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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN BERNARDINO**

12 Coordination Proceeding
Special Title (Rule 3.550)

13 BARSTOW POST ACUTE WAGE AND
14 HOUR CASES

15 Included action

16 BANKS, ET AL. V. BARSTOW POST
ACUTE LLC (San Bernardino Superior Court
17 Case No. CIVSB2416717)

18 NELSON V. BARSTOW POST ACUTE LLC
(Orange County Superior Court Case No. 30-
19 2024-01423982)

Case No.: JCCP5387

[Assigned for All Purposes to:
Hon. David E. Driscoll, Dept. S22]

**DECLARATION OF WILLIAM C. SUNG
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT IN
BANKS ACTION**

(Filed concurrently with Motion for
Preliminary Approval; Supporting
Declarations; and [Proposed] Order)

DATE: October 6, 2026

TIME: 8:30 a.m.

DEPT: S22

Action Filed: May 13, 2024

Trial Date: Not Set

1 I, William C. Sung, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the state of California and have been
3 admitted to practice before this Court. I am an attorney with the law firm of Justice for Workers,
4 P.C., counsel of record for Plaintiffs LaFlorie Banks, Shataae Poates, and Carmen Prado Reyes
5 (“Plaintiffs”) in this action. I am lead counsel for Plaintiffs in this case and I have personal
6 knowledge of the matters stated herein and if called and sworn as a witness, I would and could
7 competently testify under oath thereto.

8 **ATTORNEY QUALIFICATIONS**

9 2. My qualifications are as follow: I received my J.D. from the University of Southern
10 California Gould School of Law in 2011. During law school, I served as the Senior Content Editor
11 on the Southern California Law Review where I published the article: *Taking the Fight Back to Title*
12 *VII: A Case for Redefining “Because of Sex” to Include Gender Stereotypes, Sexual Orientation,*
13 *and Gender Identity*, Southern California Law Review, Volume 84:2 (Jan. 2011). During law
14 school, I also served as a judicial extern to U.S. Ninth Circuit Judge, Hon. Kim M. Wardlaw, and
15 U.S. Bankruptcy Court Judge, Hon. Ernest M. Robles; served as a law clerk to the General Counsel
16 of JM Eagle; and participated in the law school’s Employer Legal Advice Clinic.

17 3. After passing the California Bar in December 2011, I began practicing management-
18 side employment law at the Los Angeles office of Lewis Brisbois Bisgaard & Smith LLP. In 2013, I
19 began focusing my practice at Lewis Brisbois on representing employers in wage and hour class and
20 PAGA action lawsuits. In January 2017, I was elevated to the position of Partner and Vice Chair of
21 Lewis Brisbois’ Wage & Hour Class Action Practice Group. In November 2020, I was elevated as
22 the Co-Chair of Lewis Brisbois Wage & Hour Class Action Practice Group, becoming one of the
23 youngest attorneys to chair a practice group at the firm. In January 2022, I was voted in as an equity
24 partner, becoming one of the youngest equity partners and the third Asian-American equity partner
25 in the history of this 1,500-attorney firm. During my tenure as a wage and hour class action defense
26 attorney, I have represented employers in over 80 wage and hour class and/or PAGA action
27 lawsuits.

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1 4. In July 2023, I joined Justice for Workers, P.C. (“JFW”) and began heading its
2 Complex Litigation Practice Group where I focus my practice on representing employees in wage
3 and hour class and PAGA action lawsuits. In my current practice at JFW, I serve as the lead
4 plaintiff’s counsel on over 100 pending class and/or PAGA actions. In addition to this matter, my
5 team and I have resolved over 70 other class and/or PAGA actions at mediation.

6 5. The following are cases in which I have received final approval of class action
7 settlement and I was appointed as class counsel: *Marcos Beltran v. Fondomonte California LLC*,
8 Riverside Superior Court Case No. CVRI2402849, final approval of class/PAGA settlement granted
9 on June 26, 2026; *Chelsey Richardson, et al. v. Telecare Corporation*, Stanislaus County Superior
10 Court Case No. CV-24-006292, final approval of class/PAGA settlement granted on June 1, 2026;
11 *Juan Carlos Castellanos v. MG Drywall Construction, Inc.*, Los Angeles Superior Court Case No.
12 24STCV03488, final approval of class/PAGA settlement granted on May 27, 2026; *Doris Nathan v.*
13 *The Muller Company, LLC*, Los Angeles Superior Court Case No. 23STCV24395, final approval of
14 class/PAGA settlement granted on April 30, 2026; *Cody Yandell v. Iron Delta Security*, Los
15 Angeles Superior Court Case No. 24STCV07830, final approval of class/PAGA settlement granted
16 on April 27, 2026; *Darcy Nuber v. Fever Labs, Inc.*, Los Angeles Superior Court, Case No.
17 23STCV21796, final approval of class/PAGA settlement granted on March 30, 2026; *Cesar Tate v.*
18 *St. Distributing Co., LLC*, Los Angeles Superior Court Case No. 23STCV22743, final approval of
19 class/PAGA settlement granted on February 11, 2026; *Andrew Carmona v. Western Holdings*
20 *Group dba Los Angeles Property Management Group*, Los Angeles Superior Court, Case No.
21 23STCV24028, final approval of class/PAGA settlement granted on January 29, 2026; *Poul Bedri*
22 *v. City of Hope National Medical Center*, Los Angeles Superior Court, Case No. 23STCV23713,
23 final approval of class/PAGA settlement granted on January 28, 2026; *Irene Eunhee Ikuta v.*
24 *TAKEE International, Inc.*, Los Angeles Superior Court, Case No. 23STCV21120, final approval of
25 class/PAGA settlement granted on January 22, 2026; *Amourafina Burton v. Trove Recommerce,*
26 *Inc.*, San Mateo Superior Court, Case No. 23-CIV-06108, final approval of class/PAGA settlement
27 granted on January 9, 2026; *Shayne Werber v. Teleferic Barcelona*, Los Angeles Superior Court
28 Case No. 23STCV25517, final approval of class/PAGA settlement granted on December 17, 2025;

1 *Linda Salazar Ayala v. Applied Membranes, Inc.*, San Diego Superior Court Case No. 37-2023-
2 00054420-CU-OE-CTL, final approval of class/PAGA settlement granted on December 5, 2025;
3 *Justin Le, et al. v. Dragonfly Tea Bar LLC, et al.*, Los Angeles Superior Court Case No.
4 23STCV26247, final approval of class/PAGA settlement granted on October 29 2025; *Ryan*
5 *Lukman v. Safe Haven Security Services, LLC*, Riverside County Superior Court, Case No.
6 CVRI2400777, final approval of class/PAGA settlement granted on October 1, 2025; *Amaya Nelson*
7 *v. Clair Global Corp.*, Los Angeles Superior Court, Case No. 24STCV14597, final approval of
8 class/PAGA settlement granted on May 22, 2025; *Jose Regalado v. United Markets*, Marin County
9 Superior Court Case No. CV0001169, final approval of class/PAGA settlement granted on August
10 29, 2025; *Mushfiqur Chowdhury v. CWT US, LLC*, Los Angeles Superior Court Case No.
11 23STCV25373, final approval of class/PAGA settlement granted on August 22, 2025; *Pedro*
12 *Hernandez v. Edmund A. Gray Co.*, Los Angeles Superior Court Case No. 24STCV04118, final
13 approval of class/PAGA settlement granted on August 19, 2025; *Alexis Bartram v. Lakeshore*
14 *Learning Materials, LLC*, Los Angeles Superior Court Case No. 23STCV21174, final approval of
15 class/PAGA settlement granted on July 3, 2025; *Randall Bachman v. Geodis Logistics LLC*,
16 Riverside Superior Court, Case No. CVRI2400956, final approval of class/PAGA settlement
17 granted on June 25, 2025; *Eric Echeverria v. Fireclay Tile Inc.*, San Benito Superior Court Case
18 No. CU-23-00249, final approval of class/PAGA settlement granted on May 7, 2025; *Norma*
19 *Borquez v. Smart Metals Recycling LLC*, Yolo Superior Court Case No. CV2024-0050, final
20 approval of class/PAGA settlement granted on April 4, 2025; *Juan Hinojos Campos v. Applied*
21 *Technology Group, Inc.*, Kern Superior Court Case No. BCV-23-103067, final approval of
22 class/PAGA settlement granted on March 11, 2025; *Dennisha Lampkin v. Sunstates Security, Inc.*,
23 Riverside Superior Court Case No. CVRI2305600, final approval of class/PAGA settlement granted
24 on December 18, 2024.

25 6. Tiffany L. Luu, Esq.'s primary practice has been employment law throughout her
26 entire legal career. Ms. Luu handled a number of wage and hour matters, including individual
27 actions and class and/or PAGA actions, on behalf of plaintiffs and defendants. Ms. Luu received her
28 J.D., cum laude, along with her Master of Dispute Resolution, from the Pepperdine University Rick

1 J. Caruso School of Law in 2020. Ms. Luu practiced as a labor and employment associate for the
2 next 3 years representing employers in wage and hour class and/or PAGA actions, including at
3 Lewis Brisbois Bisgaard & Smith LLP and Fisher & Phillips LLP. In January 2024, Ms. Luu joined
4 JFW and as an associate in the Complex Litigation Practice Group, where she focuses her practice
5 on representing employees in wage and hour class and PAGA action lawsuits. Ms. Luu has been
6 certified as class counsel in all of the matters listed in Paragraph 4 above.

7 7. Joseph C. Ramli, Esq.'s primary practice has been employment law throughout his
8 entire legal career. Mr. Ramli received his J.D. from the Pepperdine University Rick J. Caruso
9 School of Law in 2021. Shortly after passing the California State Bar, Mr. Ramli practiced as a
10 labor and employment associate starting in March 2022 representing employers in wage and hour
11 class and/or PAGA actions, including at Lewis Brisbois Bisgaard & Smith LLP and O'Hagan Meyer
12 LLP. In January 2025, Mr. Ramli joined JFW and as an associate in the Complex Litigation Practice
13 Group, where he focuses his practice on representing employees in wage and hour class and PAGA
14 action lawsuits. Ms. Luu has been certified as class counsel in some of the matters listed in
15 Paragraph 4 above.

16 8. As counsel for Plaintiff and the proposed Class, I have been intimately involved in
17 this case since its inception and I believe that the proposed class settlement is an excellent result for
18 the Class. Enclosed as **Exhibit 1** is a true and correct copy of the Parties' fully executed Class
19 Action and PAGA Settlement Agreement (the "Settlement" or "Agreement"). The proposed Class
20 Notice is attached to the Agreement as **Exhibit A**.

21 **THE PARTIES AND BRIEF PROCEDURAL HISTORY**

22 9. Defendant owns and operates a skilled nursing facility called Mountain View Post-
23 Acute in Barstow, California.

24 10. On May 13, 2024, Plaintiff Banks sent a notice letter under PAGA to the Labor and
25 Workforce Development Agency ("LWDA") and gave notice to Defendant. On the same day,
26 Plaintiff Banks filed a Class Action Complaint against Defendant for (1) Minimum Wage
27 Violations; (2) Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations;
28 (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary

1 Business Expenses; and (8) Unfair Competition. Enclosed as **Exhibit 2** is a true and correct copy of
2 the May 13, 2024 PAGA Notice.

3 11. On July 17, 2024, Plaintiff Banks sent an amended PAGA notice letter to the LWDA
4 adding Plaintiff Poates as a second named aggrieved employee, and gave notice to Defendant. On
5 the same day, July 17, 2024, Plaintiff Banks filed the First Amended Complaint adding Plaintiff
6 Poates as a second named Plaintiff and added a Ninth Cause of Action for Civil Penalties under the
7 PAGA. Enclosed as **Exhibit 3** is a true and correct copy of the July 17, 2024 Amended PAGA
8 Notice.

9 12. Then on August 20, 2024, Plaintiffs Banks and Poates sent a second amended APGA
10 notice letter to the LWDA adding Plaintiff Reyes as a third named aggrieved employees. Enclosed
11 as **Exhibit 4** is a true and correct copy of the August 20, 2024 Second Amended PAGA Notice.

12 13. On October 10, 2024, Defendant filed a Petition to Compel Arbitration and Stay
13 Proceedings (“Motion to Compel Arbitration”), seeking to compel Plaintiffs Banks and Poates to
14 arbitrate their individual claims, dismissal class claims without prejudice, and stay representative
15 PAGA claims. Plaintiffs Banks and Poates opposed the Motion to Compel Arbitration in part of the
16 ground that Defendant lacked standing to enforce the arbitration agreement because it is not a non-
17 signatory to the agreement. On February 11, 2025, the Court denied the Motion to Compel
18 Arbitration, finding that Defendant did in fact lack standing as a non-signatory to the agreement.
19 Enclosed as **Exhibit 5** is a true and correct copy of the Court’s Minute Order denying the Motion to
20 Compel Arbitration.

21 14. After the parties agreed to this Settlement and with leave to amend, on April 15,
22 2026, Plaintiffs Banks and Poates filed the operative Second Amended Complaint (“Operative
23 Complaint”) adding Plaintiff Reyes as a third named Plaintiff. Enclosed as **Exhibit 6** is a true and
24 correct copy of the Operative Complaint.

25 **PLAINTIFF’S CLAIMS AND DEFENDANTS’ DEFENSES**

26 15. Here, Plaintiffs contended that Defendant failed to pay overtime wages, paid sick
27 leave wages, and meal period premiums at the regular rate by failing to factor in three types of
28 incentive into the regular rate: Bonus, CV-19 Bonus, and CV19-Bonus. In response, Defendant

1 argued that these were discretionary bonuses where the amounts are not measured by or dependent
2 on hours worked, production, or efficiency and need not be factored into the regular rate. Defendant
3 argued very little liability could have accrued from this issue and that a class cannot be certified and
4 any damages must be significantly limited because the vast majority of Class Members signed
5 enforceable arbitration agreements with class action waivers that did not have the signatory issue
6 that resulted the Court denying the Motion to Compel Arbitration..

