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

10 **FOR THE COUNTY OF PLACER**

11 EDUARDO JUAREZ, an individual, and on
12 behalf of the State of California, as a private
13 attorney general,

14 PLAINTIFF,

15 v.

16 WRIGHT CELEBRATIONS, INC., a
17 California Corporation, and DOES 1 thru 50,
18 inclusive,

19 DEFENDANTS.

CASE NO: S-CV-0053190

[Assigned to the Hon. Michael W. Jones, Dept.
3]

**DECLARATION OF DAVID S. WINSTON
IN SUPPORT OF APPROVAL OF PAGA
SETTLEMENT**

Date: June 5, 2025

Time: 8:30 a.m.

Dept.: 3

Complaint Filed: July 11, 2024

Trial Date: None Set

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1. I am an attorney licensed to practice before all of the courts of the State of California. I am the attorney of record for Plaintiff EDUARDO JUAREZ in the above-entitled action. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and would testify competently thereto.

THE EXPERIENCE AND VIEWS OF PAGA COUNSEL

3. Prior to starting the Winston Law Group, P.C. in 2017, I regularly litigated class and representative actions as an Associate at Kingsley & Kingsley and also represented employers in class, representative, and individual actions.

5. Since founding Winston Law Group, P.C. I have also been appointed Class or PAGA Counsel in numerous class action and PAGA cases including:

b. Porras et al. vs. Chipotle Services, LLC, Stanislaus County Superior Court (Case No. CV-19-000937). This PAGA settlement was approved by the Hon. Sonny S. Sadhu on June 16, 2020 in the gross amount of \$4,900,000.

1 c. *Miller et al. vs. Mattress Firm, Inc., Santa Clara County Superior Court (Case No.*
2 *17CV313148)*. This PAGA settlement was approved by the Hon. Thomas E. Kunle on December 17,
3 2018 in the gross amount of \$3,750,000.

4 d. *Smart & Final Wage and Hour Cases, Sacramento County Superior Court (JCCP*
5 *Number 5089)*. This PAGA settlement was approved by the Hon. Richard K. Sueyoshi on July 9, 2021
6 in the gross amount of \$3,470,000.

7 e. *Zirpolo vs. UAG Stevens Creek, Inc. (Penske), Santa Clara County Superior Court*
8 *(Case No. 17CV313457)*. The matter was finally approved for settlement by the Honorable Brian C.
9 Walsh on July 10, 2018 in the gross amount of \$3,275,000.

10 f. *Espindola et al. vs. Panda Express, LLC et al., San Bernardino County Superior Court*
11 *(Case No. CIVDS1931455)*. This PAGA settlement was approved by the Hon. David Cohn on April 13,
12 2021 in the gross amount of \$3,125,000.

13 g. *Westbrook vs. Winco Holdings Inc. et al., Riverside County Superior Court (Case No.*
14 *RIC1710168)*. The matter was finally approved for settlement by the Hon. Raquel A. Marquez on
15 January 15, 2019 in the gross amount of \$3,000,000.

16 h. *Amster et al. vs. Starbucks Corporation, San Bernardino County Superior Court (Case*
17 *No. CIVDS1922016)*. This PAGA settlement was approved by the Hon. Donald Alvarez on July 14,
18 2020 in the gross amount of \$3,000,000.

19 i. *Chavez and Melendez vs. CAM-BAS, INC. et al., Santa Clara County Superior Court*
20 *(Case No. 20CV372311)*. The matter was finally approved on April 13, 2023 by the Hon. Theodore C.
21 Zayner in the gross amount of \$3,000,000.

22 j. *Antonov et al. vs. GL HHR, LLC (Ken Garff Automotive) et al., San Bernardino County*
23 *Superior Court (Case No. CIVDS1724725)*. The matter was finally approved for settlement by the Hon.
24 David Cohn on December 11, 2018 in the gross amount of \$2,850,000.

25 k. *De Cruz and Irias vs. Cardenas Markets LLC, Alameda County Superior Court (Case*
26 *No. 22CV005906)*. This PAGA settlement was approved by the Hon. Jenna Whitman on February 22,
27 2024 in the gross amount of \$2,500,000.

1 *l. Acevedo et al. vs. Deanco Healthcare, LLC, Los Angeles County Superior Court (Case*
2 *No. 21STCV34724).* The matter was finally approved for settlement by the Hon. William F. Highberger
3 on April 11, 2023 in the gross amount of \$2,350,000.

4 *m. Scoggins et al. vs. Crossmark, Inc. et al., Ventura County Superior Court (Case No. 56-*
5 *2017-00492936-CU-OE-VTA).* The matter was finally approved for settlement by the Hon. Matthew P
6 Guasco on January 23, 2020 in the gross amount of \$2,100,000.

7 *n. Smith et al. vs. Burlington Merchandising Corporation et al., San Bernardino County*
8 *Superior Court (Case No. CIVIDS1929684).* This PAGA settlement was approved by the Hon. David
9 Cohn on October 23, 2020 in the gross amount of \$2,000,000.

10 *o. Castaing et al. vs. Hendrick Automotive Group et al., Alameda County Superior Court*
11 *(Case No. RG17879115).* The matter was finally approved for settlement by the Hon. Brad Seligman on
12 June 24, 2019 in the gross amount of \$1,850,000.

13 *p. Romero Ramirez and Contreras vs. Yin Management, Inc., Sacramento County Superior*
14 *Court (Case No. 34-2021-00301530-CU-OE-GDS).* The matter was finally approved for settlement by
15 the Hon. Lauri A. Damrell on September 9, 2022 in the gross amount of \$1,800,000.

16 *q. Westphal vs. New York Life Insurance Company, Placer County Superior Court (Case*
17 *No. S-CV-0040532).* The matter was finally approved for settlement by the Hon. Michael Jones on
18 September 11, 2018 in the gross amount of \$1,701,366.

19 *r. Williams vs. Kaiser Foundation Health Plan, Inc., Alameda County Superior Court*
20 *(Case No. RG 18917898).* The matter was finally approved for settlement by the Hon. Stephen Klaus
21 on August 19, 2020 in the gross amount of \$1,250,000.

22 *s. Vega vs. Cen Cal Plastering, Inc., San Joaquin County Superior Court (Case No. STK-*
23 *CV-UOE-2021-0005440).* The PAGA Settlement was approved by the Hon. George J. Abdallah on
24 April 13, 2022 in the gross amount of \$1,200,000.

25 *t. Berbano and Centeno vs. Ingram Micro, Inc., San Bernardino County Superior Court*
26 *(Case No. CIVDS1826805).* The matter was finally approved for settlement by the Hon. David Cohn on
27 September 17, 2019 in the gross amount of \$1,180,000.
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1 u. *Chieffer and Goldenberg vs. WHGM, Inc. (Keyes Motors), Los Angeles County Superior*
2 *Court (Case No. LC106505)*. The matter was finally approved for settlement by the Hon. Rupert A.
3 Byrdsong on September 21, 2018 in the gross amount of \$1,150,000.

4 v. *Hollis vs. Union Pacific Railroad Co., Central District of California No. 5:17-Cv-*
5 *02449-JGB (SHKx)*). The matter was finally approved for settlement by the Hon. Jesus G. Bernal on
6 September 19, 2018 in the gross amount of \$1,083,965.

