1986 and February 22, 2002 DLSE Letters wherein the DLSE ruled that the net ten-minute language for rest periods means ten minutes of time in a rest area and cannot include time it takes to get to and from the rest area). The employer must show that it clearly articulates the right to a net ten minutes, which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in the rest area). Id.; see also, *Bufil v. Dollar Fin. Grp.*, Inc., (2008) 162 Cal. App. 4th 1193, 1199 (the "onus is on the employer to clearly communicate the authorization and permission [to take rest periods] to their employees.").

DEFENDANTS did not properly authorize and provide PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were at times and/or always unable to take compliant rest periods due to their need to complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS' premises.

For example, PLAINTIFF was restricted to his workstation/DEFENDANTS' worksite premises during any rest periods and as such was not relieved of all duties and DEFENDANTS' control during any rest periods, in violation of California rest period law.

For example, based on information and belief, DEFENDANTS failed to authorize and permit rest periods that were a "net" ten minutes in a suitable rest area, and instead, to the extent rest periods were provided, DEFENDANTS limited NON-EXEMPT AGGRIEVED EMPLOYEES to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of leaving their work stations , in violation of California rest period law.

Based on information and belief, DEFENDANTS did not have a lawful policy, instruction, or practice as to the taking, timing, or duty-free nature of rest periods. For example, based on information and belief, DEFENDANTS failed to authorize and permit rest periods that were a "net" ten minutes in a suitable rest area, and instead, to the extent rest periods were provided, DEFENDANTS limited PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of leaving their work stations , in violation of California rest period law.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, DEFENDANTS failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during rest periods.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were restricted to the worksite premises and/or were required to monitor work communication devices and/or respond to work communications during purportedly off-duty rest periods, and as such, were not relieved of all duties and DEFENDANTS' control during any rest periods, in violation of California rest period law.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, DEFENDANTS failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. DEFENDANTS failed to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. DEFENDANTS either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.[4]

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[4] See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); and All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty…for each underpaid employee for each pay period during which the employee was underpaid").

Cooldown Recovery Period Violations: California Code of Regulations, Title 8, section 3395 mandates that all employers with "outdoor places of employment" implement a heat illness prevention program that includes, among other requirements, providing workers "cool-down" periods of at least five minutes in the shade. Specifically, section 3395 provides that "employees shall be allowed and encouraged to take a cool-down rest in the shade for a period of no less than five minutes at a time when they feel the need to do so to protect themselves from overheating" and that "such access to shade shall be permitted at all times." Under California Labor Code section 226.7, if an employer fails to provide an employee a recovery period, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to spend multiple hours at a time outdoors in significantly high temperature heat conditions. DEFENDANTS failed to provide proper heat illness prevention training and/or heat illness policies/practices/programs as required by California's Heat Illness Prevention statute, Title 8 Section 3395(d). DEFENDANTS failed to provide adequate access to drinking water as required by California's Heat Illness Prevention statute, Title 8 Section 3395(c). Moreover, DEFENDANTS maintained a policy and practice of not permitting necessary time for cooldown recovery breaks, and as a result, NON-EXEMPT AGGRIEVED EMPLOYEES were required to remain outdoors with little to no access to shade for extended periods of time. In addition, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES with an additional hour of pay at their respective regular rate(s) of pay for each missed cooldown recovery period.

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

DEFENDANTS' locations/facilities are generally similar in layout and design, and there was, and continue to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. DEFENDANTS could have provided NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within DEFENDANTS' facilities/locations with reasonable or no modification, but instead denied and continue to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, NON-EXEMPT AGGRIEVED EMPLOYEEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS' premises which are not designated or reserved for rest, such as their personal vehicles.

DEFENDANTS did not provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

DEFENDANTS' failure to provide suitable resting facilities to NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Minimum Wage Violations: "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 attorneys' fees, and costs of suit." Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, "Every employer shall pay to each employee …. not less than the applicable minimum wage for all hours worked in the payroll period…" The applicable Wage Order 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." *See* §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, "in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon…" *Cal. Lab. Code* § 1194.2.