7 16. Plaintiffs alleged that Plaintiffs and other non-exempt employees often worked off
8 the clock without pay due to interruptions to their meal breaks. In response, Defendant argued it
9 maintained compliant policies that prohibit working off the clock and that Defendant's pay statistics
10 evidence superior compliance with its policies and practices requiring all employees to receive
11 wages for all hours worked. Defendant's 25% payroll sampling evidence that Defendant paid 2,955
12 overtime hours totaling \$109,023, 646 double time hours totaling \$30,086, and 999 meal period
13 premiums totaling \$25,919. Thus in addition to denying this claim, Defendant contended that
14 Plaintiffs' off-the-clock work claim is individualized and not suited for class certification since
15 there is no evidence of a common policy or practice forcing Class Members to work off the clock
16 and numerous individual inquiries would be needed to assess which Class Members, if any, worked
17 off the clock, how often, the reasons why a particular Class Member worked off the clock, and
18 whether Defendant knew or should have known that Class Members worked off the clock for the
19 imposition of classwide liability. Defendant further argued its arbitration agreement and class action
20 waiver defense.

21 17. Plaintiffs claimed that they and other employees were frequently unable to take
22 compliant meal periods. Defendant countered that Defendant maintained compliant meal period
23 policies and practices throughout the Class Period and always provided compliant meal periods in
24 line with those policies. Defendant pointed to the fact that the sampling payroll records showed
25 numerous meal period premiums paid to employees as evidence of Defendant's superior meal
26 period compliance practices (Plaintiff's expert found Defendant paid approximately 999 meal
27 period premiums totaling \$25,919). As such, Defendant maintained Plaintiffs' meal period claim is
28 not suited for class certification since individual inquiries would be needed to assess which

1 employees, if any, took non-compliant meal periods, how many meal periods were non-compliant,
2 and the reasons why a particular employee did not take a meal period on a particular shift and a
3 meal period premium was not paid. Ibid. Defendant further argued its arbitration agreement and
4 class action waiver defense.

5 18. Plaintiffs claimed that they and other employees were often unable to take compliant
6 rest periods because of operation needs. Defendant countered that Defendant maintained compliant
7 rest period policies and practices and provided compliant rest periods in line with those policies.
8 Thus, Defendant maintained Plaintiffs' rest period claim is not suited for class certification since
9 individual inquiries would be needed to assess which employees, if any, took non-compliant rest
10 periods, how many rest periods were non-compliant, and the reasons why a particular employee did
11 not take a rest period. Ibid. Defendant further argued its arbitration agreement and class action
12 waiver defense.

13 19. Plaintiff alleged they were required to use their personal cellphones for work-related
14 announcements and communications, such as meeting times, if they needed help, assigning tasks,
15 and concerns regarding patients. Defendant countered that Plaintiffs used their personal cellphones
16 out of their convenience, and further that Defendant's guidelines specifically prohibited use of cell
17 phones in the facility. Defendant further maintained that Plaintiffs reimbursement claim is not
18 suited for class certification since individual inquiries would be needed to assess which employees,
19 if any, used their personal cellphones for work, why they used their cellphones and whether
20 cellphone usage was required or out of their own convenience. Defendant further argued its
21 arbitration agreement and class action waiver defense.

22 20. As a result of the unpaid wages and meal period premiums described above,
23 Plaintiffs contended that Defendant failed to comply with its final pay obligations set forth in Labor
24 Code §§ 201 to 203 to former employees and failed to issue accurate itemized wage statements to
25 Class Members as set forth in Labor Code § 226(a). Thus, the claims for waiting time and wage
26 statement penalties are derivative of the underlying claims. In response, Defendant argued that
27 Defendant possessed strong, good faith defenses to Plaintiffs' underlying claims and these claims
28 cannot meet the willfulness standard in Labor Code § 203 or the knowing and intentional standard

1 in Labor Code § 226(e). Notably, Defendant relied on the California Supreme Court decision in
2 *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056, 1065, which held that an
3 employer’s good-faith defenses precludes a “willfulness” finding under Labor Code § 203 and a
4 “knowing and intentional” finding under Labor Code § 226(e) for the imposition of statutory
5 penalties. Defendant further argued its arbitration agreement and class action waiver defense.

6 21. Plaintiffs contended that, as a result of the foregoing Labor Code violations,
7 Defendant is liable for civil penalties under the PAGA. Since Plaintiffs’ PAGA claims are
8 derivative of Plaintiffs’ underlying wage claims, Defendant asserted that the PAGA claim would
9 fail with those claims. Defendant further maintained that, given Defendant’s good faith defenses,
10 this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find
11 Defendant liable for any of Plaintiffs’ claims. Finally, Defendant maintained that, prior to receiving
12 the PAGA Notice and due to a prior wage and hour class action and PAGA settlement, it had taken
13 all reasonable steps to be in compliance with the issues alleged in the PAGA notice; thus, PAGA
14 penalties are limited to no more than 15% of the penalties sought.

15 **DISCOVERY AND MEDIATION**

16 22. In connection with mediation, the Parties engaged in extensive informal discovery.
17 Defendant produced (1) a class list with employee ID numbers, dates of employment, hourly rate,
18 and job position; (2) a 25% sampling of time and payroll records of Class Members; (3)
19 Defendant’s employee handbook; and (4) Plaintiffs’ personnel records.

20 23. In preparation for mediation, Class Counsel engaged an expert data scientist with
21 prior wage and hour class action litigation experience, AttorneyTalk, to conduct a comprehensive
22 analysis and extrapolation of the payroll and timekeeping data produced by Defendant to create a
23 detailed exposure analysis for all claims at issue.

24 24. On February 11, 2026, the Parties participated in a full-day mediation with Gig
25 Kyriacou, Esq. a well-respected wage and hour class action mediator. During mediation, the Parties
26 vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff’s
27 claims, and the legal basis for the claims and defenses. The Parties reached a tentative class and
28 PAGA settlement at the mediation. During the months that followed, the Parties finalized the terms

of the Settlement and executed the Agreement now before the Court.

THE PROPOSED SETTLEMENT

25. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount:	\$490,000.00
Minus Court-approved attorneys' fees:	\$163,333.33
Minus Court-approved verified costs (up to):	\$25,000.00
Minus Court-approved Service Payments:	\$30,000.00
Minus estimated settlement administration costs:	\$7,890.00
Minus amount set aside as PAGA Payment:	\$48,000.00
Net Settlement Amount:	\$215,776.67

26. The Class Period starts on August 16, 2022 because, according to Defendant, it took over operations of the facility from another entity, Lifecare Centers of America, on August 16, 2022.

27. There are approximately 18,971 Workweeks and the per-Workweek value of the Net Settlement Amount is \$11.37. There are approximately 325 Class Members. The average Individual Class Payment from the Net Settlement Amount is projected to be approximately \$663.93, the highest payment is estimated at \$2,161.07, and the lowest payment is estimate at \$11.37.

28. There are approximately 8,805 PAGA Pay Periods and the per-Pay Period Value of \$12,000.00 PAGA Penalties allocated to Aggrieved Employees is \$1.36. There are approximately 289 Aggrieved Employees. The average Individual PAGA Payment is projected to be approximately \$25.83, the highest payment is estimated at \$103.58, and the lowest payment is estimated at \$1.36.

29. The requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class Counsel have incurred substantial attorneys' fees and costs conducting pre-filing investigation, analyzing Plaintiffs' claims, conducting legal research, opposing Defendant's Motion to Compel Arbitration, conducting informal discovery, working with an expert data scientist to analyze Class Members' time and payroll records and create a comprehensive damages model, preparing for and attending mediation, negotiating and preparing the long-form Agreement, preparing this Motion, and otherwise litigating the case. Class Counsel expect to expend additional attorney time in attending the hearing on this Motion, overseeing the Class Notice process and fielding questions from Class Members, preparing

1 the Final Approval papers, and attending the Final Approval hearing.

2 **PRELIMINARY APPROVAL IS WARRANTED**

3 30. Although the Parties engaged in significant informal discovery prior to mediation,
4 the Parties still had significant formal discovery to complete had the matter not been settled. This
5 would have required the expenditure of substantial time and resources by both Parties that would
6 have very likely spanned several years. Even if Plaintiff were to certify the classes, the Parties
7 would incur considerably more attorneys' fees and costs through a possible decertification motion,
8 trial, and possible appeal. This Settlement avoids those risks and the accompanying expense.

9 31. Plaintiffs have not yet filed a motion for class certification, and as such, the extent to
10 which Plaintiffs' proposed classes were certifiable is somewhat speculative. Absent settlement,
11 there was a risk that there would not be a certified class at the time of trial, or if there were, it would
12 consist of a significantly smaller group of employees than the proposed Class due to a narrowing of
13 the class definition in a Court order on a contested motion for class certification and numerous post-
14 certification motions to compel arbitration of individual claims.

15 32. Regular Rate Violations. Plaintiffs' expert found Defendant's maximum damages for
16 regular rate violations—underpaid overtime, meal period premiums, and paid sick leave wages—to
17 be approximately \$9,453.00. As discussed above, Defendant argued the incentives at issue are
18 legally excludable from the regular rate and that most class members signed enforceable arbitration
19 agreements. Thus, Plaintiffs applied a 65% risk factor against Defendant's maximum exposure to
20 account for the risk for Defendant's defenses on certification and the merits to arrive at an estimated
21 realistic recovery of approximately \$3,308.55.

22 33. Unpaid Wages Due to Off the Clock Work. Any instances of off-the-clock work
23 would not be reflected in the records. Estimating that Class Members on average worked 15
24 minutes off the clock per shift, Plaintiffs' expert found Defendant's maximum exposure to be
25 approximately \$531,258.00. As discussed above, Defendant advanced numerous defenses,
26 including the amount of overtime premiums paid, its defenses against certification and on the
27 merits, and the arbitration defense. Thus, Plaintiffs applied a 65% risk factor against Defendant's
28 maximum exposure to account for the risk for Defendant's defenses on certification and the merits

1 to arrive at an estimated realistic recovery of approximately \$185,940.30.

2 34. Meal and Rest Period Violations. Any instances of interrupted meal periods and rest
3 period violations would not be reflected in the records. Estimating a 40% violation rate (e.g., Class
4 Members experienced two meal period and two rest period violations per week) and after applying
5 meal period premiums paid, Plaintiffs' expert found Defendant's maximum exposure to be
6 approximately \$611,639.00 for meal periods and \$645,136.00 for rest periods. As discussed above,
7 Defendant advanced numerous defenses, including the amount of meal period premiums paid, its
8 defenses against certification and on the merits, and the arbitration defense. Thus, Plaintiffs applied
9 a 65% risk factor against Defendant's maximum exposure to account for the risk for Defendant's
10 defenses on certification and the merits to arrive at an estimated realistic recovery of approximately
11 \$214,073.65 for meal premiums and \$225,797.60 for rest periods.

12 35. Waiting Time Penalties. As a result of the unpaid wages and meal and rest period
13 premiums described above, Plaintiffs contended that Defendant failed to comply with its final pay
14 obligations set forth in Labor Code §§ 201 to 203 to former employees. Estimating every former
15 employee (estimated 197 formers) experienced at least one unpaid wage violation and at a penalty
16 rate equal to 30 days' wages, Plaintiff's expert found Defendant's maximum exposure to be
17 approximately \$1,141,022.00. Defendant presented several defenses, including that because they
18 possessed good-faith defenses to the underlying wage claims, any failure to pay wages was not
19 "willful" as a matter of law; Plaintiffs' waiting time penalty exposure was grossly inflated as not
20 every former employee experienced the alleged Labor Code violations; the arbitration defense; and
21 because the waiting time claim is derivative of Plaintiffs' underlying wage claims, Plaintiffs would
22 need to overcome Defendant's defenses, both as to class certification and on the merits, as to the
23 underlying claims. Thus, Plaintiffs applied an 80% risk factor against Defendant's maximum
24 exposure to account for the risk for Defendant's defenses on certification and the merits to arrive at
25 an estimated realistic recovery of approximately \$228,204.40.

26 36. Wage Statement Penalties. Plaintiffs alleged that Defendant is liable for wage
27 statement penalties as a result of the unpaid wages and meal and rest period premiums. Those
28 penalties are calculated as \$50 for each "initial" violation and \$100 for each "subsequent" violation,

1 with a maximum of \$4,000 per employee. Lab. Code § 226(e). Estimating every wage statement
2 (approximately 8,805 pay periods) issued to Class Members were inaccurate, Plaintiffs' expert
3 found Defendant's maximum exposure to be approximately \$866,050.00. As discussed above,
4 Defendant presented several defenses, including its arbitration defense and that because it possessed
5 good-faith defenses to the underlying claims for failure to pay wages was not "knowing and
6 intentional" as a matter of law and because the wage statement claim is derivative of Plaintiffs'
7 underlying wage claims, Plaintiffs would need to overcome Defendant's defenses, both as to class
8 certification and on the merits, as to his underlying claims. Thus Plaintiffs applied an 80% risk
9 factor against Defendant's maximum exposure to account for the risk for Defendant's defenses on
10 certification and the merits to arrive at an estimated realistic recovery of approximately
11 \$173,210.00.

12 37. Failure to Reimburse Necessary Business Expense. Estimating a \$25 per month
13 reimbursement rate, Plaintiffs' expert found Defendant's maximum exposure to be approximately
14 \$110,062.50. As discussed above, Defendant advanced numerous defenses, including on the merits,
15 its defenses against certification, and the arbitration defense. Thus, Plaintiffs applied a 65% risk
16 factor against Defendant's maximum exposure to account for the risk for Defendant's defenses on
17 certification and the merits to arrive at an estimated realistic recovery of approximately \$38,521.88.