7 w. *Myers vs. Mor Furniture for Less, Inc., San Diego County Superior Court (Case No. 37-*
8 *2018-00055055-CU-OE-NC)*. The PAGA Settlement was approved by the Hon. Ronald Frazier on
9 November 27, 2018 in the amount of \$1,062,000.

10 x. *Grotte vs. Normal Life of California, Inc. et al., San Luis Obispo County Superior Court*
11 *(Case No. 18CV-0672)*. The matter was finally approved for settlement by the Hon. Tana L. Coates in
12 the gross amount of \$1,050,000 on June 24, 2020.

13 y. *Wilson et al. vs. DGDG 1, LLC et al. (Del Grande Automotive Group), Santa Clara*
14 *County Superior Court (Case No. 2018-1-CV-331434)*. The matter was finally approved by the Hon.
15 Thomas E. Kuhnle on January 17, 2020 in the gross amount of \$1,024,963.71.

16 z. *Chachavac vs. Kumar Management Corporation, San Mateo County Superior Court*
17 *(Case No. 22-CIV-03110)*. The matter was finally approved by the Hon. Nancy L. Fineman on April
18 16, 2024 in the gross amount of \$1,000,000.

19 aa. *Perea vs. Drybar Holdings LLC, Los Angeles County Superior Court (Case*
20 *No.BC703413)*. The matter was finally approved for settlement by the Hon. Yolanda Orosco on
21 September 9, 2019 in the amount of \$1,000,000.

22 bb. *Ali vs. Auto Nation, Inc. et al., San Diego County Superior Court (Case No. 37-2018-*
23 *00037616-CU-OE-CTL)*. The PAGA settlement was approved by the Hon. Ronald Frazier on
24 November 14, 2019 in the gross amount of \$851,000.

25 cc. *Qunicho vs. Café Rio, San Bernardino County Superior Court (Case No.*
26 *CIVDS2011822)*. The PAGA settlement was approved by the Hon. Janet Frangie on December 14,
27 2021 in the gross amount of \$835,000.

1 *dd. Zamudio vs. Changing Lives Staffing et al, San Bernardino County Superior Court*
2 *(Case No. CIVSB2120359).* The matter was finally approved for Settlement by the Hon. Joseph T. Ortiz
3 on September 13, 2023 in the gross amount of \$820,041.32.

4 *ee. Ashe vs. Farmers Insurance Exchange et al., Los Angeles County Superior Court (Case*
5 *No. 18STCV00453).* This Fair Credit Reporting Act class action was finally approved by the Hon.
6 Steven J. Kleifield on August 6, 2020 in the gross amount of \$800,000.

7 *ff. Anderson vs. ABC Phones of North Carolina, Inc., Contra Costa County Superior Court*
8 *(Case No. MSC20-00957).* The PAGA settlement was approved by the Hon. Edward G. Weil on
9 August 31, 2021 in the gross amount of \$790,000.

10 *gg. Martinez vs. Vieira Agricultural Enterprises, LLC, Merced County Superior Court*
11 *(Case No. 19CV-04603).* The matter was finally approved for settlement by the Hon. Brian McCabe on
12 February 26, 2021 in the gross amount of \$775,000.

13 *hh. Pia vs. 5G's Automotive, Inc., Tulare County Superior Court (Case No. VCU274628).*
14 The matter was finally approved for settlement by the Hon. Brett Hillman on September 6, 2019 in the
15 gross amount of \$750,000.

16 *ii. Herrera vs. Inland Staffing et al., San Bernardino County Superior Court (Case No.*
17 *CIVDS2924284).* The matter was finally approved for settlement by the Hon. David S. Cohn on March
18 10, 2021 in the gross amount of \$750,000.

19 *jj. Kennedy vs. 99 Cents Only Stores, LLC, Los Angeles County Superior Court (Case No.*
20 *19STCV09311).* The PAGA settlement was approved by the Hon. Anthony Mohr on November 19,
21 2019 in the gross amount of \$700,000.

22 *kk. Ramirez vs. Hall Management Corp., San Luis Obispo County Superior Court (Case No.*
23 *22CVP-0065).* Judgment was entered on the finally approved settlement by the Hon. Craig van Rooyen
24 on September 19, 2024 in the gross amount of \$698,734.73.

25 *ll. Sumlin vs. BNSF Railway Company, San Bernardino County Superior Court (Case No.*
26 *CIVDS1724126).* The matter was finally approved for settlement by the Hon. David Cohn on
27 September 5, 2018 in the gross amount of \$675,000.

1 *mm. Brown vs. Saks and Company, LLC, Central District of California (CV 17-04210*
2 *SJO (JEM))*. This matter was finally approved for settlement by the Hon. S. James Otero on March 22,
3 2018 in the gross amount of \$638,800.

4 *nn. De La Hoya vs. Sierra West Finish, Inc., San Bernardino County Superior Court (Case*
5 *No. CIVSB2107351)*. The matter was finally approved for settlement by the Hon. David Cohn on July
6 13, 2022 in the gross amount of \$625,000.

7 *oo. Myers vs. LBC Limited Partnership, San Bernardino County Superior Court (Case No.*
8 *CIVDS 1715068)*. The matter was finally approved for settlement by the Hon. Janet Frangie on July 25,
9 2018 in the gross amount of \$600,000.

10 *pp. Bunkley vs. DMSD Foods et al., San Diego County Superior Court (Case No. 37-2020-*
11 *00017973-CU-OE-CTL)*. This PAGA settlement was approved on July 9, 2021 by the Hon. Richard E.
12 L. Strauss in the gross amount of \$595,000.

13 *qq. Garcia vs. Grower Direct Nut Company, Inc, Stanislaus County Superior Court (Case*
14 *No. CV-21-005425)*. This matter was finally approved by the Hon. John D. Freeland on May 19, 2023
15 in the gross amount of \$553,520.

16 *rr. Garcia vs. Optima Tax, Orange County Superior Court (Case No. 30-2019-01082473-*
17 *CU-OE-CXC)*. This PAGA settlement was approved on July 31, 2020 by the Hon. William Claster in
18 the gross amount of \$550,000.

19 6. In my opinion, I am experienced and qualified to evaluate the PAGA claims and
20 viability of the defenses. I have extensive experience with employment litigation, and have focused my
21 practice primarily on cases regarding wage and hour class actions and representative PAGA actions.

22 7. Based upon my experience and after factoring in the risks explained herein, I believe
23 that the proposed settlement is fair and reasonable. Indeed, it is my opinion for the reasons set forth
24 herein and in Plaintiff's concurrently filed Motion for Approval of PAGA Settlement that the proposed
25 settlement represents a good result in this litigation based upon the risk factors associated with the
26 claims and provides substantial benefits to the state of California. As such and for the reasons set forth
27 below, I believe that Plaintiff's Proposed PAGA Settlement should be approved.

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14. Plaintiff also negotiated a separate settlement of his individual claims currently pending before the Court that exist separate and apart from PAGA claims and that is being disclosed in the interest of transparency. *Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73, 80 (2020) (the “[s]ettlement of

individual claims does not strip an aggrieved employee of standing, as the state's authorized representative, to pursue PAGA remedies" nor resolve the PAGA claims). My firm and I are not receiving any attorneys' fees or cost reimbursement associated with Plaintiff's individual settlement.