DEFENDANTS failed to compensate PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of DEFENDANTS' automatic deduction and time rounding policies for shift start and shift end times and meal period start and end times, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to DEFENDANTS' control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

For example, as described herein, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were restricted to DEFENDANTS' worksite(s) and/or their immediate workspace(s) during unpaid meal periods and/or were otherwise required to remain on duty during unpaid meal periods, resulting in DEFENDANTS failure to compensate NON-EXEMPT

AGGRIEVED EMPLOYEES for all hours worked and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to be at their assigned workstations at the start of a scheduled shift, thereby forcing NON-EXEMPT AGGRIEVED EMPLOYEES to gather work-related equipment and/or safety gear, make any necessary adjustments to tools/equipment and/or perform maintenance/cleaning tasks, don work clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES were required to stand in line behind other employees to access DEFENDANTS' time-keeping system and/or were required to spend time performing administrative/timekeeping-related tasks before they could clock in for the start of their shifts and/or after completing a purported meal period.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete other off-the-clock work tasks after clocking out for the end of their shifts and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

For example, based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to clock out for the end of their shifts but to continue working due to the need to return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates and/or debriefings and/or participate in work meetings, respond to work-related communications and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS did not compensate NON-EXEMPT AGGRIEVED EMPLOYEES for all time spent donning and doffing personal protective equipment, safety equipment and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses, hats/bump caps/safety helmets and/or face masks) during meal periods, before the start of a scheduled shift, and after completing a scheduled shift, resulting in DEFENDANTS' failure to pay NON-EXEMPT AGGRIEVED EMPLOYEES for all work time and the underpayment of minimum wages and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to undergo security screenings and/or other mandated screenings before and/or after a scheduled shift and/or before or after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also pressured to complete at least some additional work tasks off-the-clock in order to meet DEFENDANTS' goals and expectations.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-related phone calls and/or messages they received to their phones and/or mobile devices and were required to respond to, including but not limited to, communications from supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES the applicable minimum wage for the county and/or city within which the NON-EXEMPT AGGRIEVED EMPLOYEE worked in California.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, DEFENDANTS implemented a time-rounding system that as applied systematically deprived PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by DEFENDANTS would almost always, if not always, result in understating actual compensable work time. DEFENDANTS' failure to pay for all time worked by virtue of their time-rounding practices resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

DEFENDANTS' failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject DEFENDANTS, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and

Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.[5]

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid*.

Based on information and belief, DEFENDANTS violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Namely, DEFENDANTS' automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to DEFENDANTS' premises and/or subject to DEFENDANTS' control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, DEFENDANTS failed and continue to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, DEFENDANTS calculated the owed overtime rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s) based on the minimum wage established for the cities and/or counties within which NON-EXEMPT AGGRIEVED EMPLOYEES worked, resulting in the miscalculation and underpayment of overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES who worked in cities and/or counties in California with minimum wage rates above the California minimum wage rate.

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[5] See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "<u>[i]n addition to any other civil penalties provided by law</u>, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty…for each underpaid employee for each pay period during which the employee was underpaid").

Based on information and belief, DEFENDANTS failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES earned shift differential pay, non-discretionary bonuses/incentive pay and/or other non-discretionary compensation during pay periods in which they worked overtime, yet DEFENDANTS failed to incorporate all non-discretionary compensation into the regular rate(s) used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Additionally, DEFENDANTS also violated California's overtime laws as to those NON-EXEMPT AGGRIEVED EMPLOYEES that were subject to an Alternative Workweek Schedule (AWS). Based on information and belief, DEFENDANTS adopted an Alternative Workweek Schedule (AWS) during the relevant period that was an unlawful AWS as it was not properly elected and/or implemented in accordance with the requirements of California law and/or DEFENDANTS failed to comply with the AWS, and as such, DEFENDANTS violated California's overtime laws, including but not limited to, Labor Code sections 510, 511, the applicable Wage Order, and Labor Code section 1198. Based on information and belief, DEFENDANTS failed to properly adopt an AWS in accordance with Labor Code section 511 and 1199, and the applicable Wage Order:

(C) Election Procedures Election procedures for the adoption and repeal of alternative workweek schedules require the following: (1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of workdays and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another. (2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees' work site. For purposes of this subsection, "affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection is met. (3) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide that disclosure in a non- English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph shall make the election null and void. (4) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the Labor Commissioner, the Labor Commissioner may require the employer to select a neutral third party to conduct the election. (5) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance. (6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Office of Policy, Research and Legislation within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer. (7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election. (8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek.

No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this section shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of this paragraph shall be subject to Labor Code § 98 et seq.

On information and belief, PLAINTIFF alleges that DEFENDANTS failed to comply with the above procedures, and thus, failed to properly institute an alternative workweek for the purpose of obtaining a lawful exemption from overtime premiums for its mandated alternative workweek schedule. Based on information and belief, DEFENDANTS also failed to report the results to the Office of Policy, Research, and Legislation, or the DLSE, within thirty after the purported election results, and thus, violated Labor Code §§ 511, 1199, and the Applicable Wage Orders. This conduct results in violations of Labor Code §§ 510, 511, and 1198- 1199, and the Applicable Wage Orders.

These violations subject employer to civil penalties under Labor Code §§ 558 and 2699, and All Applicable Wage Orders. Each violation of each Labor Code section and Wage Order provision results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.

Moreover, to the extent there was an AWS that was properly adopted, DEFENDANTS violated California's overtime laws as to NON-EXEMPT AGGRIEVED EMPLOYEES that were subject to an Alternative Workweek Schedule (AWS) but were required to work shifts shorter than the agreed upon AWS.

Under the relevant Wage Order, "If an employer… requires an [AWS] employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours… for the day the employee is required to work the reduced hours." See Section 3 of all applicable Wage Orders. Based on information and belief, at times during NON-EXEMPT AGGRIEVED EMPLOYEES' respective employments by DEFENDANTS, NON-EXEMPT AGGRIEVED EMPLOYEES worked subject to an alternative work week schedule.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES that were subject to an AWS, were sent home early and/or worked less hours than those that were scheduled under the AWS. On such shortened shifts, NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to overtime pay at 1.5 times the regular rate of pay after the first eight hours of work. Instead, DEFENDANTS paid NON-EXEMPT AGGRIEVED EMPLOYEES their base rate for all hours worked on the shortened shift(s) in violation of the alternative workweek schedule, and in violation of California Labor Code section 510, the applicable Wage Order, and Labor Code section 1198. As such, NON-EXEMPT AGGRIEVED EMPLOYEES that were subject to an AWS were also deprived of all owed overtime wages when required to work shortened shifts.

This conduct results in violations of Labor Code sections 218.5, 510, 511, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.[6]

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, DEFENDANTS failed to provide proper paid sick leave to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES. DEFENDANTS either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave

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[6] See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty…for each underpaid employee for each pay period during which the employee was underpaid").

hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, DEFENDANTS further failed to provide notice of the correct sick leave amount balance available to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statements.

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

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

This illegal retention of paid sick leave is unlawful, and PLAINTIFF seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records documenting the hours worked and paid sick days accrued and used by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, DEFENDANTS further failed and continue to fail to comply with Labor Code section 246, by failing to provide PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

DEFENDANTS unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of DEFENDANTS' failure to properly institute a paid sick leave program.

On information and belief, PLAINTIFF alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

PLAINTIFF requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to DEFENDANTS' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

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

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

DEFENDANTS violated and continue to violate Labor Code section 216 by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject DEFENDANTS to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.[7]

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As DEFENDANTS failed to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding

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

number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

DEFENDANTS' issued wage statements to PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES that also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a).

Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.,* (2018) 22 Cal.App.5th 1308, 1337).

Separately, and independent of the above allegations, based on information and belief, DEFENDANTS issued wage statements to NON-EXEMPT AGGRIEVED EMPLOYEES that failed to list the total hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

Based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE or EXEMPT AGGRIEVED EMPLOYEE is being paid.

For example, based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE is being paid in violation of including but not limited to, Labor Code section 226(a)(2) and/or Labor Code section 226(a)(6). For example, based on information and belief, at times, DEFENDANTS issued wage statements to NON-EXEMPT AGGRIEVED EMPLOYEES containing payment for hours worked during previous pay periods, yet DEFENDANTS' wage statements do not include the inclusive dates of the accurate pay period for that retroactive pay, further failing to list the total hours worked for the pay period, including but not limited to, the total hours worked for the pay period the retroactive pay corresponds with, in violation of including but not limited to, Labor Code section 226(a)(6) and/or Labor Code section 226(a)(2).

Based on information and belief, DEFENDANTS issued wage statements to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES that fail to accurately list all deductions, in violation of Labor Code section 226(a)(4).

DEFENDANTS' failure to accurately list all hours worked on all wage statements caused confusion to PLAINTIFF and caused and continue to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by DEFENDANTS' failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, wage statements issued by DEFENDANTS failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

Based on information and belief, wage statements issued by DEFENDANTS failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9) due to DEFENDANTS' failure to list an overtime rate category at all and/or failure to list a category containing the proper overtime rate.

Moreover, based on information and belief, DEFENDANTS issued wage statements to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.[8]

Unlawful Deductions: Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee." Based on information and belief DEFENDANTS made unlawful deductions from NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYES paychecks during the relevant period including without limitation, deducting business costs and/or deducting wages for purported overpayments from previous pay periods and/or unlawfully ducting wages for negligently damaged property and/or unlawfully deducting transaction fees/pay/money card fees and/or deducting costs advanced by DEFENDANT. Such a practice is in violation of

[8] See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

including but not limited to, Labor Code Sections 221-222 which subjects DEFENDANTS to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated. See Lab. Code §225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty…for each failure to pay each employee").

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. DEFENDANTS violated this section by, including but not limited to, failing to pay PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject DEFENDANTS to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Reporting Time Pay Violations: Section 5 of all applicable IWC Wage Orders, provides as follows:

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting

NON-EXEMPT AGGRIEVED EMPLOYEES were not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order. For example, based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES reported to work for a scheduled shift but were sent home and/or were not put to work and were not paid all owed reporting time pay wages in accordance with California law.

Based on information and belief, DEFENDANTS have a policy and practice of failing to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California law, including but not limited to, the applicable IWC Wage Order, Section 5. DEFENDANTS' failure to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 5(A)-(B) and the California Labor Code, including but not limited to section 1198.

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

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

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

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

Based on information and belief, DEFENDANTS failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

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

DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions. The nature of NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.[9]

<u>Standard Conditions of Labor Violations:</u> Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

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

Therefore, DEFENDANTS' violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses, and other violations described herein result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

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

As described above, DEFENDANTS willfully and systematically denied PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. DEFENDANTS acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

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

Failure to Pay Vested Vacation/Paid Time Off: California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, DEFENDANTS had and continue to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials) to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, DEFENDANTS failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, DEFENDANTS untimely provide final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials).

Based on further information and belief, DEFENDANTS failed to timely provide all owed wages immediately upon discharge of employment. Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES experienced breaks in employment caused by DEFENDANTS whereby NON-EXEMPT AGGRIEVED EMPLOYEES would not be called in for work for longer than a single pay period due to including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.[10]

Violation of Labor Code Section 208: Labor Code Section 208 provides: Every employee who is discharged shall be paid at the place of discharge, and every employee who quits shall be paid at the office or agency of the employer in the county where the employee has been performing labor. All payments shall be made in the manner provided by law.