18 38. PAGA Penalties. Utilizing \$100 initial violation rates and assuming that no penalty
19 "stacking" will apply (i.e., the imposition of multiple penalties per pay period), the maximum total
20 PAGA exposure is estimated at approximately \$880,500.00 (8,805 pay periods X \$100). However,
21 these penalties derive from the underlying wage and hour violations discussed above, which
22 Defendant disputes vigorously. Defendant also assert that the Court would drastically reduce any
23 award of PAGA penalties as "confiscatory." Therefore, Plaintiffs applied an 80% risk factor against
24 Defendant's maximum exposure to account for the risk of losing on the merits and/or not recovering
25 a PAGA penalty for each and every pay period and to account for the possibility of this Court
26 reducing penalties, to arrive at an estimated exposure of approximately \$176,100.00.

27 39. Conclusion. Using these estimated figures for each of the claims described above,
28 Plaintiffs predicted that the potential realistic recovery for the Class would be approximately

1 \$1,245,156.38. The proposed Settlement of \$490,000.00 represents approximately 39.35% of the
2 reasonably forecasted recovery for the Class. Preliminary approval is appropriate since the
3 Settlement will provide significant monetary relief to the Class, which is consistent with what Class
4 Counsel believes could have been recovered had the case proceeded through trial.

5 40. There is no conflict between my interests and the interests of the Class that I am
6 seeking to represent. I have demonstrated my ability to advocate for the interests of the Class by
7 initiating this litigation, undertaking extensive class discovery, negotiating the proposed Settlement
8 at mediation, seeking preliminary approval, and otherwise litigating this case. I also do not have any
9 conflict of interest with the Administrator.

10 41. On July 23, 2026, I uploaded a copy of the Motion for Preliminary Approval, the
11 fully executed Agreement, and Proposed Order to the LWDA's website. Enclosed as **Exhibit 7** is a
12 true and correct copy of the LWDA's filing confirmation.

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

15 Executed on July 23, 2026 at Los Angeles, California.

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17 

18 William C. Sung
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EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Laflorie Banks, Shataae Poates, and Carmen Prado Reyes (“Plaintiffs”) and Defendant Barstow Post Acute LLC (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Actions” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendant captioned *Laforie Banks, et al. v. Barstow Post Acute LLC*, Case No. CIVSB2416717 initiated on May 13, 2024 and pending in Superior Court of the State of California, County of San Bernardino.
- 1.2. “Administrator” means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former non-exempt employees who worked for Defendant within the State of California during the PAGA Period.
- 1.5. “Class” shall mean all current and former non-exempt employees who worked for Defendant within the State of California during the Class Period.
- 1.6. “Class Counsel” means William C. Sung, Tiffany L. Luu, and Joseph C. Ramli of Justice for Workers, P.C.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the 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 in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from August 16, 2022 to April 11, 2026 unless shortened pursuant to Section 8 below.
- 1.13. “Class Representatives” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of San Bernardino.
- 1.16. “Defendant” means Defendant Barstow Post Acute LLC
- 1.17. “Defense Counsel” means Maynard Nexsen LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment, which is 60 days after entry of the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final

Approval of the Settlement.

- 1.22. “Gross Settlement Amount” means Four Hundred Ninety Thousand Dollars and Zero Cents (\$490,000.00) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from May 13, 2023 to March 13, 2026 unless shortened pursuant to Section 8 below.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.33. “PAGA Notice” means Plaintiffs’ May 13, 2024 and August 20, 2024 letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means Forty-Eight Thousand Dollars and Zero Cents (\$48,000.00) which is the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$12,000.00) and the 75% to LWDA (\$36,000.00) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiffs” mean Laflorie Banks, Shataae Poates, and Carmen Prado Reyes, the named Plaintiffs in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.41. “Released Parties” means Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, contractors, agents, employees, predecessors, successors, assigns, subsidiaries, and affiliates.
- 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 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are remailed after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the date the Response Deadline has expired.
- 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the

Judgment.

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

2. RECITALS.

- 2.1. May 13, 2024, Plaintiff Banks filed the Class Action Complaint alleging claims for (1) Minimum Wage Violations; (2) Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary Business Expenses; and (8) Unfair Competition. On July 17, 2024, Plaintiff Banks filed the First Amended Complaint adding a cause of action for Civil Penalties under the California Private Attorneys General Act (“PAGA”) and added Plaintiff Poates as a second named Plaintiff.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On February 11, 2026, the Parties participated in an all-day mediation presided over by Gig Kyriacou, Esq. which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiffs obtained, through informal discovery, Defendant’s policies and procedures at issue and class records, including a sampling of Class Members’ time and payroll records. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.5. On April 15, 2026, Plaintiffs Banks and Poates filed the Second Amended Complaint adding Plaintiff Reyes as a third named Plaintiff. The Second Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the Action, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.6. The Court has not granted class certification.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Four Hundred Ninety Thousand Dollars and Zero Cents (\$490,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual

Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$10,000.00 to each Class Representative, totaling \$30,000.00. Defendant will not oppose Plaintiffs' request for a Class Representative Service Payments that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: Attorneys' fees of not more than One-Third (33 1/3%) of the Gross Settlement Amount which is currently estimated to be \$163,333.33 and reimbursement of litigation costs of up to \$25,000.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fee Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fee Payment and Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

- 3.2.3. To the Administrator: The Administration Expenses Payment not to exceed \$7,890.00 except for a showing of good cause and as approved by the Court. Defendant will not oppose requests for these payments provided that they do not exceed this amount. To the extent the Administration Expenses Payment is less or the Court approves a payment of less than \$7,890.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
- 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.
- 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$48,000.00 to be paid from the Gross Settlement Amount, with 75% (\$36,000.00) allocated to the LWDA Payment and 25% (\$12,000.00) allocated to the Individual PAGA Payments.
- 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$12,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility

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

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

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records to date, Defendant estimate that there are 325 Class Members who collectively worked a total of 18,971 Workweeks, and 289 Aggrieved Employees who worked a total of 8,805 PAGA Pay Periods.
- 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount in two equal installment payments. The first installment payment of \$245,000.00 shall be transmitted to the Administrator no later than 30 days after the Effective Date. The second installment payment of \$245,000.00 and Defendant's share of payroll taxes shall be transmitted to the Administrator no later than 60 days after the Effective Date. The Administrator shall be responsible for calculating and processing all applicable federal, state, and local payroll tax withholdings from the Wage Portions of the Individual Class Payments, remitting such withholdings to the appropriate taxing authorities within the time periods prescribed by applicable law, and issuing all required tax forms and filings in connection therewith
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class

Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without United States Postal Service ("USPS") forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or

bonuses) beyond those specified in this Agreement.

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

- 5.1 Plaintiffs' Release. Plaintiffs and Plaintiffs' 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 related to Plaintiffs' employment with Defendant, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged 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 Notice ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believes to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

With respect to paragraph 5.1(a) above, Plaintiffs' Release includes, but is not limited to any and all claims based on the following: Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act; the Employee Retirement Income Security Act (except such rights as may be vested under any retirement plan sponsored by Vail Resorts); the Lilly Ledbetter Fair Pay Act; the Family and Medical Leave Act; the Fair Labor Standards Act; the Age Discrimination in Employment Act; the Older Workers Benefit Protection Act; the Uniformed Services Employment and Reemployment Rights Act; the Consolidated Omnibus Budget Reconciliation Act of 1985; the Worker Adjustment and Retraining Notification Act; any claims under applicable state or local law (including but not limited to the California Labor Code; the California Government Code; the California Constitution; California statutory and common law; the California Fair Employment and Housing Act; the California Pregnancy Disability Leave Law; the California Family Rights Act; the California Business and Professions Code; the California Worker Adjustment and Retraining Notification Act as well as any state law equivalents of the federal laws referenced above); common law torts including, but not limited to, assault and battery; personal injury claims; claims for wrongful discharge in violation of public policy; wrongful termination; invasion of privacy, discrimination, retaliation, harassment, failure to prevent discrimination / retaliation / harassment, whistleblowing, breach of contract, intentional or negligent infliction

of emotional distress, defamation, or interference with contractual relations, unfair or unlawful business practices, breach of implied covenant of good faith and fair dealing; any claims for failure to pay wages, straight time, overtime, minimum wage or benefits of any and all kinds, failure to pay wages timely, failure to provide or maintain accurate wage statements, failure to provide compliant meal and rest periods, vacation pay, personal pay, sick pay, separation pay, domestic abuse leave and other types of leave, and other employment benefits; any claims for continued employment; failure to provide seventh day of rest, failure to pay reporting time or split shift pay, any claims for inaccurate recordkeeping, any failure to reimburse for reasonable business expenses, any claims for damages of any type, including liquidated damages and/or punitive damages; and any other cause of action or claim for damages based on common law, equitable law, or federal, state, or other governmental statute, law, regulation, rule, order, code, or ordinance. Plaintiffs acknowledges that this release of claims herein deprives her of standing to pursue any claims as an aggrieved employee under the California Private Attorneys General Act or as a class or collective representative in any action against Released Parties from all claims and damages, known and unknown, to the fullest extent permitted by law. This Agreement does not affect any claims that cannot be released by law. Nothing in this Agreement is intended to waive claims for: (i) workers' compensation claims/benefits, (ii) unemployment insurance benefits, (iii) Consolidated Omnibus Budget Reconciliation Act (COBRA) benefits, (iv) for vested rights under ERISA-covered employee benefit plans as applicable on the date Plaintiffs signs this Agreement, or (v) any other claim/benefit which cannot lawfully be released by private agreement.

Notwithstanding this general release of claims, nothing in this Agreement is intended to operate as, nor shall be construed as, a release or waiver of any rights and/or claims that cannot be released or waived as a matter of law.

5.1.1 Express Waiver of Age Discrimination Claims. In consideration of the Settlement Payment, Plaintiffs also specifically waive all existing rights and claims she may have against Defendant under the Age Discrimination in Employment Act ("ADEA") and the Older Workers Benefit Protection Act ("OWBPA").

Plaintiffs acknowledge that they are knowingly and voluntarily waiving and releasing any rights Plaintiffs may have under the ADEA (the "ADEA Waiver"), and that the consideration given for the ADEA Waiver is in addition to anything of value to which Plaintiffs is already entitled.

Plaintiffs further acknowledge that:

- (i) Plaintiffs' ADEA Waiver does not apply to any rights or claims that may arise after the date that Plaintiffs signs this Agreement;

- (ii) Plaintiffs' have read and understand this Agreement and signed this Agreement voluntarily;
- (iii) Plaintiffs have been advised to consult with an attorney of Plaintiffs' own choosing before executing this Agreement;
- (iv) Under the OWBPA Plaintiffs have twenty-one (21) calendar days from receipt of this Agreement to consider it before signing it;
- (v) Plaintiffs have seven (7) calendar days following the date Plaintiffs signs this Agreement to revoke this Agreement;
- (vi) This Agreement will not be effective until the date upon which the revocation period has expired, which will be the eighth (8th) day after the date that this Agreement is signed by Plaintiffs provided that Plaintiffs does not revoke it; and

To revoke this Agreement, a written notice of revocation by Plaintiffs must be personally delivered to Michael A.S. Newman, Maynard Nexsen, LLP, 2121 Avenue of the Stars, Suite 650 Los Angeles, CA90067 within the seven-day period stated.

- 5.1.2 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

- 5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Operative Complaint, arising during the Class Period, including all of the following claims for relief: (1) Minimum Wage Violations; (2) Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary Business Expenses; and (8) Unfair Competition ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all causes of action and claims for civil penalties under the California Private Attorneys General Act of 2004 that were alleged or reasonably could have been alleged based on the facts and legal theories contained in the Operative Complaint and PAGA Notice, arising during the PAGA Period, including claims for civil penalties based on the following: (1) Minimum Wage Violations; (2) Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary Business Expenses; and (8) violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, and 2802 (“Released PAGA Claims”).

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

6.1 Defendant’s Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel shall aver whether they are aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel 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; and (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 Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs 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; (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)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiffs and Class Counsel Declaration shall aver whether they are aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Apex Class Action LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.
- 7.4.2 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 USPS mail, the Class Notice, with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the

deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. 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.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release under Paragraph 5.2 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days

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

7.7 Objections to Settlement.

- 7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.
- 7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- 7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

- 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the

Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or PAGA 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 PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and the full names of Class Members who opted out of the settlement, the high, low, and

average Individual Class Payments, and the high, low, and average Individual PAGA Payments. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 325 Class Members and 18,971 total Workweeks during the Class Period and (2) there were 289 Aggrieved Employees who worked 8,805 PAGA Pay Periods during the PAGA Period. If the total Workweeks during the Class Period is 10% higher (i.e., more than 20,868 Workweeks), then Defendant shall have the option to either: (1) de-escalate the settlement so that the Class Period ends on the date that the Workweeks count totals no more than 20,868 and the PAGA Period will end on the same date as the Class Period; or (2) permit the Gross Settlement Amount to be increased proportionally by the Workweeks in excess of 20,868 (the "Escalator Clause"). For example, if the number of Workweeks is 11% higher, the Gross Settlement Amount will increase by 1%. At least 30 days prior to the hearing on preliminary approval, Defendant shall verify the total number of Workweeks during the Class Period by providing a declaration confirming the number of Class Members and Workweeks. If the Escalator Clause is triggered, at least 30 days prior to the hearing on Preliminary Approval, Defendant shall choose to either change the end date of the Class Period or increase the Gross Settlement Amount in accordance with the Escalator Clause such that there is a date certain on the Class Period for preliminary approval.
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, 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 Payment incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days within learning this information; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

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

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

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses Payment reasonably incurred after 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.

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

12. ADDITIONAL PROVISIONS.

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

12.2 Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate 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. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

- 12.8 No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall

be on the first business day thereafter.

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

To Plaintiffs:

JUSTICE FOR WORKERS, P.C.