15. The Proposed Settlement was provided to the LWDA as required by PAGA. Attached hereto as **Exhibit 3** is a true and correct copy of the email confirmation received from the LWDA for the submission of the Proposed Settlement.

THE PROPOSED SETTLEMENT

16. The Parties' Proposed Settlement provides for a Gross Settlement Amount of \$150,000.00 subject to the following proposed allocation:

Gross Settlement Amount:	\$150,000.00
Attorneys' Fees: (1/3)	up to \$50,000.00
Case Costs:	\$11,942.92
Settlement Administration Costs:	\$4,750.00
Service Award for Plaintiff Juarez:	up to \$7,500.00

Estimated Net PAGA Penalties:	\$75,807.08
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17. The Net PAGA Payment is the amount to be distributed to the LWDA and the aggrieved employees and consists of the Gross Settlement Amount minus Court Approved PAGA Counsel's attorneys' fees and litigation costs, the settlement administrator costs charged by third-party settlement administrator ILYM Group, and Plaintiff Juarez's proposed service award. The Net PAGA Payment Amount will be allocated pursuant to the version of Labor Code section 2699(i) that applies to this pre-PAGA reform action with 75% paid to the LWDA (\$56,855.31) and 25% paid to the aggrieved employees on a pro-rata basis (\$18,951.77).

18. The portion of PAGA penalties distributed to each PAGA Aggrieved Employee shall be calculated by dividing the number of PAGA periods worked by an aggrieved employee during the covered period by the total number of pay periods worked by all aggrieved employees during the covered period (3,526) and multiplying that amount by the 25% of the net PAGA penalties awarded to the aggrieved employees (*i.e.* \$18,951.77).

19. Based on the data provided by Defendant, the Proposed Settlement itself represents a gross PAGA penalty award of approximately \$42.54 per pay period (\$150,000.00/3,526 pay periods) and a net PAGA penalty award of approximately \$21.50 per pay period (\$75,807.08/3,526 pay periods).

20. In addition, the average estimated gross settlement award per aggrieved employee is \$857.14 (\$150,000 gross settlement amount/175 aggrieved employees), the average estimated net settlement award when taking into account the proposed attorneys' fees, case expenses, Plaintiff's proposed service award, and PAGA's 75%/25% split between the state and aggrieved employees is approximately \$108.30 (\$18,951.77 Net PAGA Penalties for the aggrieved employees/175 aggrieved employees), the minimum estimated net settlement award is approximately \$5.37 ((1 pay period worked during the PAGA period/3,526 PAGA pay periods) x \$18,951.77 (the aggrieved employees' 25% share of PAGA penalties)), and the maximum estimated net settlement award is approximately \$220.37 ((41 pay periods¹ worked during the PAGA period/3,526 PAGA pay periods) x \$18,951.77 (the aggrieved employees' 25% share of PAGA penalties)).

21. In my opinion, the proposed method of allocation, which reflects the amount of time an aggrieved employee worked during the PAGA Period relative to the other employees, is fair and reasonable.

22. In my opinion, the proposed Settlement is a fair and reasonable settlement in light of the nature of the claims, the complexities of the case, the state of the law, the uncertainties of litigation, and the unique facts of this case.

SETTLEMENT CONSIDERATIONS

23. Plaintiff alleged that Defendant failed to pay him and the other aggrieved employees for all hours worked, rounded employees' time entries, and adopted an automatic deduction policy and practice whereby it automatically deducted thirty (30) minutes' worth of aggrieved employees' pay regardless of whether or not the employee took a meal period and/or the full amount of their meal period. In my opinion, based upon the unique facts of this case, significant risk existed that the Court

¹ This is the maximum number of semi-monthly pay periods that an aggrieved employee could have worked for Defendant during the PAGA Period. Between January 23, 2023 through December 16, 2024, there were approximately 20 months and 8 days, which equates to 41 pay periods during the PAGA period.

1 might find that the claims were not manageable at trial and Defendant could have potentially prevailed
2 on this claim.

3 24. As with the minimum wage claims, Plaintiff alleged that some of the hours that
4 Defendant failed to pay him and the other aggrieved employees for all hours worked due to
5 Defendant's rounding and auto-deduction policies qualified as overtime hours. As previously
6 explained, in my opinion, based upon the unique facts of this case, significant risk existed that the
7 Court might find that the claims were not manageable at trial and Defendant could have potentially
8 prevailed on this claim.

9 25. In addition to the off-the-clock and rounding claims, Plaintiff also alleged that
10 Defendant improperly omitted pay under the pay codes "PLA," "X," and/or "PDLCHAWD" when
11 calculating and paying overtime wages. As part of the informal discovery process, Defendant
12 produced a pay code summary detailing nearly 100 different pay codes used by Defendant during the
13 PAGA period. According to the informal discovery provided by Defendants, these pay codes actually
14 corresponded to a paid lunch award and another of several pay codes used for meal period premiums.
15 In my opinion, given the number of pay codes used by Defendant during the PAGA pay period, the
16 use of multiple different pay codes for similar compensation, duplicative codes such as the use of 3
17 different codes for premiums under Labor Code section 226.7, and the lack of normal wording,
18 Plaintiff's confusion over the pay codes was understandable. In light of these issues, in my opinion, it
19 was likely that Defendant would prevail on the regular rate related overtime claims since the specific
20 pay codes used by Defendant identified by Plaintiff did not involve incentive pay, non-discretionary
21 bonuses, or other forms of compensation that would have needed to be included when calculating and
22 paying overtime.

23 26. Nevertheless, Plaintiff's damage expert's analysis of the pay records produced by
24 Defendant revealed that occasionally the amount of overtime that Defendant actually paid to the
25 aggrieved employees did not match the actual hourly rates stated on the wage statements. Plaintiff's
26 damage expert performed an extrapolation using the sample pay records and determined that this
27 likely occurred on approximately 95 pay periods. As such, while in my opinion, Plaintiff was likely to
28 prevail on the regular rate related overtime PAGA claims, the maximum value of the claim without

1 taking into account the discretionary nature of PAGA penalties was only \$9,500.00 (95 pay periods
2 where Defendant underpaid aggrieved employees' overtimes wages x \$100.00 potential PAGA
3 penalty).

4 27. Plaintiff alleged that Defendant failed to provide timely first meal periods and failed to
5 authorize employees who worked shifts in excess of ten (10) hours to take second meal periods.

6 28. Plaintiff's data expert determined that Defendant's time records indicated that
7 employees did not receive a first meal period on 3.9% of shifts, received a late meal period on 6.7% of
8 shifts, and did not receive a second meal period on 87.7% of shifts where the aggrieved employees
9 worked more than ten (10) hours.

10 29. Although not every aggrieved employee worked a shift in excess of ten (10) hours in
11 every pay period, Plaintiff's data expert determined that the aggrieved employees experienced a meal
12 period violation during approximately 82.4% of pay periods during the PAGA period.