Based on information and belief, DEFENDANTS have a policy and practice of failing to provide NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES who are terminated with their final paychecks at the place of discharge and/or of failing to provide

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[10] (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty…for each failure to pay each employee").

NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES with their final paychecks at the office or agency of DEFENDANTS in the county where the work was performed, in violation of Labor Code Section 208.

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, "for purposes of [section 2802], the term 'necessary expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees incurred by the employee enforcing the rights granted by this section."

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b). Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145

California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

Further, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State." *See* Cal. Lab. Code § 2804.

Based on information and belief, PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and the use of NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES' personal cell phones/mobile devices, internet and/or data usage for work-related purposes, including but not limited to, to receive and respond to work-related messages and/or phone calls. For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were required to receive and respond to work-related calls and/or messages from supervisors and/or other employees regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS at all and/or in full for these business expenses.

For example, DEFENDANTS required PLAINTIFF to use his personal cell phone/mobile device for work, including but not limited to, for making/sending and/or receiving work-related calls and/or messages, however, DEFENDANTS failed to provide PLAINTIFF with any and/or full reimbursement for the business expenses PLAINTIFF incurred in connection with being required to use his personal cell phone/mobile device for work, including without limitation, increased data plan charges.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of purchasing and/or maintaining their own hand tools and/or equipment required to perform their assigned job duties and/or for the costs of purchasing and/or maintaining work uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks and/or work boots).

For example, DEFENDANTS required PLAINTIFF purchase and/or maintain work boots and/or other uniforms/work clothing/work shoes and/or protective and/or safety gear DEFENDANTS required PLAINTIFF wear for work, however, DEFENDANTS did not provide PLAINTIFF with any and/or full reimbursement expenses PLAINTIFF incurred in connection therewith.

Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the business use of their personal vehicles, including mileage, wear and tear and/or cost of fuel when they were required to drive around and/or between job sites, and/or otherwise use their personal vehicles in carrying out the duties assigned by DEFENDANTS. As such, DEFENDANTS failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES at the legally mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the relevant period.

As explained above, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety gear.
Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

As a pattern and practice, DEFENDANTS regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS.

As described herein, DEFENDANTS regularly failed to reimburse and indemnify PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. DEFENDANTS' failure to provide PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Agreements and/or Unlawful Waivers:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer…shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer…to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

Labor Code section 432.6(a), provides that "a person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or any employee to waive any right…"Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to sign meal period waivers that were universally signed as a condition of employment, including but not limited to, during the onboarding process. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES to sign unlawful meal period waivers as a condition of obtaining and/or maintaining employment, DEFENDANTS violated Labor Code section 432.5. Further, these invalid waivers are otherwise unlawful under Labor Code section 432.6.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful provisions as a condition of employment, DEFENDANTS violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

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

Upon information and belief, DEFENDANTS, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act ("FEHA"), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, DEFENDANTS violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, DEFENDANTS violated California's Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

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

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

Upon information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, PLAINTIFF, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

DEFENDANTS have violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, PLAINTIFF will seek these penalties in a civil action, on behalf of PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of DEFENDANTS within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco, Esq.
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 866.276.7637
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

Kiara Bramasco

Kiara Bramasco, Esq.
CROSNER LEGAL, PC

CROSNER LEGAL
PUBLIC INTEREST RIGHTS

Manny Martinez <manny@crosnerlegal.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov> Tue, May 21, 2024 at 3:52 PM
To: "prelit@crosnerlegal.com" <prelit@crosnerlegal.com>

5/21/2024

LWDA Case No. LWDA-CM-1029718-24
Law Firm : Crosner Legal, PC
Plaintiff Name : Michael Goldberg
Employer: General Production Service of California, Inc.
Filing Fee : $75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT
4