William C. Sung
Tiffany L. Luu
Joseph C. Ramli
3600 Wilshire Blvd., Ste. 1815
Los Angeles, CA 90010
T: (323) 922-2000
william@justiceforworkers.com
tluu@justiceforworkers.com
jramli@justiceforworkers.com

To Defendant:

Thy B. Bui
tbui@maynardnexsen.com
Michael A. S. Newman
mnewman@maynardnexsen.com
MAYNARD NEXSEN LLP
2121 Avenue of the Stars, Suite 650
Los Angeles, CA 90067
Telephone: 310.596.4500

- 12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

ACCEPTED AND AGREED:

Dated: June 9, 2026

La'Florie Banks

Plaintiffs Laflorie Banks

Dated: _____, 2026

Plaintiff Shataae Poates

Dated: _____, 2026

Plaintiff Carmen Prado Reyes

Dated: _____, 2026

Defendant Barstow Post Acute LLC

Printed Name

Title

AGREED AS TO FORM AND CONTENT:

Dated: June 9, 2026



William C. Sung

Tiffany L. Luu

Joseph C. Ramli

JUSTICE FOR WORKERS P.C

Attorneys for Plaintiffs Laflorie Banks, Shataae Poates, and
Carmen Prado Reyes

Dated: _____, 2026

Thy B. Bui

Michael A. S. Newman

ACCEPTED AND AGREED:

Dated: _____, 2026

Plaintiffs Laflorie Banks

Dated: 06/09, 2026



Plaintiff Shataae Poates

Dated: _____, 2026

Plaintiff Carmen Prado Reyes

Dated: _____, 2026

Defendant Barstow Post Acute LLC

Printed Name

Title

AGREED AS TO FORM AND CONTENT:

Dated: June 9, 2026



William C. Sung
Tiffany L. Luu
Joseph C. Ramli
JUSTICE FOR WORKERS P.C
Attorneys for Plaintiffs Laflorie Banks, Shataae Poates, and
Carmen Prado Reyes

Dated: _____, 2026

Thy B. Bui
Michael A. S. Newman

ACCEPTED AND AGREED:

Dated: _____, 2026

Plaintiffs Laflorie Banks

Dated: _____, 2026

Plaintiff Shataae Poates

Dated: 06/11/2026, 2026

Carmen Prado Reyes

Plaintiff Carmen Prado Reyes

Dated: _____, 2026

Defendant Barstow Post Acute LLC

Printed Name

Title

AGREED AS TO FORM AND CONTENT:

Dated: June 9, 2026



William C. Sung

Tiffany L. Luu

Joseph C. Ramli

JUSTICE FOR WORKERS P.C

Attorneys for Plaintiffs Laflorie Banks, Shataae Poates, and
Carmen Prado Reyes

Dated: _____, 2026

Thy B. Bui
Michael A. S. Newman

ACCEPTED AND AGREED:

Dated: _____, 2026

Plaintiffs Laflorie Banks

Dated: _____, 2026

Plaintiff Shataae Poates

Dated: _____, 2026

Plaintiff Carmen Prado Reyes

Dated: 6/22/2026, 2026

Signed by:
Stacy Brown
9A3702DD65034DA...

Defendant Barstow Post Acute LLC

Stacy Brown

Printed Name

Administrator

Title

AGREED AS TO FORM AND CONTENT:

Dated: _____, 2026

William C. Sung
Tiffany L. Luu
Joseph C. Ramli
JUSTICE FOR WORKERS P.C
Attorneys for Plaintiffs Laflorie Banks, Shataae Poates, and
Carmen Prado Reyes

Dated: June 22, 2026

Thy B. Bui

Thy B. Bui
Michael A. S. Newman
MAYNARD NEXSEN LLP
Attorneys for Defendant Barstow Post Acute LLC

MAYNARD NEXSEN LLP
Attorneys for Defendant Barstow Post Acute LLC

Exhibit A

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

Laflorie Banks, Shataae Poates, and Carmen Prado Reyes v. Barstow Post Acute LLC, Case No.
CIVSB2416717

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, 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 Barstow Post Acute LLC (“Defendant”) for alleged wage and hour violations. The Action was filed by former employees Laflorie Banks, Shataae Poates, and Carmen Prado Reyes (“Plaintiffs”) and seek payment of (1) back wages and other relief for a class of all current and former non-exempt employees who worked for Defendant within the State of California during the Class Period from August 16, 2022 to April 11, 2026 (“Class Members”); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former non-exempt employees who worked for Defendant within the State of California during the PAGA Period of May 13, 2023 to March 13, 2026 (“Aggrieved Employees”).

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

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$INSERT (less withholding) and your Individual PAGA Payment is estimated to be \$INSERT**. 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 did not work during the PAGA Period.)

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

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

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

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

- (1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against 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 Class 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 Class 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 	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [REDACTED]	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [REDACTED] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [REDACTED]. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by [REDACTED]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Workweeks you worked at least one day during the Class Period and how many PAGA Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA 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 [REDACTED]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant Barstow Post Acute LLC. The Action accuses Defendant of violating California labor laws by failing to pay minimum and overtime wages, failing to provide legally compliant meal and rest periods; failing to pay reporting time premiums and reimburse necessary business expenses; failing to pay wages due upon termination; failing to provide accurate itemized wage statements; and unfair competition. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiffs are represented by attorneys in the Action: William C. Sung, Tiffany L. Luu, Joseph C. Ramli of Justice for Workers, P.C. (“Class Counsel”)

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

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

So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs 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.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant have 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 Final Approval.

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

1. Defendant Will Pay \$490,000.00 as the Gross Settlement Amount. Defendant has agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement Amount not more than 60 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.
2. Court-Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$163,333.33 (One-Third or 33 1/3% of the Gross Settlement Amount) to Class Counsel for attorneys’ fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 each, totaling \$30,000.00, to Plaintiffs as Class Representative Service Payments for filing the Action, working with Class Counsel and representing

the Class. A Class Representative Service Payment will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment and any Individual PAGA Payment.

C. Up to \$7,890.00 to the Administrator for services administering the Settlement.

D. Up to \$48,000.00 for PAGA Penalties, allocated 75% to the LWDA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

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

3. 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 Amount (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interests and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately fund employer payroll taxes it owes on the Wage Portion, which will be processed by the Administrator. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendant has 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.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify

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

7. 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 to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant has 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.
8. Administrator. The Court has appointed a neutral company, Apex Class Action LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement Amount and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA Penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

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 all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Operative Complaint, arising during the Class Period, including all of the following claims for relief: (1) Minimum Wage Violations; (2)

Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary Business Expenses; and (8) Unfair Competition (“Released Class Claims”). Except as set forth in Section 5.3 of the Settlement 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.

10. Aggrieved Employees’ PAGA Release. After the Court’s Judgment is final, and Defendant has paid the Gross Settlement Amount and separately paid the employer-side payroll taxes, 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 PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all causes of action and claims for civil penalties under the California Private Attorneys General Act of 2004 that were alleged or reasonably could have been alleged based on the facts and legal theories contained in the Operative Complaint and PAGA Notice, arising during the PAGA Period, including claims for civil penalties based on the following: (1) Minimum Wage Violations; (2) Overtime Wage Violations; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Penalties; (6) Waiting Time Penalties; (7) Failure to Reimburse Necessary Business Expenses; and (8) violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, and 2802 (“Released PAGA Claims”)

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$12,000.00 by the total number of PAGA Pay Periods worked by all

Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/PAGA Pay Period Challenges. The number of Class 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 **INSERT** to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or PAGA 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 PAGA 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. The Administrator's decision is final. You cannot appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as *Laflorie Banks v. Barstow Post Acute LLC*, Case No. CIVSB2416717, and include your identifying information (full name, address, telephone number, approximate dates of employment, and last four digits of social security number for verification purposes). You must make the request yourself. If someone else makes

the request for you, it will not be valid. **The Administrator must receive your request to be excluded by INSERT, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least 16 court days before the **INSERT** Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees and Litigation Costs and Class Representative Service Payment stating (i) the amount Class Counsel is requesting for Attorneys' Fees and Litigation Costs; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website www._____.com or the Court's website <https://cap.sb-court.org/>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees and Litigation Costs, and Class Representative Service Payment may wish to object. **The deadline for sending written objections to the Administrator is INSERT.** 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 *Laflorie Banks v. Barstow Post Acute LLC*, Case No. CIVSB2416717 and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing **INSERT** at **INSERT a.m./p.m.** in Department S22 of the San Bernardino Superior Court, located at 247 W 3rd St, San Bernardino, California 92415. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiffs, 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 remotely (see remote appearance information: <https://sanbernardino.courts.ca.gov/online-services/remote-access/remote-appearances-courtroom-technology>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at www._____.com. 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://cap.sb-court.org/>) and entering the Case Number for the Action, Case No. CIVSB2416717. You can also make an appointment to personally review court documents in the Clerk's Office at the San Bernardino Superior Court.

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

Class Counsel:

JUSTICE FOR WORKERS, P.C.

William C. Sung
Tiffany L. Luu
Joseph C. Ramli
3600 Wilshire Blvd., Ste. 1815
Los Angeles, CA 90010
T: (323) 922-2000
william@justiceforworkers.com
tluu@justiceforworkers.com
jramli@justiceforworkers.com

Administrator:

Apex Class Action LLC

INSERT CONTACT

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT 2



JUSTICE FOR WORKERS

3600 WILSHIRE BOULEVARD, SUITE 1815, LOS ANGELES, CA 90010

TEL: (323) 922-2000

FAX: (323) 922-2000

www.JusticeForWorkers.com

May 13, 2024

VIA PAGA ONLINE FILING ONLY

California Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

<https://dir.tfaforms.net/308>

**Re: *LaFlorie Banks v. Barstow Post Acute LLC*
Notice of Private Attorneys General Act Claim**

Dear PAGA Administrator:

This office has been retained by aggrieved employee LaFlorie Banks ("Plaintiff") concerning a representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.* ("PAGA") against Barstow Post Acute LLC (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as "Defendants") for violations of California wage and hour laws. Plaintiff seeks civil penalties for violations of the Labor Code and all other remedies available under PAGA.

Plaintiff seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the notice requirements of Labor Code § 2699.3.

Defendants own and operate a hospital in Barstow, California. Defendants employed Plaintiff as an hourly-paid, non-exempt employee since approximately January 2024 as a nurse. The "aggrieved employees" that Plaintiff seeks civil penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Defendants violated and/or continue to violate, among other provisions of the Labor Code and applicable wage law, California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, and 2802, and IWC Wage Orders including Wage Order 5-2001.

Labor Code §§ 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. 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. During the relevant time period, Defendants required Plaintiff and other aggrieved employees to perform work before clocking in, after clocking out, and/or during off-the-clock meal breaks, and failed to compensate aggrieved employees for this time.

Labor Code §§ 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Plaintiff and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week but were not paid for all hours worked before clocking in, after clocking out, and/or during off-the-clock meal breaks.

Labor Code §§ 226.7, 512, 516, and the Wage Orders require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Defendants required Plaintiff and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Defendants failed to pay Plaintiff and other aggrieved employees all wages due to them within any time period specified by Labor Code §§ 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. Labor Code § 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Defendants failed to pay Plaintiff and other aggrieved employees all wages due to them within any time period specified by Labor Code § 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Defendants did not provide Plaintiff and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Defendants were in violation of Labor Code § 226(a). The violations include, but are not limited to, the failure to include the total hours worked, including time spent working off the clock and during meal and rest periods, failure to state the correct gross and net wages earned for all time worked, and failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code § 1174 requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Defendants failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Plaintiff and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 2802 requires an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Plaintiff and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to, required use of their personal cellphones to communicate about work on GroupMe application.

Therefore, on behalf of all aggrieved employees, Plaintiff seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the Labor Code pursuant to PAGA. Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this letter) 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 and employer an opportunity to investigate the claims and/or take any action they deem appropriate. If the LWDA and Defendants elect 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 all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

William C. Sung
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard
Suite 1815
Los Angeles, CA 90010
Office: 323-922-2000
Fax: 323-922-2000
Email: william@justiceforworkers.com

Thank you for your attention to this matter.

Very truly yours,



William C. Sung
JUSTICE FOR WORKERS, P.C.

Cc: Via USPS Certified Mail – Return Receipt Requested

Barstow Post Acute LLC
c/o David Johnson
Agent for Service of Process
3050 Saturn Street, Suite 201
Brea, CA 92821

7022 2410 0001 8622 3888

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 3050 Saturn Street, Suite 201
 Brea, CA 92821

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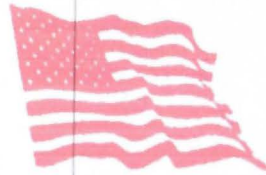
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

JUSTICE FOR WORKERS, P.C.
 3600 Wilshire Blvd Ste 1815
 Los Angeles, CA 90010

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US POSTAGE

Barstow Post Acute LLC
 c/o David Johnson
 Agent for Service of Process
 3050 Saturn Street, Suite 201
 Brea, CA 92821

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS FOR BEST RESULTS

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Barstow Post Acute LLC
c/o David Johnson
Agent for Service of Process
3050 Saturn Street, Suite 201
Brea, CA 92821



9590 9402 8702 3310 1895 07

2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Adult Signature
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☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Mail
Mail Restricted Delivery
(X)

Subject: Thank you for submission of your PAGA Case.
Date: Monday, May 13, 2024 at 11:22:05 AM Pacific Daylight Time
From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
To: William Sung

5/13/2024

LWDA Case No. LWDA-CM-1027951-24
Law Firm : Justice for Workers, P.C.
Plaintiff Name : LaFlorie Banks
Employer: Barstow Post Acute LLC
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 3



JUSTICE FOR WORKERS

3600 WILSHIRE BOULEVARD, SUITE 1815, LOS ANGELES, CA 90010

TEL: (323) 922-2000

FAX: (323) 922-2000

www.JusticeForWorkers.com

July 17, 2024

VIA PAGA ONLINE FILING ONLY

California Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

<https://dir.tfaforms.net/308>

**Re: *LaFlorie Banks v. Barstow Post Acute LLC*
Amended Notice of Private Attorneys General Act Claim**

Dear PAGA Administrator:

This office has been retained by aggrieved employee LaFlorie Banks and Shataae Poates ("Plaintiffs") concerning a representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.* ("PAGA") against Barstow Post Acute LLC (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as "Defendants") for violations of California wage and hour laws. Plaintiffs seek civil penalties for violations of the Labor Code and all other remedies available under PAGA.