13 30. However, in my opinion, some risk still existed that the Court might decline to award a
14 significant amount of PAGA penalties for several reasons. First, some evidence existed that Defendant
15 attempted to comply with California's meal period laws and to report whether or not they received a
16 lawful meal period at the end of every shift. Defendant engaged a large, well-known payroll company
17 to assist with its time keeping and payroll practices. Defendant's ADP time clock system required
18 employees when entering their last time punch of the day to agree or disagree with the statement: "I
19 agree that I have reported all hours worked and have taken an uninterrupted meal period. Note: If you
20 need to report additional hours worked or a missed meal, contact your supervisor to make necessary
21 changes." At least some risk existed that the Court might find Defendant's reliance upon ADP to
22 comply with California's timekeeping and meal period laws as a reasonable and good faith effort to
23 comply. Moreover, unlike many other employers, Defendant at least made a daily inquiry to each
24 employee regarding whether or not they received a meal period. Nevertheless, in my opinion, the
25 Court could also conceivably decline to ascribe much value to Defendant's policies and practices
26 because, as in *Donohue v. AMN Servs., LLC*, 11 Cal. 5th 58, 74 (2021), Defendant's timecard
27 attestation did not ask if employees had a late first meal period, received a second meal period,
28 received a short meal period, or if the time entries associated with their meal periods were rounded.

1 Instead, the timecard attestation only asked the aggrieved employees if their meal period was missed
2 or interrupted.

3 31. Defendant also had meal waivers in place during portions of the PAGA period which
4 would have allowed employees to skip their first meal period if working less than six hours and skip
5 their second meal period when working less than twelve hours. As a result, due to the unique facts of
6 this case, the actual violation rate may have been lower when accounting for such waivers.

7 32. My understanding is that Defendant likely would have argued that the Court should
8 exercise significant discretion when assessing PAGA penalties because it frequently paid meal period
9 premiums to the aggrieved employees when they did not receive a timely first meal period or missed
10 their first meal period. While an employer must pay a meal period premium when its employees do
11 not receive a proper meal period, that does not absolve the employer of liability under the pre-PAGA
12 reform statutory scheme. *Kim v. Reins International California, Inc.*, 9 Cal.5th 73, 84 (2020)
13 (“employers can pay an additional hour of wages as a remedy for failing to provide meal and rest
14 breaks. (§ 226.7, subd. (c).) But we have held that payment of this statutory remedy ‘does not excuse a
15 section 226.7 violation.’” and the employer remains liable under PAGA for failing to provide lawful
16 meal periods) (*quoting Kirby v. Immoos Fire Protection, Inc.*, 53 Cal.4th 1244, 1256 (2012)). As such,
17 I was confident that Plaintiff would prevail on this claim, but also believed it was likely that the Court
18 would exercise at least some discretion when assessing PAGA penalties.

19 33. Plaintiff alleged that Defendant failed to provide him and the other aggrieved
20 employees with any rest periods until 2024 and also maintained an unlawful policy articulated
21 verbally that employees were not allowed to leave the premises during rest periods in violation of
22 IWC Wage Orders Nos. 4-2001 and 7-2001 and Labor Code § 226.7.

23 34. As part of the informal discovery process, Defendant produced a Rest Breaks/M meal
24 Periods policy dated March 2023—which predates the PAGA period—that states with respect to rest
25 periods: **Rest Breaks/M meal Periods:**

26 Employees are authorized and permitted one (1) uninterrupted, off- duty ten (10) minute break for
27 each four (4) hours of work, or major fraction thereof. Employees working less than three and one-
28 half (3 ½) hours are not entitled to a rest period. Authorized rest period time shall be counted as
hours worked for which there shall be no deduction from wages. Breaks are informal and may be
taken at the Employee’s convenience, as long as their work and business needs will not be
disrupted. To the extent possible, Employees should try and take their breaks near the middle of
each work period.

1 35. Plaintiff alleged that Defendant failed to maintain accurate records of the total hours
2 worked by employees, including but not limited to off-the-clock work and rounded time entries.
3 Although I was confident that Plaintiff would prevail on this claim, considerable risk existed that the
4 Court might not award a significant amount of PAGA penalties because of the derivative nature of
5 these PAGA penalties.

6 36. Defendant also advised that it believed it would prevail on the PAGA claim based upon
7 the alleged failure to provide accurate time records because its time records were created by the
8 employees entering their own time entries and its payroll records were consistent with the hours
9 entered by the employees.

10 37. Plaintiff alleged that Defendant failed to include non-discretionary bonuses and
11 incentive payments when calculating and paying sick pay wages. *See Wood v. Kaiser Found. Hosps.*,
12 88 Cal. App. 5th 742, 759 (2023), as modified (Mar. 23, 2023). As with the overtime related regular
13 rate claims, while Plaintiff initially believed he would prevail on this claim, based upon the unique
14 facts of this case, the informal discovery showed that Defendant would likely prevail on this claim.

15 38. Plaintiff alleged a derivative claim based upon Defendant's alleged failure to pay
16 minimum wages, overtime wages, failure to pay meal period premiums, failure to pay rest period
17 premiums, and the underpayment of sick pay. As discussed above, I was confident that Plaintiff would
18 prevail on at least some of the underlying claims as well as the derivative wage statement claims.
19 Nevertheless, real risk existed that the Court could decline to stack—meaning award multiple PAGA
20 penalties for the same underlying conduct—and/or exercise significant discretion when awarding
21 these derivative PAGA penalties.

22 39. Plaintiff also brought derivative PAGA claims for the late payment of wages during
23 employment under Labor Code §§ 204 and 210. Since these claims were derivative in nature, Plaintiff
24 first had to prevail on his other underlying PAGA claims. While I was confident that Plaintiff would
25 prevail on this claim if he could establish any of the other PAGA claims, significant risk existed that
26 the Court could decline to stack—meaning award multiple PAGA penalties for the same underlying
27 conduct—and/or exercise significant discretion when awarding these derivative PAGA penalties.

28 40. Plaintiff also brought non-derivative and derivative PAGA claims alleging that

1 Defendant failed to timely pay the aggrieved employees upon separation within the time constraints of
2 Labor Code § 201-203. After factoring in the risks associated with the claims and the discretionary
3 nature of the PAGA penalties and questionable viability of stacking and the unique circumstances of
4 this case, Plaintiff believes that this claim possessed negligible value.

5 41. Plaintiff alleged that Defendant required Plaintiff and the other aggrieved employees to
6 use their cell phone for work purposes. The informal discovery produced by Defendant demonstrated
7 that Defendant offered cell phone reimbursement in the amount of \$5.00 per month as part of its
8 onboarding process. In order to prevail on this claim, Plaintiff would need to establish that \$5.00 per
9 month did not provide sufficient reimbursement for the aggrieved employees' use of their cell phone.

10 42. The primary messaging tool used by Defendant is Telegram. Telegram messages are a
11 form of encrypted communication that exist in the user's account. Accordingly, in order to prevail on
12 this claim, Plaintiff likely would have needed to subpoena the aggrieved employees or rely upon a
13 voluntary survey that given the number of aggrieved employees may or may not have received a
14 sufficient number of responses to be reliable.

15 43. Given the considerable risk associated with this claim, the sparse number of
16 communications Plaintiff himself received, Defendant's affirmative effort to provide reimbursement
17 without requiring any proof of communications meaning that some aggrieved employees received
18 reimbursement payments without having incurred expenses, and the absence of employee complaints,
19 it is likely that either Defendant would have prevailed on the claim on manageability grounds or the
20 Court might decline to award a significant amount of PAGA penalties.

21 44. There are also always risks attendant to wage and hour cases given the evolving nature
22 of such claims. Given the ever-evolving landscape of wage and hour law, there are always risks that a
23 new case will come out that will clarify and/or potentially limit employees' claims. For example,
24 although generally it was well-established that employees could recover both wage statement and
25 waiting time penalties based upon an employer's failure to provide lawful meal/rest periods, a recent
26 appellate case held that such penalties are not recoverable before it was later overturned. *Naranjo v.*
27 *Spectrum Security Services, Inc.*, 40 Cal. App. 5th 444 (2019); *aff'd in part, rev'd in part and*
28 *remanded* 13 Cal. 5th 93, (2022). Similarly, in another recent decision, the California Court of Appeal

1 held that employers could pay employees meal/rest period premiums at the employee’s hourly base
2 rate instead of at their regular rate before that decision was also overturned by the California Supreme
3 Court. *Ferra v. Loews Hollywood Hotel, LLC*, 40 Cal. App. 5th 1239 (2019) rev'd, 11 Cal. 5th 858
4 (2021). While Plaintiff was confident that he would prevail on his claims based upon present law, the
5 plaintiffs in *Ferra* and *Naranjo* likely believed they would have as well, and actually did on their
6 derivative claims prior to the California Court of Appeal’s recent ruling and before each matter was
7 eventually reversed by the California Supreme Court. As the California Court of Appeal explained in
8 the now overturned *Naranjo* decision, “[a]lthough wage and hour lawsuits are ubiquitous in state
9 courts, most settle before trial. Consequently, our appellate courts have not had much opportunity to
10 publish decisions addressing the derivative wage claim issue[s].” *Naranjo*, 40 Cal. App. 5th at 468.
11 While Plaintiff acknowledges that the California Supreme Court reversed in both cases, each
12 nevertheless are emblematic of the inherent risk associated with litigating wage and hour cases and the
13 fact that a new appellate decision can dramatically alter the strength of the employees’ claims at any
14 time. Indeed, *Naranjo* was appealed again to the California Supreme Court where the Court ruled in
15 the employer’s favor. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1064 (2024). And,
16 PAGA itself was amended during the pendency of this Action.

17 45. In addition, as with any PAGA case, significant risk exists with respect to the amount
18 of PAGA penalties that a Court may award given their discretionary nature. Under PAGA, Courts can
19 exercise their discretion to reduce the amount of penalties awarded. Indeed, one court in San Diego
20 awarded \$5.00 per pay period.

21 46. Given the risks outlined above, the issues in this case were complex and the risks for
22 Plaintiff and the aggrieved employees were substantial. Due to the complexity and unsettled nature of
23 the issues in this case—including a dearth of case law regarding the valuation of the PAGA penalties
24 at issue—it is also likely that any outcome at trial would have resulted in a lengthy and costly appeal.

25 47. It was very difficult for the Parties to reach this Settlement. Defendant denied that
26 Plaintiff’s claims had any merit, and that Plaintiff could prevail on the PAGA claims or that California
27 law had been violated.

28 48. I did not believe that in light of the risk associated with each claim and the numerous

1 legal issues explained in detail above that the maximum possible settlement amount was a remotely
2 plausible outcome given Defendant's defenses and the discretionary nature of the PAGA penalties.

3 49. Moreover, assuming Plaintiff established liability for these pay periods and Plaintiff
4 achieved a result equal to *Carrington* of \$5.00 per pay period, the aggrieved employees would have
5 recovered a mere \$17,630.00 (3,526 pay periods x \$5.00 per pay period) in PAGA penalties. The
6 proposed settlement of \$150,000.00 therefore represents approximately 850.82% (\$150,000.00
7 /\$17,630.00) of the recovery obtained in *Carrington* and the net PAGA penalties alone represent
8 approximately 429.99% (\$75,807.08/\$17,630.00) of the recovery obtained in *Carrington*. As
9 illustrated by the comparison to *Carrington*, the results obtained by Plaintiff are favorable comparable
10 to those obtained in some PAGA cases where the aggrieved employees prevailed at trial. Given that
11 Plaintiff achieved a better result than a case where liability was established, the proposed settlement
12 unquestionably falls within the range of reasonableness.

13 50. After weighing the risks associated with each of the claims in light of the factual
14 challenges as well as Defendant's potential defenses and the discretionary nature of PAGA penalties, I
15 determined the amount offered in settlement was fair and reasonable considering the risks and the
16 likelihood of success on the merits.

17 51. When taking into account the stacking of PAGA penalties and assuming a 100%
18 violation rate on every single claim, and without taking into account any of Defendant's significant
19 defenses or the discretionary nature of PAGA penalties, Plaintiff and PAGA Counsel determined the
20 maximum exposure on the PAGA claims to be \$2,565,400.00 calculated as follows:

21 **Labor Code § 2699 Penalties For Alleged Minimum Wage Violations**

- 22 • PAGA penalties assessed at the \$100 per pay period initial violation rate = 3,526 pay
periods x \$100=\$352,600.00

23 **Labor Code § 2699 Penalties For Alleged Overtime Violations**

- 24 • PAGA penalties assessed at the \$100 per pay period initial violation rate = 3,526 pay
periods x \$100=\$352,600.00

25 **Labor Code § 2699 Penalties For Alleged Meal Period Violations**

- 26 • PAGA penalties assessed at the \$100 per pay period initial violation rate = 3,526 pay
periods x \$100=\$352,600.00

27 ///

28 ///

1 **Labor Code § 2699 Penalties For Alleged Rest Period Violations**

- 2 • PAGA penalties assessed at the \$100 per pay period initial violation rate = 3,526 pay
3 periods x \$100=\$352,600.00

4 **Labor Code § 2699 Penalties For Alleged Reimbursement Violations**

- 5 • PAGA penalties assessed at the \$100 per pay period initial violation rate = 3,526 pay
6 periods x \$100=\$352,600.00

7 **Labor Code § 210 Penalties Recoverable Pursuant to PAGA for Defendant's Violations of
8 Labor Code Section 204**

- 9 • Labor Code § 210 PAGA penalties are assessed at the rate of \$100 per pay period =
10 3,526 pay periods x \$100=\$352,600.00

11 **Labor Code § 2699 Penalties Recoverable Pursuant to PAGA for Defendant's Violations
12 of Labor Code Sections 201-203**

- 13 • Labor Code §§ 201-203 PAGA penalties are assessed at the rate of \$100 per pay
14 period = 97 pay periods associated with a termination or resignation x
15 \$100=\$9,700.00

16 **Labor Code § 1174.5 Penalties Recoverable Pursuant to PAGA for Defendant's Violations
17 of Labor Code section 1174**

- 18 • Labor Code § 1174.5 PAGA penalties are assessed at the rate of \$500 per employee =
19 175 aggrieved employees x \$500=\$87,500.00

20 **Labor Code § 226 PAGA Penalties Related to the Issuance of Itemized Wage
21 Statements²**

- 22 • PAGA penalties assessed at the \$100 per pay period initial violation rate = 3,526 pay
23 periods x \$100=\$352,600.00

24 52. Although theoretically this is the maximum potential recovery in this action if Plaintiff
25 achieved complete and total victory based purely upon PAGA's mathematical formulas, I did not
26 believe that this constituted a remotely plausible approximation of the actual expected recovery given
27 Defendant's significant defenses to several of the claims, the significantly lower actual violation rates,
28 the Court's ability to decline to award stacked PAGA penalties and/or exercise its discretion to reduce
29 the amount of PAGA penalties awarded, and the nature of many of the violations.