Plaintiffs seek these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the notice requirements of Labor Code § 2699.3.

Defendants own and operate a hospital in Barstow, California. Defendants employed Plaintiff Banks as an hourly-paid, non-exempt employee since approximately January 2024 as a nurse. Defendants employed Plaintiff Poates as an hourly-paid, non-exempt employee from January 15, 2024 to July 8, 2024 as a CNA and RNA. The "aggrieved employees" that Plaintiffs seek civil penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Defendants violated and/or continue to violate, among other provisions of the Labor Code and applicable wage law, California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, and 2802, and IWC Wage Orders including Wage Order 5-2001.

Labor Code §§ 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. 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. During the relevant time period, Defendants required Plaintiffs and other aggrieved employees to perform work before clocking in, after clocking out, and/or during off-the-clock meal breaks, and failed to compensate aggrieved employees for this time.

Labor Code §§ 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Plaintiffs and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week but were not paid for all hours worked before clocking in, after clocking out, and/or during off-the-clock meal breaks.

Labor Code §§ 226.7, 512, 516, and the Wage Orders require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Defendants required Plaintiffs and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Defendants failed to pay Plaintiffs and other aggrieved employees all wages due to them within any time period specified by Labor Code §§ 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. Labor Code § 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Defendants failed to pay Plaintiffs and other aggrieved employees all wages due to them within any time period specified by Labor Code § 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Defendants did not provide Plaintiffs and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Defendants were in violation of Labor Code § 226(a). The violations include, but are not limited to, the failure to include the total hours worked, including time spent working off the clock and during meal and rest periods, failure to state the correct gross and net wages earned for all time worked, and failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code § 1174 requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Defendants failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Plaintiffs and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 2802 requires an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Plaintiffs and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to, required use of their personal cellphones to communicate about work on GroupMe application.

Therefore, on behalf of all aggrieved employees, Plaintiffs seek all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the Labor Code pursuant to PAGA. Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this letter) 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 and employer an opportunity to investigate the claims and/or take any action they deem appropriate. If the LWDA and Defendants elect not to take any action with respect to any of the foregoing claims, Plaintiffs will seek these penalties in a civil action on behalf of all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

William C. Sung
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard
Suite 1815
Los Angeles, CA 90010
Office: 323-922-2000
Fax: 323-922-2000
Email: william@justiceforworkers.com

Thank you for your attention to this matter.

Very truly yours,



William C. Sung
JUSTICE FOR WORKERS, P.C.

Cc: Via USPS Certified Mail – Return Receipt Requested

Barstow Post Acute LLC
c/o David Johnson
Agent for Service of Process
3050 Saturn Street, Suite 201
Brea, CA 92821

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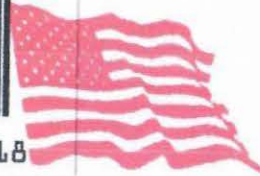
Sent to **Barstow Post Acute LLC**
 Street and Apt. No., or PO Box No. **3050 Saturn Street, Suite 201**
 City, State, ZIP+4[®] **Brea, CA 92821**

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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JUSTICE FOR WORKERS, P.C.
 3600 Wilshire Blvd Ste 1815
 Los Angeles, CA 90010

Barstow Post Acute LLC
 c/o David Johnson
 Agent for Service of Process
 3050 Saturn Street, Suite 201
 Brea, CA 92821

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Barstow Post Acute LLC
c/o David Johnson
Agent for Service of Process
3050 Saturn Street, Suite 201
Brea, CA 92821



9590 9402 8702 3310 1888 83

2. Article Number (Transfer from service label)

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A. Signature

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Restricted Delivery

Domestic Return Receipt :

EXHIBIT 4



JUSTICE FOR WORKERS

3600 WILSHIRE BOULEVARD, SUITE 1815, LOS ANGELES, CA 90010

TEL: (323) 922-2000

FAX: (323) 922-2000

www.JusticeForWorkers.com

August 20, 2024

VIA PAGA ONLINE FILING ONLY

California Labor and Workforce Development Agency

Attn: PAGA Administrator

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

<https://dir.tfaforms.net/308>

**Re: *LaFlorie Banks v. Barstow Post Acute LLC*
Amended Notice of Private Attorneys General Act Claim**

Dear PAGA Administrator:

This office has been retained by aggrieved employee LaFlorie Banks, Shataae Poates, and Carmen Prado Reyes (“Plaintiffs”) concerning a representative action pursuant to the Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.* (“PAGA”) against Barstow Post Acute LLC (including any and all affiliates, subsidiaries, parents, directors, officers, managing agents, and executive employees) (collectively referred to as “Defendants”) for violations of California wage and hour laws. Plaintiffs seek civil penalties for violations of the Labor Code and all other remedies available under PAGA.

Plaintiffs seek these remedies on behalf of the State of California and “aggrieved employees,” as defined herein. This letter is sent in compliance with the notice requirements of Labor Code § 2699.3.

Defendants own and operate a hospital in Barstow, California. Defendants employed Plaintiff Banks as an hourly-paid, non-exempt employee since approximately January 2024 as a nurse. Defendants employed Plaintiff Poates as an hourly-paid, non-exempt employee from January 15, 2024 to July 8, 2024 as a CNA and RNA. Defendants employed Plaintiff Reyes as an hourly-paid, non-exempt employee from July 24, 2023 to July 17, 2024 as a CNA. The “aggrieved employees” that Plaintiffs seek civil penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Defendants violated and/or continue to violate, among other provisions of the Labor Code and applicable wage law, California Labor Code §§

201, 202, 203, 204, 210, 226, 226.7, 246, 256, 510, 512, 516, 558, 558.1, 1174, 1194, 1197, 1197.1, 1198, and 2802, and IWC Wage Orders including Wage Order 5-2001.

Labor Code §§ 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. 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. During the relevant time period, Defendants required Plaintiffs and other aggrieved employees to perform work before clocking in, after clocking out, and/or during off-the-clock meal breaks, and failed to compensate aggrieved employees for this time.

Labor Code §§ 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Plaintiffs and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week but were not paid for all hours worked before clocking in, after clocking out, and/or during off-the-clock meal breaks.

Labor Code §§ 226.7, 512, 516, and the Wage Orders require employers to pay an employee one additional hour of pay at the employee's regular rate of compensation for each meal or rest period that is not provided. During the relevant time period, Defendants required Plaintiffs and other aggrieved employees to work during meal and rest periods and failed to compensate them properly and at the regular rate of compensation for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Defendants failed to pay Plaintiffs and other aggrieved employees all wages due to them within any time period specified by Labor Code §§ 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. Labor Code § 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular

payroll period. During the relevant time period, Defendants failed to pay Plaintiffs and other aggrieved employees all wages due to them within any time period specified by Labor Code § 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Defendants did not provide Plaintiffs and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Defendants were in violation of Labor Code § 226(a). The violations include, but are not limited to, the failure to include the total hours worked, including time spent working off the clock and during meal and rest periods, failure to state the correct gross and net wages earned for all time worked, and failure to state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code § 1174 requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Defendants failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Plaintiffs and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

Labor Code § 2802 requires an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Plaintiffs and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including, but not limited to, required use of their personal cellphones to communicate about work on GroupMe application.

Therefore, on behalf of all aggrieved employees, Plaintiffs seek all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the LWDA, for violation of the Labor Code pursuant to PAGA. Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this letter) 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 and employer an opportunity to investigate the claims and/or take any action they deem appropriate. If the LWDA and Defendants elect not to take any action with respect to any of the foregoing claims, Plaintiffs will seek these penalties in a civil action on behalf of all aggrieved employees within one year of the date of this letter as allowed by law.

If you have any questions, please contact me at the phone number or address below:

William C. Sung
JUSTICE FOR WORKERS, P.C.
3600 Wilshire Boulevard
Suite 1815
Los Angeles, CA 90010
Office: 323-922-2000
Fax: 323-922-2000
Email: william@justiceforworkers.com

Thank you for your attention to this matter.

Very truly yours,



William C. Sung
JUSTICE FOR WORKERS, P.C.

Cc:

Via USPS Certified Mail – Return Receipt Requested

Barstow Post Acute LLC
c/o David Johnson
Agent for Service of Process
3050 Saturn Street, Suite 201
Brea, CA 92821

Courtesy Copy Via Email

Christie E. Yang, Esq.
Associate General Counsel
Sun Mar Healthcare
cyang@sunmarhealthcare.com

Subject: Thank you for your Amended PAGA Claim Notice Submission.

Date: Tuesday, August 20, 2024 at 1:01:33 PM Pacific Daylight Time

From: DIR PAGA Unit

To: William Sung

08/20/2024 01:01:14 PM

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

Item submitted: Amended PAGA Claim Notice

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 5

1 **JUSTICE FOR WORKERS, P.C.**

William C. Sung, SB# 280792

2 E-Mail: william@justiceforworkers.com

Tiffany L. Luu, SB# 335127

3 E-Mail: tluu@justiceforworkers.com

3600 Wilshire Boulevard, Suite 1815

4 Los Angeles, CA 90010

Tel: 323-922-2000

5 Fax: 323-922-2000

6 Attorneys for Plaintiffs LAFLORIE BANKS,
SHATAAE POATES, and CARMEN PRADO REYES

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SAN BERNARDINO**

10 LAFLORIE BANKS, SHATAAE POATES,
11 and CARMEN PRADO REYES, individuals
and on behalf of all others similarly situated;

12 Plaintiffs,

13 vs.

14 BARSTOW POST ACUTE LLC, a California
15 limited liability company; and DOES 1 through
16 50,

17 Defendants.

Case No.: CIVSB2416717

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS**
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);
- (2) **OVERTIME WAGE VIOLATIONS**
(LABOR CODE §§ 204, 510, 1194,
1198);
- (3) **MEAL PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 512, 558);
- (4) **REST PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 516, 558);
- (5) **WAGE STATEMENT PENALTIES**
(LABOR CODE § 226);
- (6) **WAITING TIME PENALTIES**
(LABOR CODE §§ 201-203);
- (7) **FAILURE TO REIMBURSE
NECESSARY BUSINESS EXPENSES**
(LABOR CODE § 2802);
- (8) **UNFAIR COMPETITION (BUS &
PROF CODE §§ 17200, *et seq.*); and**
- (9) **CIVIL PENALTIES UNDER THE
CALIFORNIA PRIVATE**

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**ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq.*)**

DEMAND FOR JURY TRIAL

Plaintiffs LAFLORIE BANKS, SHATAAE POATES, and CARMEN PRADO REYES (“Plaintiffs”), on behalf of themselves and all others similarly situated, hereby bring this Second Amended Class and Representative Action Complaint (“Complaint”) against Defendants BARSTOW POST ACUTE LLC, a California limited liability company, and DOES 1 to 50 (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring this Complaint for recovery of unpaid wages and penalties under California Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2698, *et seq.*, and Industrial Welfare Commission (“IWC”) Wage Order 5-2001 (“Wage Order 5”), in addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the Labor Code because the amount in controversy exceeds \$25,000.

2. Venue is proper in this judicial district because Defendants maintain offices, have agents, and/or transact business in the State of California, including San Bernardino County, and some of the acts and omissions complained of herein occurred in San Bernardino County. Furthermore, Plaintiffs were employed by Defendants within San Bernardino County.

PARTIES

3. Plaintiffs are, and at all times relevant herein were, an individual over the age of eighteen (18) and is a California resident. Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiffs were employed by Defendants as a non-exempt employee. Plaintiffs were, and are, a victim of Defendants’ policies, practices, and/or customs complained of herein and has been deprived of the rights guaranteed by Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194,

1 1194.2, 1197, 1198, 2802, 2698, *et seq.*, and Wage Order 5.

2 4. Plaintiffs are informed and believe, and based thereon allege, that during the
3 applicable statute of limitations for each cause of action pled herein and continuing to the present,
4 Defendants engaged in, and continue to engage in, business, and employed Plaintiffs and other,
5 similarly-situated non-exempt employees within San Bernardino County, and the State of California
6 and, therefore, were (and are) doing business in San Bernardino County and the State of California.

7 5. Plaintiffs do not know the true names or capacities, whether individual, partner, or
8 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
9 defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to
10 amend this Complaint when such true names and capacities are discovered. Plaintiffs are informed,
11 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
12 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
13 and proximately caused Plaintiffs and the Classes (as defined below) to be subject to the unlawful
14 employment practices, wrongs, injuries, and damages complained of herein.

15 6. At all times herein mentioned, each of said Defendants participated in the doing of
16 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
17 Defendants, and each of them, were the agents, servants, and employees of each of the other
18 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
19 within the course and scope of said agency and employment.

20 7. Plaintiffs are informed and believe, and based thereon allege, that at all times
21 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
22 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
23 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
24 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
25 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

26 8. At all times herein mentioned, Defendants, and each of them, were members of, and
27 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
28 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

1 9. At all times herein mentioned, the acts and omissions of various Defendants, and
2 each of them, concurred and contributed to the various acts and omissions of each and all of the
3 other Defendants in proximately causing the injuries and damages as herein alleged.

4 **FACTUAL ALLEGATIONS**

5 10. Defendants own and operate a hospital in Barstow, California. Defendants employed
6 Plaintiff Banks as an hourly-paid, non-exempt employee from approximately January 2024 to
7 approximately July 2024 as a nurse. Defendants employed Plaintiff Poates as an hourly-paid, non-
8 exempt employee from January 15, 2024 to July 8, 2024 as a CNA and RNA. Defendants employed
9 Plaintiff Reyes as an hourly-paid, non-exempt employee from July 24, 2023 to approximately July
10 17, 2024 as a CNA.