30 **ATTORNEYS FEES' AND COSTS**

31 53. I am familiar with the contingent fee market throughout California, particularly as it
32 pertains to complex employment, wage and hour, class action, and PAGA litigation. During this

33 ² There is currently a split of authority regarding which PAGA penalties apply to violations of Labor Code § 226(a).
34 *Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 355 (2021) (holding that such violations give rise to a 2699.3
35 penalty) *cf.*; *Raines v. Coastal Pacific Food Distributors, Inc.*, 23 Cal.App.5th 667, 675 (2018) (holding that such violations
36 give rise to a Labor Code § 226.3 penalty). Plaintiff performed the calculations in accordance with the decision in *Gunther*
37 as Plaintiff believes it is better reasoned.

1 litigation, my firm litigated this case without receiving any payment for our services or reimbursement
2 of the costs incurred for the benefit of the Class, the state of California, and the aggrieved employees.

3 54. On behalf of my firm, I have negotiated numerous contingency fee agreements with
4 plaintiffs, both as individuals and as representatives in class action and PAGA suits. I am also familiar
5 with the amounts charged by other firms and many Plaintiff's contingency fee agreements for
6 employment cases provide that counsel will receive a fee that is between 33.33% and 45% of any
7 recovery that is obtained or more, and, in addition, that counsel be reimbursed for the costs they
8 incurred out of the recovery amount.

9 55. Winston Law Group, P.C. has never been paid any money for attorneys' fees in this
10 case and has advanced costs.

11 56. There are always risks attendant to billing cases on a contingency basis. It is not a
12 foregone conclusion that every case taken on a contingency fee basis will result in a recovery or that
13 the attorneys' fees recovered will actually compensate my firm for the amount of time expended in an
14 action. Moreover, even when successful, a class action/PAGA contingency law firm may only receive
15 a small percentage of the amount of attorneys' fees incurred during the prosecution of a case. Where
16 Plaintiff's counsel does succeed, therefore, it is appropriate to compensate the firm for the risks the
17 firm regularly undertakes. There is also always the possibility that the Plaintiff will not prevail and
18 PAGA Counsel will not receive any compensation for its services and/or that the Defendant will
19 declare bankruptcy or lack the assets necessary to satisfy any judgment obtained against it.

20 57. When awarding attorneys' fees, courts have discretion to choose among two different
21 methods for calculating a reasonable attorney's fees award: 1) the common fund approach; or 2) the
22 lodestar approach *See Laffitte v. Robert Half Int'l Inc.*, 1 Cal.5th 480, 504 (2016) ("The choice of a fee
23 calculation method is generally one within the discretion of the trial court, the goal under either the
24 percentage or lodestar approach being the award of a reasonable fee to compensate counsel for their
25 efforts.") In *Laffitte*, the California Supreme Court held that "[t]he recognized advantages of the
26 percentage method – including relative ease of calculation, alignment of incentives between counsel
27 and the class, a better approximation of market conditions in a contingency case, and the
28 encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging

1 litigation – convince us the percentage method is a valuable tool that should not be denied by our trial
2 courts.” *Id.* (emphasis added). Similarly, the Ninth Circuit has found that counsel should not “receive
3 a lesser fee for settling a case quickly.” *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043 (9th Cir. 2002).
4 Such an award is especially appropriate, whereas here, PAGA Counsel efficiently prosecuted the
5 action and reached a settlement without unnecessarily exhausting Defendant’s resources.

6 58. I am familiar with the amounts awarded by other courts where there is a common fund
7 recovery, including in similar matters. For instance, the California Court of Appeal in *Amaro v.*
8 *Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) recently recognized “‘fee awards in
9 class actions average around one-third of the recovery’” regardless of “‘whether the percentage
10 method or the lodestar method is used.’” *Id.* (quoting *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66,
11 fn. 11 (2008)). This is consistent with findings made by other courts. *McCrary v. Elations Co., LLC*,
12 No. EDCV 13-0242 JGB (SPx), 2016 U.S. Dist. LEXIS 24050, at *2 (C.D. Cal. Feb. 25, 2016)
13 (“California Courts have consistently recognized “that most fee awards based on either a lodestar or
14 percentage calculation are 33%.”); *McClellan v. Chase Home Fin. LLC*, No. SACV 12-1331-JGB
15 (JEMx) 2015 U.S. Dist. LEXIS 118005, at *20 (C.D.Cal. Aug. 31, 2015) (explaining that while the
16 attorneys’ fee award that approximated 32% of all sums paid under the Settlement Agreement was
17 reasonable after citing numerous other cases finding that an award of 33% of the common fund was
18 common in class actions).

19 59. In my opinion, the common fund method represents a fair means of calculating
20 attorneys’ fees in this Action because it recognizes not just the time spent on the case, but also the
21 additional contributions and skill of Counsel in identifying issues.

22 60. My firm’s diligent and efficient litigation of this action resulted in the creation of an
23 ascertainable common fund of \$150,000.00 that will benefit the state of California and the aggrieved
24 employees despite the significant risks associated with the claims. In my opinion, a request for an
25 award of 1/3 of the monetary value of the Settlement Fund should be approved.

26 61. In *Laffitte v. Robert Half Int’l Inc.*, 1 Cal.5th 480, 506 (2016), the California Supreme
27 Court held that a trial court need not even conduct a lodestar cross-check. *Id.* at 506 (“We hold further
28 that trial courts...retain the discretion **to forgo a lodestar cross-check.**”) (emphasis added). Therefore,

1 in my opinion consistent with *Laffitte*, a cross-check is not necessary nor would a lodestar award
2 reflect the market conditions for the negotiation of contingency fee agreements as such arrangements
3 are by-and-large done on a percentage basis.