11 11. Throughout Plaintiffs' employment with Defendants, Defendants' timekeeping
12 and/or payroll policies and practices resulted in Plaintiffs and other non-exempt employees not
13 being compensated for all hours actually worked. Plaintiffs and other non-exempt employees
14 regularly worked more than eight hours in a workday or 40 hours in a workweek. Upon information
15 and belief, Defendants required Plaintiffs and other non-exempt employees to perform work before
16 their scheduled shifts, after their scheduled shifts, and/or during off-the-clock meal breaks, and
17 failed to compensate employees for this time. As a result, Plaintiffs and other non-exempt
18 employees were not compensated for all earned minimum and overtime wages.

19 12. Defendants failed to provide Plaintiffs and other non-exempt employees with all
20 legally compliant meal periods due to Defendants' meal period policies/practices, which have
21 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
22 and/or missed meal periods. Upon information and belief, Plaintiffs and other non-exempt
23 employees were not able to take their legally compliant meal breaks due to work demands imposed
24 by Defendants. Upon information and belief, Defendants do not keep accurate records of Plaintiffs'
25 and other non-exempt employees' hours worked, including accurate time records showing when
26 employees take their meal periods. On those occasions when Plaintiffs and other non-exempt
27 employees were not provided with all legally compliant meal periods to which they were entitled,
28 Defendants failed to compensate Plaintiffs and other non-exempt employees with the required meal

1 period premium(s) for each workday there was a meal period violation as mandated by Labor Code
2 § 226.7.

3 13. Plaintiffs and other non-exempt employees were not authorized and permitted to take
4 all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to
5 authorize and permit a net 10-minute rest period for every four hours worked, or major fraction
6 thereof. Plaintiffs and other non-exempt employees were not able to take their legally compliant rest
7 breaks due to work demands imposed by Defendants. On those occasions when Plaintiffs and other
8 non-exempt employees were not authorized and permitted to take all legally compliant rest periods
9 to which they were entitled, Defendants failed to compensate them with the required rest period
10 premium(s) for each workday there was a rest period violation as mandated by Labor Code § 226.7.
11 Upon information and belief, Defendants maintained no mechanism for the payment of rest period
12 premium payments as required by Labor Code § 226.7, in the event that a legally compliant rest
13 period was not authorized and permitted to their non-exempt employees.

14 14. As a result of Defendants' failure to pay all minimum and overtime wages, failure to
15 pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as
16 alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage
17 statements to Plaintiffs and other non-exempt employees, including inaccurate total hours worked,
18 rates of pay, and corresponding hours worked at each rate. As a further result of Defendants' failure
19 to pay all minimum and overtime wages, and meal and rest period premium wages, Defendants
20 failed to timely pay all final wages to former non-exempt employees upon their separation of
21 employment from Defendants.

22 15. Additionally, Defendants required Plaintiffs and other non-exempt employees to use
23 their personal cellphones to communicate about work on GroupMe application. Despite requiring
24 employees to incur these necessary business expenses, Defendants failed to reimburse Plaintiffs and
25 other non-exempt employees for the cost of these expenses.

26 **CLASS ACTION ALLEGATIONS**

27 16. **Class Definitions:** Plaintiffs bring this action on behalf of herself and the following
28 Classes pursuant to § 382 of the California Code of Civil Procedure:

- 1 a. Minimum Wage Class: All current and former non-exempt employees of Defendants
2 in the State of California who were subject to Defendants' timekeeping and payroll
3 policies and/or practices, during the four years immediately preceding the filing of
4 this action through the present.
- 5 b. Overtime Class: All current and former non-exempt employees of Defendants in the
6 State of California who worked more than eight hours per day and/or 40 hours per
7 week and were subject to Defendants' timekeeping policies and/or practices, during
8 the four years immediately preceding the filing of this action through the present.
- 9 c. Meal Period Class: All current and former non-exempt employees of Defendants in
10 the State of California who: (i) worked at least one shift in excess of 5.0 hours;
11 and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years
12 immediately preceding the filing of this action through the present.
- 13 d. Rest Period Class: All current and former non-exempt employees of Defendants in
14 the State of California who worked at least one shift of 3.5 or more hours, during the
15 four years immediately preceding the filing of this action through the present.
- 16 e. Wage Statement Class: All current and former non-exempt employees of Defendants
17 in the State of California who received a wage statement, during the one year
18 immediately preceding the filing of this action through the present.
- 19 f. Waiting Time Penalty Class: All of Defendants' formerly employed members of the
20 Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class
21 during the three years immediately preceding the filing of this action through the
22 present.
- 23 g. Expense Reimbursement Class: All current and former non-exempt employees of
24 Defendants in the State of California who were not reimbursed for all necessary
25 business expenses, during the four years immediately preceding the filing of this
26 action through the present.

27 17. **Numerosity/Ascertainability**: The members of the Classes are so numerous that
28 joinder of all members would be impractical, if not impossible. The membership of the Classes is

1 unknown to Plaintiffs at this time; however, it is estimated that the members of the Classes number
2 greater than 50 individuals. The identity of such membership is readily ascertainable via inspection
3 of Defendants' employment records, including payroll records.

4 18. **Common Questions of Law and Fact Predominate/Well-Defined Community of**
5 **Interest:** There are predominant common questions of law and fact as to Plaintiffs and members of
6 the Classes, which predominate over questions affecting only individual members including,
7 without limitation to:

- 8 a. Whether Defendants properly paid all overtime wages to members of the Overtime
9 Class;
- 10 b. Whether Defendants paid at least the minimum wage for all hours worked to
11 members of the Minimum Wage Class;
- 12 c. Whether Defendants provided all legally compliant meal periods or paid meal period
13 premium wages due to members of the Meal Period Class pursuant to Labor Code §§
14 226.7 and 512;
- 15 d. Whether Defendants authorized and permitted all legally compliant rest periods or
16 paid all rest period premium wages due to members of the Rest Period Class
17 pursuant to Labor Code §§ 226.7 and 516;
- 18 e. Whether Defendants furnished legally compliant wage statements to members of the
19 Wage Statement Class pursuant to Labor Code § 226;
- 20 f. Whether Defendants reimbursed members of the Expense Reimbursement Class for
21 all necessary business expenses pursuant to Labor Code § 2802; and
- 22 g. Whether Defendants timely paid all final wages to members of the Waiting Time
23 Class at the time of their separation of employment pursuant to Labor Code §§ 201
24 and 202.

25 These common questions of law and fact set forth above are numerous and substantial and
26 stem from Defendants' policies and/or practices applicable to each individual class member. As
27 such, the common questions predominate over individual questions concerning each individual
28 class member's showing as to their eligibility for recovery or as to the amount of their damages.

1 19. **Typicality:** The claims of Plaintiffs are typical of the claims of the Classes because
2 Plaintiffs were employed by Defendants as a non-exempt employee in California during the
3 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
4 herein, Plaintiffs, like the members of the Classes, were not paid all minimum and overtime wages
5 owed due to Defendants' timekeeping and payroll policies/practices, were not provided all required
6 meal periods, were not authorized and permitted all rest periods, did not receive premium pay for
7 non-compliant meal and rest periods, were not provided with accurate, compliant, itemized wage
8 statements, and were not reimbursed for all necessary business expenses.

9 20. **Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary
10 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
11 Plaintiffs' attorneys are ready, willing and able to fully and adequately represent the members of the
12 Classes and Plaintiffs. Plaintiffs' attorneys have litigated numerous wage-and-hour class actions in
13 state and federal courts in the past and are committed to vigorously prosecuting this action on behalf
14 of the members of the Classes.

15 21. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
16 public interest in establishing minimum working conditions and standards in California. These laws
17 and labor standards protect the average working employee from exploitation by employers who
18 have the responsibility to follow the laws and who may seek to take advantage of superior economic
19 and bargaining power in setting onerous terms and conditions of employment. The nature of this
20 action and the format of laws available to Plaintiffs and members of the Classes make the class
21 action format a particularly efficient and appropriate procedure to redress the violations alleged
22 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
23 gain an unconscionable advantage since they would be able to exploit and overwhelm the limited
24 resources of each individual Plaintiffs with their vastly superior financial and legal resources.

25 22. Moreover, requiring each member of the Class(es) to pursue an individual remedy
26 would also discourage the assertion of lawful claims by employees who would be disinclined to file
27 an action against their former and/or current employer for real and justifiable fear of retaliation and
28 permanent damages to their careers at subsequent employment. The claims of the individual

1 members of the Class are not sufficiently large to warrant vigorous individual prosecution
2 considering all of the concomitant costs and expenses attending hereto.

3 23. Furthermore, the prosecution of separate actions by the individual class members,
4 even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
5 with respect to the individual class members against Defendants herein; and which would establish
6 potentially incompatible standards of conduct for Defendants; and/or legal determinations with
7 respect to individual class members which would, as a practical matter, be dispositive of the interest
8 of the other class members not parties to adjudications or which would substantially impair or
9 impede the ability of the class members to protect their interests. As such, the Classes identified
10 hereinabove are maintainable as classes under § 382 of the Code of Civil Procedure.

11 **FIRST CAUSE OF ACTION**

12 **MINIMUM WAGE VIOLATIONS**

13 **(Against All Defendants)**

14 24. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
15 fully set forth herein.

16 25. Labor Code §§ 1182.12, 1197, and Wage Order 5, § 4 establish the right of
17 employees to be paid minimum wages for all hours worked, in amounts set by state or local law.
18 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
19 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
20 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
21 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its
22 pay practices to the requirements of the law by failing to pay Plaintiffs and members of the
23 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were
24 subject to the control of Defendants and/or suffered or permitted to work under the Labor Code and
25 Wage Order 5.

26 26. Labor Code § 1198 makes unlawful the employment of an employee under
27 conditions that the IWC prohibits. California Labor Code § 1194(a) and 1194.2(a) provide that an
28 employer who has failed to pay its employees the legal minimum wage is liable to pay those

1 employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount
2 equal to the wages due and interest thereon.

3 27. As a consequence of Defendants' non-payment of minimum wages, Plaintiffs and
4 members of the Minimum Wage Class seek recovery of the balance of unpaid wages, including
5 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
6 218.6, 558, 1194, 1194.2, and 1199, Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and
7 3289.

8 **SECOND CAUSE OF ACTION**
9 **OVERTIME WAGE VIOLATIONS**
10 **(Against All Defendants)**

11 28. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
12 fully set forth herein.

13 29. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and
14 Wage Order 5, § 3, which provide that non-exempt employees are entitled to all overtime wages
15 and compensation for all overtime hours worked and provide a private right of action for the failure
16 to pay all overtime compensation for overtime work performed.

17 30. At all times relevant herein, Defendants were required to properly compensate non-
18 exempt employees, including Plaintiffs and members of the Overtime Class, for all overtime hours
19 worked pursuant to Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer
20 to pay an employee one and one-half (1½) times and two times the employee's regular rate of pay
21 for overtime and double time hours work. Defendants caused Plaintiffs and members of the
22 Overtime Class to work overtime hours but failed to compensate these employees for all overtime
23 hours actually worked.

24 31. As a consequence of Defendants' non-payment of overtime wages, Plaintiffs and
25 members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including
26 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
27 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§
28 3287 and 3289.

1 **THIRD CAUSE OF ACTION**

2 **MEAL PERIOD VIOLATIONS**

3 **(Against All Defendants)**

4 32. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
5 fully set forth herein.

6 33. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed
7 in their affirmative obligation to provide all of their non-exempt employees in California, including
8 Plaintiffs and members of the Meal Period Class, with all legally compliant meal periods in
9 accordance with the mandates of the Labor Code and Wage Order 5, § 11.

10 34. Despite Defendants' violations, Defendants did not pay an additional hour of pay to
11 Plaintiffs and members of the Meal Period Class at their respective regular rates of compensation, in
12 accordance with California Labor Code §§ 204, 210, 226.7, and 512.

13 35. As a consequence of Defendants' unlawful meal period practices, Plaintiffs and
14 members of the Meal Period Class seek recovery of unpaid premium wages for meal period
15 violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code
16 §§ 226.7, 512, 558, Wage Order 5, and Civil Code §§ 3287 and 3289.

17 **FOURTH CAUSE OF ACTION**

18 **REST PERIOD VIOLATIONS**

19 **(Against All Defendants)**

20 36. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
21 fully set forth herein.

22 37. Labor Code §§ 226.7, 516, 558, and Wage Order 5, § 12 and establish the right of
23 employees to be provided with a rest period of at least 10 minutes for each four-hour period
24 worked, or major fraction thereof. Plaintiffs are informed and believe, and based thereon allege, that
25 despite Defendants' failure to authorize and permit Plaintiffs and members of the Rest Period Class
26 to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals
27 an additional hour of pay at their respective regular rate for the rest periods that they failed to
28 authorize and permit them to take, as required by Labor Code § 226.7.

1 38. As a consequence of Defendants' unlawful rest period practices, Plaintiffs and
2 members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations
3 including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees,
4 and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Order 5, and Civil Code §§
5 3287 and 3289.

6 **FIFTH CAUSE OF ACTION**
7 **WAGE STATEMENT PENALTIES**
8 **(Against All Defendants)**

9 39. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
10 fully set forth herein.

11 40. Plaintiffs are informed and believe, and based thereon allege, that Defendants
12 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiffs
13 and members of the Wage Statement Class with accurate and complete, itemized wage statements
14 that included, among other requirements, all hours worked, total gross wages earned, all rates of pay
15 and corresponding number of hours worked, total net wages earned, the inclusive dates of the pay
16 period, and/or the correct name and address of the legal entity that is the employer in violation of
17 Labor Code § 226.

18 41. Defendants' failure to furnish Plaintiffs and members of the Wage Statement Class
19 with accurate and complete, itemized wage statements resulted in actual injury, as said failures led
20 to, among other things, the non-payment of minimum and overtime wages and meal and rest period
21 premium wages owed and deprived them of the information necessary to identify the discrepancies
22 in Defendants' reported payroll data.