4 62. I understand that recently, the California Court of Appeal recognized in a published
5 appellate decision that attorneys' fees can be awarded under California law in a wage and hour class
6 action to an attorney who did not perform any work on behalf of the class and that even a quantum
7 meruit award "is not measured strictly by hours times hourly rate." *Hance vs. Super Store Industries*,
8 44 Cal. App. 5th 676, 694 (2020). In my opinion this suggests that even under the lodestar approach a
9 court must also ascribe and/or consider the non-quantitative value provided by counsel when awarding
10 fees. Notably, in *Hance* one of the attorneys received a portion of the fees despite only having referred
11 the case. The Court noted that the trial court found that a 15% referral or \$645,000 was appropriate for
12 an attorney (William Margolin) who did nothing but refer the case. The *Hance* court also found that
13 another attorney (Steven Waisbren) who did not disclose his lack of malpractice insurance in violation
14 of the ethical rules was entitled to a quantum meruit award that reflected his non-monetary
15 contributions in referring the case to yet another attorney (Steve Miller) and for his work on the
16 matter. In reaching its decision, the Court of Appeal rejected Miller's argument that a quantum meruit
17 recovery is measured strictly by the hours times hourly rate. *Hance*, 44 Cal. App. 5th at 693
18 ("Miller...seems to conclude that, if a quantum meruit recovery is appropriate, Waisbren's recovery of
19 fees must be limited to the hours reflected in his time records, multiplied by a reasonable hourly rate.
20 We do not believe the trial court is bound by such a strict rule."). The Court of Appeal further noted
21 that "[i]f the class benefitted from Waisbren's referral of the case to Miller, that referral would appear
22 to constitute part of Waisbren's contribution to services rendered in support of, the class action, the
23 value of which should be considered in determining the amount of attorneys' fees to award to
24 Waisbren." This was despite the fact that another attorney had already received \$645,000 in attorneys'
25 fees or 15% for referring the case to Waisbren who then referred it to Miller.

26 63. In my opinion, in light of *Hance vs. Super Store Industries*, 44 Cal. App. 5th 676, 694
27 (2020), the choice that California Court's face when awarding attorneys' fees is whether to make a
28 pure common fund award under the percentage method or a lodestar plus approach that takes into

1 account the non-quantitative contributions of counsel to an action. Simply put, it cannot be that an
2 attorney who violates the ethical rules is entitled to a greater award on a quantum meruit basis than an
3 attorney who follows the rules. Nor would such a result comport with *Hance*, which recognized that
4 Waisbren’s lower quantum meruit award that was not limited to hours worked on the case despite the
5 fact that it was intended to be a punishment for failing to comply with the ethical rules. *Hance*, 44 Cal.
6 App. 5th at 690 (“Although the law firm may be entitled to some compensation for its work, its ethical
7 breach will ordinarily require it to relinquish some or all of the profits for which it negotiated.”).

8 64. While I believe that the Court should make an award of attorneys’ fees under the
9 common fund doctrine, I nevertheless wish to provide information concerning my hourly rate and time
10 expended on the case to permit the Court to run a lodestar cross-check if it desires.

11 65. My hourly rate reflects both my experience with Class and PAGA litigation including
12 participating in the litigation of numerous PAGA matters at the appellate levels. It also reflects the fact
13 that I am a partner at Winston Law Group, P.C. and not an associate and oversaw this litigation. I have
14 been lead or co-lead counsel in numerous multi-million dollar cases.

15 66. My hourly rate was used by the Hon. Brad Seligman of the Alameda County Superior
16 Court when performing a lodestar cross-check on February 28, 2023. Attached hereto as **Exhibit 4** is a
17 true and correct copy of the Minute Order Granting Approval of the Class Action Settlement in
18 *Santillanes vs. 1st Class Laundry*, Alameda County Superior Court Case No. RG21107711.

19 67. My hourly rate has been specifically approved of in other cases including in April 2024
20 in *Chachavac vs. Kumar Management*, San Mateo County Superior Court Case No. 22-CIV-03110
21 where the Court performed a lodestar cross check and found that my hourly rate was reasonable. See
22 pages 3-4 of **Exhibit 5** (“Winston spent about 70 hours for a total lodestar of about \$61,000. (Winston
23 Decl., ¶ 30.) Based upon the court’s knowledge and experience in San Mateo County, the court finds
24 the hourly rate reasonable for San Mateo County. Plaintiffs contend that the court should take into
25 account the reasonable rate for Los Angeles, but this court disagrees. In any event, that argument is
26 irrelevant because the court has found the hourly rates reasonable for comparable work performed in
27 San Mateo County.”). Attached hereto as **Exhibit 5** is a true and correct copy of the April 2, 2024
28

Minute Order re: Motion for Final Approval of Class Action Settlement from *Chachavac vs. Kumar Management*, San Mateo County Superior Court Case No. 22-CIV-03110.

68. In my opinion, Counsel who choose to pursue class actions or PAGA actions assist employees in accessing justice where justice would not otherwise be attainable given the relatively small amounts at issue on a per person basis. In order to encourage first rate attorneys to represent plaintiffs on a contingent basis in this type of important litigation, attorneys' fees awarded should reflect this goal. This issue is even more pronounced where Courts use lodestar rates and don't account for the other added benefits provided by Class or PAGA Counsel and risks undertaken or acknowledge that the rates used in lodestars are often well below that of the market rates.

69. Although I played a significant role in prosecuting this case, drafting documents, and negotiating the settlement, my contributions also are not merely quantifiable on an hourly basis as I used my expertise to identify claims and issues that catalyzed this significant recovery. *See e.g. Hance vs. Super Store Industries*, 44 Cal. App. 5th 676, 694 (2020) (recognizing that attorneys' fees can be awarded under California law in a wage and hour class action to an attorney who did not perform any work on behalf of the class and that even a quantum meruit award "is not measured strictly by hours times hourly rate.").

70. During the prosecution of this action, my firm has also spent time extensively investigating, researching, and litigating this matter, including but not limited to performing the following tasks:

- a. drafting the PAGA Notice;
- b. drafting the Complaint and related documents;
- c. drafting formal discovery including Requests for Production of Documents, Special Interrogatories, Requests for Admission, and form interrogatories,
- d. drafting a proposed *Belaire-West* notice and meet and confer letter about the proposed *Belaire-West* notice;
- e. conducting informal discovery;
- f. drafting a Mediation Brief;
- g. attending the Mediation and negotiating the terms of settlement with Defendants;

- h. drafting CMC Statements;
- i. drafting a stipulation to continue the CMC;
- j. drafting the Settlement Agreement and Settlement related documents (letter to the employees and proposed judgment);
- k. communicating with Opposing Counsel;
- l. drafting the Motion for Approval and supporting documents;

71. Although a percentage common fund is both common and universally accepted in wage and hour representative action litigation, I also performed a lodestar analysis for my firm in support of the attorneys' fees request in case the Court wishes to review it:

<u>ATTORNEY</u>	<u>HOURS as of</u> <u>March 24, 2025</u>	<u>HOURLY</u> <u>RATE</u>	<u>TOTALS</u>
David S. Winston	66.9	\$875.00	\$58,537.50
TOTAL ATTORNEYS' FEES for Winston Law Group, P.C.	66.9		\$58,537.50

72. Under the lodestar approach, a base amount is calculated by "multiplying the reasonable hours expended by a reasonable hourly rate." *In re Washington Pub. Power Supply Sys. Secs. Litig.*, 19 F.3d 1291, fn. 2 (9th Cir.1994); *Wershba*, 91 Cal.App.4th at 254; *Serrano III*, 20 Cal.3d at 48. The reasonable hourly rate is that prevailing in the community for similar work. *Margolin v. Regional Planning Com.*, 134 Cal.App.3d 999, 1004–1005 (1982). Typically, the lodestar is merely the starting point of the calculation of a reasonable fee, and courts often multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work, and the novelty and difficulty of the issues involved. *See, e.g., Ketchum v. Moses*, 24 Cal.4th at p. 1132; *see also Serrano III*, 20 Cal.3d at 49; *Radar v. Thrasher*, 57 Cal.2d 244, 253 (1962); *Beasley v. Wells Fargo Bank.*, 235 Cal.App.3d 1407, 1419 (1991); *Coalition for L.A. County Planning v. Bd. of*

Supervisors, 76 Cal.App.3d 241, 251 (1977). Multipliers can range from two to four, or even higher. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 255 (2001).