23 42. As a consequence of Defendants' unlawful wage statement practices, Plaintiffs and
24 members of the Wage Statement Class seek damages and/or statutory penalties, reasonable
25 attorneys' fees, and costs of suit according to California Labor Code § 226.

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SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(Against All Defendants)

43. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though fully set forth herein.

44. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of their intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit, said employee's wages become due and payable not later than 72 hours upon said employee's last date of employment.

45. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed to timely pay members of the Waiting Time Class all final wages due to them at their separation from employment, including unpaid minimum and overtime wages as well as unpaid meal and rest period premium wages.

46. Furthermore, Plaintiffs are informed and believe, and based thereon allege, that as a matter of uniform policy and practice, Defendants continue to fail to pay members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-202.

47. Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendants' willful failure to timely pay members of the Waiting Time Class their earned wages upon separation from employment results in continued payment of daily wages up to thirty days from the time the wages were due.

48. As a consequence of Defendants' unlawful practices, members of the Waiting Time Class seek statutory penalties, and costs of suit according to California Labor Code § 203.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

3 **(Against All Defendants)**

4 49. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
5 fully set forth herein.

6 50. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
7 states that “an employer shall indemnify his or her employees for all necessary expenditures or
8 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his
9 or obedience to the directions of the employer.”

10 51. Defendants violated Labor Code § 2802 by failing to reimburse Plaintiffs and
11 members of the Expense Reimbursement Class all necessary business expenses they incurred in the
12 performance of their job duties.

13 52. As a consequence of Defendants’ unlawful practices, Plaintiffs and members of the
14 class seek recovery of unreimbursed business expenses, including interest thereon, reasonable
15 attorneys’ fees, and costs of suit pursuant to Labor Code § 2802.

16 **EIGHTH CAUSE OF ACTION**

17 **UNFAIR COMPETITION**

18 **(Against All Defendants)**

19 53. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
20 fully set forth herein.

21 54. Defendants have engaged and continue to engage in unfair and/or unlawful business
22 practices in California in violation of Business and Professions Code § 17200, *et seq.*, by:

- 23 a. failing to pay Plaintiffs and members of the Minimum Wage Class all minimum
24 wages due;
- 25 b. failing to pay Plaintiffs and members of the Overtime Class all overtime wages due;
- 26 c. failing to provide Plaintiffs and members of the Meal Period Class with all meal
27 periods to which they are entitled, and failing to pay them all meal period premium
28 wages due;

- 1 d. failing to authorize and permit Plaintiffs and members of the Rest Period Class all
2 rest periods to which they are entitled, and failing to pay them all rest period
3 premium wages due;
- 4 e. failing to issue accurate and itemized wage statements to Plaintiffs and members of
5 the Wage Statement Class;
- 6 f. failing to timely pay all final wages to Plaintiffs and members of the Waiting Time
7 Penalty Class; and
- 8 g. failing to reimburse all necessary business expenses to Plaintiffs and members of the
9 Expense Reimbursement Class.

10 55. Defendants' utilization of these unfair and/or unlawful business practices deprived
11 Plaintiffs and continues to deprive members of the Classes of compensation to which they are
12 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
13 over Defendants' competitors who have been and/or are currently employing workers and
14 attempting to do so in honest compliance with applicable wage and hour laws.

15 56. Because Plaintiffs are a victim of Defendants' unfair and/or unlawful conduct
16 alleged herein, Plaintiffs for himself and on behalf of the members of the Classes, seeks full
17 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
18 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and
19 17208.

20 57. The acts complained of herein occurred within the last four years immediately
21 preceding the filing of the Complaint in this action.

22 **NINTH CAUSE OF ACTION**

23 **PRIVATE ATTORNEYS GENERAL ACT**

24 **(Against All Defendants)**

25 58. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as though
26 fully set forth herein.

27 59. Plaintiffs, "aggrieved employees" within the meaning of Labor Code §§ 2698, *et*
28 *seq.*, acting on behalf of themselves and other aggrieved employees (collectively, "Aggrieved

Employees”), bring this representative action against Defendants to recover the civil penalties due to Plaintiffs and other Aggrieved Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100 for each initial violation and \$250 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250 for each initial violation and \$1,000 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- b. Failing to pay Aggrieved Employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;

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- f. Failing to timely pay all final wages and compensation earned by Aggrieved Employees at the time of separation in violation of Labor Code §§ 201-202;
- g. Failure to reimburse Aggrieved Employees for all necessary business expenses in violation of Labor Code § 2802;
- h. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- i. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.

60. On or about May 13, 2024 and August 20, 2024, Plaintiffs notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the Labor Code and Plaintiffs’ intent to bring a claim for civil penalties under Labor Code §§ 2698, *et seq.* with respect to the violations of the Labor Code identified in the preceding paragraph. Now that 33 days and 65 days have passed from Plaintiffs notifying Defendants and the LWDA of these violations, Defendants have not cured any curable violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiffs have exhausted administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

61. Plaintiffs have incurred attorneys’ fees and costs, which Plaintiffs are entitled to receive under California Labor Code § 2699(g).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays for judgment for themselves and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiffs as representatives of the Classes;
3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;

1 5. Upon the Second Cause of Action, for payment of overtime wages and penalties
2 according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

3 6. Upon the Third Cause of Action, for meal period premium wages according to proof
4 pursuant to Labor Code §§ 226.7, 512, and 558;

5 7. Upon the Fourth Cause of Action, for rest period premium wages according to proof
6 pursuant to Labor Code §§ 226.7, 516, and 558;

7 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
8 226;

9 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
10 203;

11 10. Upon the Seventh Cause of Action, for unreimbursed business expenses according to
12 proof pursuant to Labor Code § 2802;

13 11. Upon the Eighth Cause of Action, for restitution to Plaintiffs and members of the
14 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
15 practices declared by this Court to be in violation of Business and Professions Code §§ 17200, *et*
16 *seq.*;

17 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiffs, other Aggrieved
18 Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
19 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to
20 pay each employee and \$200 for each subsequent violation or willful or intentional violation
21 pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each employee, plus 25% of the
22 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
23 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
24 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee
25 per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation
26 pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code § 256, a
27 civil penalty in an amount not exceeding 30 days per former employee as waiting time under the
28 terms of Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each

1 subsequent violation per employee per pay period for those violations of the Labor Code for which
2 no civil penalty is specifically provided;

3 13. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
4 and Civil Code §§ 3287 and 3289;

5 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
6 218.5, 226, 1194, 2699(g), and Code of Civil Procedure § 1021.5; and

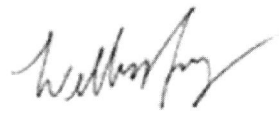
7 15. For such other and further relief, the Court may deem just and proper.

8 **DEMAND FOR JURY TRIAL**

9 Plaintiffs hereby demands a trial by jury on all claims.

10
11 DATED: March 13, 2026

JUSTICE FOR WORKERS, P.C.

12
13 By: 

14 William C. Sung
15 Tiffany L. Luu
16 Attorneys for Plaintiffs LAFLORIE BANKS,
17 SHATAAE POATES, and CARMEN PRADO
18 REYES
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PROOF OF SERVICE
LAFLORE BANKS ET AL v. BARSTOW POST ACUTE LLC
STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3600 Wilshire Boulevard, Suite 1815, Los Angeles, CA 90010

On April 15, 2026, I served the foregoing document described as:

SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail in the State of California addressed as set forth below:

☐ by placing a true copy thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.

☒ by electronically serving the document(s) listed above to:

SEE SERVICE LIST

☐ by having copies **personally delivered to the designed party(ies)**

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on the same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made

Executed on April 15, 2026 at Los Angeles, California.


Anayeli Ascencio

SERVICE LIST

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EXHIBIT 6



SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO
San Bernardino District
247 West 3rd St
San Bernardino, CA 92415
www.sb-court.org

MINUTE ORDER

Case Number: CIVSB2416717

Date: 2/11/2025

Case Title: *** COMPLEX-CLASS ACTION*** LAFLORE BANKS, an individual and on behalf of
-v-
BARSTOW POST ACUTE LLC, a California limited liability company et al

Department S22 - SBJC

Date: 2/11/2025

Time: 8:30 AM

Ruling on Submitted
Matter

Judicial Officer: David E Driscoll
Judicial Assistant: Patricia Guerrero
Court Reporter: Not Reported or Recorded

Ruling

The Court having taken the matter of Defendant's Motion to Compel Arbitration under submission on 1/16/2025 now rules as follows:

Defendant's Motion to Compel Arbitration is denied.

See Court Ruling Defendant's Motion to Compel Arbitration filed 02/11/2025 for specifics

Ruling on Submitted Matter

Court Ruling- Defendant's Motion to Compel Arbitration

Correspondence Coversheet Generated to Mail:

Copy of Court Ruling Defendant's Motion to Compel Arbitration filed 02/11/25

== Minute Order Complete ==

LAFLORIE BANKS and SHATAAE POATES

v.

BARSTOW POST ACUTE LLC

Case Number: CIVSB2416717

Court Ruling – Motion to Compel Arbitration

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 11 2025

PATRICIA GUERRERO, DEPUTY

The Motion to Compel Arbitration by Defendant Barstow Post Acute, LLC, was heard on January 16, 2025, and taken under submission. The court having considered oral arguments by counsel and having reviewed and considered all pleadings supporting and opposing the Motion, rules as follows:

This action was commenced on May 18, 2024 by Plaintiff Laflorie Banks ("Banks") asserting causes of action for: (1) minimum wage violations (Lab. Code, §§ 1182.12, 1194, 1194.2, 1197); (2) overtime wage violations (Lab. Code, § 204, 510, 1194, 1198); (3) meal period violations (Lab. Code, § 226.7, 512, 558); (4) rest period violations (Lab. Code, § 226.7, 516, 558); (6) wage statement penalties (Lab. Code, §§ 201-203); (7) failure to reimburse necessary business expenses (Lab. Code, § 2802); and unfair competition (Bus & Prof. Code, § 17200.) On July 17, 2024, the operative first amended complaint ("FAC") was filed adding Plaintiff Shataae Poates ("Poates", collectively "Plaintiffs") as a Plaintiff and a ninth (9th) cause of action for Civil Penalties under the California Private Attorneys General Act. The FAC alleges the Plaintiffs were employed by Defendant as a non-exempt employees. Plaintiff Banks was an hourly paid non-exempt employee since approximately January 2024 as a nurse and Poates was employed as an hourly-paid, non-exempt employee from January 15, to July 18, 2024, as a CNA and RNA. The FAC lists seven different classes and is greater than 50 individuals.

Defendant Barstow Post Acute, LLC ("Barstow Acute") filed the present motion to compel arbitration together with declarations of Christie E. Yang, Esq. and Cassidy Brown. Opposition was filed together with declarations by Shataae Poates and LaFlorie Banks. REPLY was filed by Defendant Barstow Acute together with a reply declaration by Cassidy Brown.

Plaintiffs' primary opposition to the motion is two-fold: (1) Moving defendant Barstow Acute has failed to establish that a legally enforceable arbitration agreement exists between Barstow Acute and the plaintiffs because the defendant lacks standing as a non-signatory to the agreement and (2) the agreement is otherwise procedurally and substantively unconscionable.

Enforceability of Arbitration Agreement:

Defendant Barstow Acute moves to compel Plaintiffs' individual claims and individual claims under PAGA to arbitration, dismiss the class claims and stay the representative claims pending the outcome of arbitration. (See *Adolph v. Uber Technologies* (2023) 14 Cal.5th 1104.)

Under the FAA, to compel arbitration, a finding must be made that an agreement exists for arbitration between the parties and that the agreement covers the dispute. (AT&T

Technologies, Inc. v. Communications Workers of America (1986) 475 U.S. 643, 648-49.) The enforcement of an arbitration clause is a matter of ordinary state-law contract principles and should be enforced according to their terms. (*AT&T Mobility LLC v. Concepcion* (2011) 131 S.Ct. 1740, 1745.) Thus, arbitration agreements can be declared unenforceable on contract defenses of fraud, duress, or unconscionability. (*Id.* at p. 1746.) Any doubt about the arbitrability of a dispute under the FAA is resolved in favor of arbitration. (*Id.* at p. 650.) Under Code of Civil Procedure section 1281.2, a party to an arbitration agreement may move to compel arbitration if the other contractual party refuses to arbitrate, and the court shall order the parties to arbitrate *if it determines that an agreement to arbitrate exists* unless (a) the right to arbitration is been waived, (b) ground exist to revoke the agreement, or (c) a party to the arbitration agreement is a party to a pending action with a third-party, arising from the same transaction or series of related transaction and a probability exists of conflicting rulings.

The court must determine *whether a written arbitration agreement exists*, if any defense to its enforcement is raised, and whether the agreement is enforceable. (*Rosenthal v. Great Western Fin. Sec. Corp.* (1996) 14 Cal.4th 394, 413; *emphasis added*.) The petitioner bears the burden of proving the existence of the arbitration agreement by the preponderance of the evidence while the respondent bears the burden of proving by a preponderance of the evidence any defense to enforcement. (*Ibid.*) The trial court's role is to resolve these factual issues. (*Id.* at p. 414.)

California law favors the enforcement of valid arbitration agreements. (*Ericksen, Arbuthnot, McCarthy, Kearney & Walsh, Inc. v. 100 Oak Street* (1983) 35 Cal.3d 312, 320 [*"Ericksen"*]; *In re Tobacco I* (2004) 124 Cal.App.4th 1095, 1103.) Any doubts about arbitration will be resolved against the party asserting a defense to arbitration, whether the issue is the construction of contract language, waiver, delay, or any like defense to arbitrability. (*Ericksen, supra*, 35 Cal.3d at p. 320; *In re Tobacco I, supra*, 124 Cal.App.4th at p. 1103.)

The plaintiffs contend that an agreement to arbitrate does not exist with Barstow Acute because (1) Barstow Acute was not identified in the written agreement as a party to the agreement when it was signed by the plaintiffs and (2) the attempted unilateral modification of the agreement had no legal effect because it was not in accordance with the contractual requirements permitting modification, i.e. it can only be modified by a writing signed by Employee and the Administrator of the Company that specifically states an intent to modify the agreement, which did not occur.

Standing.

The pertinent underlying facts and circumstances gleaned from the declarations of Plaintiffs Banks and Poates as well as Cassidy Brown are as follows.

Plaintiff Banks was hired by Barstow Acute on 1/9/24. On said date she received onboarding materials with documents for signature commensurate with the commencement of employment. The onboarding materials were emailed to the plaintiff by Paychex. A "Mutual Agreement to Arbitrate" was included in the materials, which the plaintiff electronically signed

(bottom left corner of page 6 of the agreement). At the time of placing here electronic signature on the agreement, the agreement recited that Menifee Lakes Post-Acute and all of its related entities and subsidiaries, ("the Company") and _____ (Employee) voluntarily agree to the resolution by arbitration of all claims, disputes... . The agreement does not reference or characterize a party as "the Employer". The agreement did not identify Barstow Acute as a signatory or party to the agreement and Banks' name was not inserted in the blank space identifying her as employee. On 1/15/24, 6 days after plaintiff Banks signed the agreement, Cassidy Brown, the Payroll Manager at Barstow Acute, crossed out Menifee Lakes Post-Acute from the agreement and in her own handwriting wrote the name Barstow Post Acute in its place. Cassidy also placed plaintiff's name in the blank space for Employee.

The identical set of circumstances occurred with Plaintiff Poates with the exception that she received her onboarding materials by email on 1/15/24 and electronically signed the Mutual ~ Agreement to Arbitrate on the same date. Cassidy Brown signed both the Poates and Banks agreements on 1/15/24 and made the identical modifications and changes to the agreements. The changes were made after Poates electronically signed the agreement. The plaintiffs were not present when Cassidy Brown made the unilateral changes to the agreements.

Cassidy Brown did not inform the plaintiffs of her changes to the agreements. The changes were not discussed with the plaintiffs. The changes to the agreement were not made in the presence of the plaintiffs. Although technically "in writing", the modifications were not signed by the plaintiffs, only initialed by Cassidy Brown. There is a dispute as to whether Cassidy Brown was present when the plaintiffs were reviewing their onboarding materials and signing the arbitration agreement. Plaintiffs maintain that Cassidy Brown was not present while Cassidy Brown attests in her declaration that she was present. Cassidy Brown generally states that the plaintiffs "were clearly advised" that the arbitration agreements binds them and Barstow Acute. Ms. Brown does state how this information was purportedly communicated to the plaintiffs. She does not state that she personally advised the plaintiffs. She does not identify any individual or materials that imparted such information to the plaintiffs. She states that the plaintiffs were clearly advised that the agreement was with Barstow Acute, "as further demonstrated by the Mountain View Post Acute logo at the top to the Arbitration Agreement" (¶8 of Brown's first declaration). The declaration does not explain how the presence of this logo would impart to the plaintiffs that the agreement was binding as to Barstow Acute at the time that the agreement was electronically signed by the plaintiffs.

No evidence was presented to the effect that Barstow Acute was affiliated with Menifee Lakes Post-Acute when the agreement was signed by the plaintiffs.

The defendant's REPLY papers rely on the cases of *Noori v. Countrywide Payroll & HR Solutions, Inc.* ("Noori") (2019) 43 Cal.App.5th 957, and *Hayes Children Leasing Co. v. NCR Corp.* ("Hayes") (1995) 37 Cal.App.4th 775, as standing for the proposition that the inadvertent naming of a wrong party does not necessarily render an arbitration agreement unenforceable, nor would it bind the incorrectly named party to the arbitration agreement. (See p.2, starting at line 13 of

REPLY). The court finds these cases distinguishable and inapplicable to the facts of this case as discussed below.

The *Noori* case did not involve issues relative to the existence or enforcement of an agreement between the parties. The *Noori* case involved an allegation by the plaintiff, employee, of an employer's violation of Labor Code § 226(a)(8) (itemized wage statement requirements). The court was to determine whether the plaintiff *stated a claim* against his employer for the violation of the statute. Section 226(a)(8) requires that an employee's wage statement state the "name...of the entity that is the employer". Plaintiff Noori was employed by defendant, Countrywide Payroll & HR Solutions, Inc. ("Countrywide"). His wage statements bore the acronym "CSSG". CSSG was not Countrywide's registered name. CSSG was a construct, corresponding to "Countrywide Staffing Solutions Group", which the court found may or may not have meaning to the Countrywide employees. (*Noori, supra*, p. 965). The *Noori* court observed that minor truncations of an employer's name on wage statements can satisfy the statute. However, more severe truncations or alterations of the employer's name can violate the statute, *particularly where confusion may ensue*. (*Id.* p.965, also citing *Cicairos v. Summit Logistics, Inc.*, (2005) 133 Cal.App.4th 949, 961; and *Mays v. Wal-Mart Stores, Inc.* (C.D. Cal. 2019) 354 F.Supp.3rd 1136, 1142-1144)).

Again, the *Noori* case did not involve an issue as to whether an agreement that contains an inadvertent error as to the identity of parties is enforceable by a party that was erroneously omitted from the face of the agreement. It appears that the defense position is that the *Noori* case supports an argument that, despite the clerical error, no confusion could ensue as to the identity of parties bound to the agreement and therefor Barstow Acute has standing to enforce the agreement. However, the contract, at the moment of signing by the plaintiffs, did not contain a truncation of Barstow Acute as "the Company"; it contained an entirely different entity with no mention of Barstow Acute. The logo at the top of the agreement may or may not have had meaning to the plaintiffs when the agreement was signed. No evidence was presented as to how or why the logo would resolve any confusion regarding whether Barstow Acute was "the Company" being bound by the agreement. As discussed above, Cassidy Brown's singular conclusory statement in her declaration that the plaintiffs were "clearly advised" that the agreement was binding with Barstow Acute does not establish by a preponderance of evidence that the plaintiffs were in fact so advised. This would require setting forth details of what was said by whom or where in the onboarding materials were the plaintiffs informed that the arbitration agreement was binding between them and Barstow Acute as "the Company".

The *Hayes* case, *supra*, 37 Cal.App.4th 775, also relied upon by the defendant, involved circumstances reverse to the present case. In *Hayes*, a party erroneously referenced in the arbitration agreement was attempting to escape being bound by the agreement, whereas in the present case Barstow Acute was erroneously omitted from the agreement and is attempting to become bound by the agreement. In *Hayes*, an entity known as American Rain had a history of leasing equipment from NCR and there was a written Universal Agreement

between NCR and American Rain. The Universal Agreement contained an arbitration provision. NCR subsequently agreed to sell equipment to Hayes, however, NCR presented Hayes with a form Universal Agreement mistakenly listing Automatic Rain as the purchaser. *Hayes called the error to NCR's attention.* At NCR's direction, Hayes signed the agreement notwithstanding the clerical error so that the purchase order would be initiated. *NCR then forwarded a corrected version of the agreement naming Hayes as the customer and Hayes signed it.* (*Id.* p. 788-789). The court concluded that Automatic Rain could not be compelled to arbitrate because there was no agreement between Automatic Rain and NCR to arbitrate.

In the instant case, unlike *Hayes*, Barstow Acute did not bring the clerical error to the attention of the plaintiffs at the time of signing. Barstow Acute did not bring the error to the attention of the plaintiffs after it was discovered by Barstow Acute on January 15. Barstow Acute did not forward the unilaterally corrected arbitration agreement to the plaintiffs for their signatures as was done in *Hayes*. Therefore, the *Hayes* case is not supportive of the defendant's position that Barstow Acute should be bound or otherwise have standing to enforce the agreement regardless of the clerical error.

The defendant's REPLY to plaintiffs' opposition to the motion does not address the plaintiffs' argument that the attempted modification of the agreement by Cassidy Brown has no legal effect because it was not performed in conformity with the agreement. Paragraph 12 of the agreement expressly states that the agreement "...can only be revoked or modified by a writing signed by Employee and the Administrator of the Company that specifically states an intent to revoke or modify the Arbitration Agreement." If Barstow Acute contends that the agreement is binding upon plaintiffs and Barstow Acute, then it is obligated to comply with this provision. As discussed above, the agreements with the plaintiffs were unilaterally modified by Cassidy Brown (unknown if "Payroll Manager" is also the "Administrator of the Company") without the knowledge of the plaintiffs. The written modifications were not presented to the plaintiffs, nor were they signed by the plaintiffs. Accordingly, without evidence that the plaintiffs otherwise subsequently agreed to in writing or ratified the modifications, the attempted modification to substitute Barstow Acute into the agreement as "the Company" is of no legal effect.

Both Cassidy Brown and counsel for Barstow Acute assert that the plaintiffs signed the agreement "in their capacity as employees" of Barstow Acute and therefore the plaintiffs were aware the arbitration agreement was actually with Barstow Acute when they signed it. In other words, the agreement was signed during the onboarding process where the plaintiffs were prospective employees of Barstow Acute, and therefore the plaintiffs would be aware the placement of Menifee Lakes Post-Acute on the agreement as "the Company" was in error. No evidence was presented that the plaintiffs were confused by reference to Menifee Lakes Post-Acute as the "Company" on an arbitration agreement. Menifee Lakes was not identified or designated as the "employer" in the agreement, which then could have been potentially confusing and contradictory if the plaintiffs understood that Barstow Acute was to be their

employer. Defendants cite no legal authority to support their theory under the circumstances discussed above.

The assertion that the plaintiffs were signing the arbitration agreement "in their capacity as employees" could have relevance if the defendant was attempting to enforce the agreement as a non-signatory on a theory of equitable estoppel. Defendant makes no such argument here. The issue of equitable estoppel and enforcement of an arbitration agreement generally arises when there is an arbitration *clause or provision within a contract* with the signatories. No such contract is presented in this case. The equitable estoppel doctrine contemplates the existence of an underlying employment contract wherein the causes of action and claims being asserted against the non-signatory (defendant) are intimately founded in and intertwined with the underlying contract obligations.

The case of *DMS Services, LLC v. Superior Court* ("*DMS Services*") (2012) 205 Cal.App.4th 1346, 1354 held as follows: "In allowing ZSC, a nonsignatory to the arbitration agreement, to compel arbitration in the instant case, the trial court relied on the doctrine of equitable estoppel, concluding DMS's claims against ZSC were based on, and 'inextricably intertwined' with, the deductible agreements containing the arbitration clause. Under this theory, 'a nonsignatory defendant may invoke an arbitration clause to compel a signatory plaintiff to arbitrate its claims when the causes of action against the nonsignatory are 'intimately founded in and intertwined' with the underlying contract obligations.'" (*Molecular Analytical, supra*, 186 Cal.App.4th at p. 706; accord, *Boucher, supra*, 127 Cal.App.4th at p. 268; *Goldman v. KPMG, LLP* (2009) 173 Cal.App.4th 209, 220 [92 Cal.Rptr.3d 534] (*Goldman*); cf. *JSM, supra*, 193 Cal.App.4th at pp. 1240–1241 [doctrine of equitable estoppel may also apply to permit signatory to arbitration agreement to compel nonsignatory to arbitrate].) The reason for this equitable rule is plain: One should not be permitted to rely on an agreement containing an arbitration clause for its claims, while at the same time repudiating the arbitration provision contained in the same contract. (See *Jones v. Jacobson, supra*, 195 Cal.App.4th at p. 20 [*purpose of equitable estoppel doctrine is to " 'prevent a party from using the terms or obligations of an agreement as the basis for his [or her] claims against a nonsignatory, while at the same time refusing to arbitrate with the nonsignatory under another clause of that same agreement' "*]; *Boucher*, at p. 272 [*"a party may not make use of a contract containing an arbitration clause and then attempt to avoid the duty to arbitrate by defining the forum in which the dispute will be resolved"*]; *Molecular Analytical*, at p. 706 [*"[t]he rule applies to prevent parties from trifling with their contractual obligations' "*].)" (*DMS Services, supra*, p. 1354; *emphasis added*).

Here, the defendant does not interpose an underlying contractual employment agreement wherein the wage/hour claims constitute a breach of the terms of the employment contract (as opposed to violation of statutes; the FAC does not contain a breach of contract cause of action) and there is no argument by the defendant that the plaintiffs' causes of action are so intertwined with underlying contractual claims that the plaintiffs must be equitably estopped

from prohibiting arbitration on the grounds that employer Barstow Acute is not a signatory to the arbitration agreement.

The court concludes that defendant, Barstow Acute, as the moving party, has not satisfied its burden of proving by a preponderance of evidence the existence of a legally binding arbitration agreement between it and the plaintiffs.

Unconscionability:

Given the court's finding that a binding arbitration agreement did not exist between the parties, the court does not reach the issues of procedural and substantive unconscionability.

Ruling:

~~Defendant's motion to compel arbitration is denied.~~

February 11, 2025



Hon. David E. Driscoll



**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO**

San Bernardino District
247 West 3rd St
San Bernardino CA 92415
www.sb-court.org
909-708-8678

*** Complex-class Action*** Laflorie Banks, An Individual And On Behalf Of
-v-
Barstow Post Acute Llc, A California Limited Liability Company Et Al

IMPORTANT CORRESPONDENCE

Case Number
CIVSB2416717

Justice For Workers
9575 Bolsa Avenue
Westminster CA 92683

From the above entitled court, enclosed you will find:

Copy of Court Ruling Defendant's Motion to Compel Arbitration filed 02/11/25-

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice:

- ☒ Enclosed in a sealed envelope mailed to the interested party addressed above for collection and mailing this date, following standard Court practices.
- ☐ Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above or as shown on the attached listing.
- ☐ A copy of this notice was given to the filing party at the counter.
- ☐ A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

Date of Mailing: 2/13/2025

I declare under penalty of perjury that the foregoing is true and correct. Executed on 2/13/2025 at San Bernardino.

By: Patricia Guerrero

EXHIBIT 7