73. The Ninth Circuit has held that district courts “*must* apply a risk multiplier to the lodestar ‘when (1) attorneys take a case with the expectation they will receive a risk enhancement if they prevail, (2) their hourly rate does not reflect that risk, and (3) there is evidence that the case was risky. Failure to apply a risk multiplier in cases that meet these criteria is an abuse of discretion.’” *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (*quoting Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016).

74. To date my firm has incurred or expects to incur the following expenses in association with this action for which it is seeking reimbursement:

<u>COST</u>	<u>AMOUNT</u>
PAGA Filing Fee	\$75.00
Postage Associated with Service of PAGA Notice by Certified Mail	\$6.99
First Legal Charge for Filing Complaint and related documents (including \$435 Complaint fee and \$1,000 Complex fee charged by the Court)	\$1,532.30
One Legal Charge for Filing Notice and Acknowledgment of Receipt	\$17.40
Postage Associated with Sending Copies of Case Documents to Client by Regular Mail	\$9.52
One Legal Charge for Filing the November 2024 Case Management Conference Statement	\$17.45
Mediation Fees to Judicate West	\$4,850.00
Expert Fees for Data Analysis for Mediation	\$4,202.50
Postage Associated with Sending Copy of Fully Executed MOU to Client by Regular Mail	\$1.46

1	Court Call Charge for March 2025 Case Management	
2	Conference (Continued Per Court's Order, but Not	\$28.88
3	Refunded by the Court)	
4	One Legal Charge for Filing Joint Stipulation and	
5	[Proposed] Order to Continue the Case Management	\$41.20
6	Conference (including \$20 stipulation fee charged by the	
7	Court)	
8	One Legal Charge for Filing the March 2025 Case	\$19.51
9	Management Conference Statement	
10	ASTA-USA Certified Translation of PAGA Settlement	\$729.84
11	Agreement	
12	Anticipated – First Legal Charge for Filing Motion for	
13	Approval of PAGA Settlement and related documents in	\$105.90
14	Placer County — based upon estimate provided by First	
15	Legal (includes \$60 Motion Fee charged by the Court)	
16	Anticipated – First Legal Charge for Delivering Courtesy	
17	Copies to the Court for the Motion for Approval of PAGA	\$112.50
18	Settlement and related documents – based upon estimate	
19	provided by First Legal	
20	Anticipated – Court Call for Appearing at the Hearing on	
21	Motion for Approval of PAGA Settlement based upon the	\$28.88
22	charge from Court Call for Remote Appearances	
23	Anticipated – One Legal Charge for Filing the Settlement	
24	Administrator's Declaration in Advance of the Code of Civ.	\$19.51
25	Proc. § 384 Compliance Hearing based upon the charge	
26	from One Legal for filing CMC Statements	
27	Anticipated – Court Call Charge for Appearing at the	\$28.88
28		

Compliance Hearing based upon the charge from Court Call for Remote Appearances	
Copies as of March 13, 2025	288 copies x \$0.40 per page = \$115.20
TOTAL ESTIMATED COSTS	\$11,942.92

75. Although the aggrieved employees do not possess property rights in a PAGA action and this action is not subject to the class action approval or notice process, the aggrieved employees will receive an explanatory letter, in English and Spanish. *Arias v. Superior Court*, 46 Cal.4th 969 (2009) (explaining that in a PAGA action “nonparty employees...[are] not given notice of the action or afforded an opportunity to be heard.”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1122 (9th Cir. 2014) (“PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action.”); *see also O’Connor v. Uber Technologies, Inc.*, No. 13-CV-03826-EMC, 2016 WL 4398271, at *18 (N.D. Cal. Aug. 18, 2016), (“PAGA does not require class action procedures, such as notice and opt-out rights.”) *citing Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal. 4th 348, 381 (2014) (emphasis added). Attached hereto as **Exhibit 6** is a true and correct copy of the explanatory letter that the Parties have agreed to send to the aggrieved employees.

76. Plaintiff already provided Defendant with a draft of the Proposed Order and Final Judgment. Defendant, through its Counsel, approved the form of the Proposed Order and Judgment.

77. Code of Civ. Proc. § 384 requires that any funds associated with uncashed voided checks issued as part of this settlement be paid to “nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent.” In accordance with Code of Civ. Proc. § 384, the Parties propose to designate Child Advocates of Placer and Yuba Counties aka CASA of Placer and Yuba Counties as the proposed *cy pres* beneficiary. Neither I nor my firm have

1 any interest and/or involvement with the governance of Child Advocates of Placer and Yuba Counties
2 aka CASA of Placer and Yuba Counties.

3
4 I declare under penalty of perjury under the laws of the State of California that the foregoing is
5 true and correct.

6 Executed this 9th day of April 2025, in Los Angeles, California.

7
8 
9 DAVID S. WINSTON

Exhibit 1

WINSTON LAW GROUP, P.C.

1880 CENTURY PARK EAST SUITE 511 • LOS ANGELES, CA 90067 • (424) 288-4568

Attorneys

David Winston

*Indicates Of Counsel

Lior Barkodar*

May 6, 2024

Via Online Filing with the LWDA & by Certified Mail to Defendants

Wright Celebrations, Inc.
8845 WASHINGTON BLVD, SUITE 140
ROSEVILLE, CA 95678

Re: Eduardo Juarez vs. Wright Celebrations, Inc. and/or other dbas of the above identified entities and/or other names by which these entities and/or businesses are known as Wright Celebrations, Inc. - California Labor Code §2699 Penalties

Gentlepersons:

This firm represents Eduardo Juarez (“Plaintiff” or “Mr. Juarez”) and a proposed group of current and former employees working for Defendant Wright Celebrations, Inc., a part of a single integrated enterprise or alter ego of Wright Celebrations, Inc. and/or other dbas of the above identified entities and/or other names by which these entities and/or businesses are known as Wright Celebrations, Inc. (“Defendant”) in California for violations of California Labor Code §§ 200, 201, 202, 203, 204, 206.5, 210, 226, 226.3, 226.7, 246-248, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and IWC Wage Order Nos. 4-2001 and 7-2001 and/or other applicable wage order.

- (1) all non-exempt employees who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) in California at any point from May 6, 2023 and continuing into the present. (“Wright Non-Exempt Aggrieved Employees”);
- (2) all non-exempt, hourly employees who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) in California at any point from May 6, 2023 and continuing into the present. (“Hourly Non-Exempt Aggrieved Employees”);
- (3) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) in California as a non-exempt, hourly employee or other similar position and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in

a week during a pay period from May 6, 2023 and continuing into the present. (“General Overtime Aggrieved Employees”);

- (4) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) in California as a non-exempt, hourly employee or other similar position and who worked a shift of more than twelve (12) hours in a day and/or forty (40) hours in a week during a pay period from May 6, 2023 and continuing into the present. (“Doubletime Overtime Aggrieved Employees”);
- (5) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) for one or more pay periods in California as a non-exempt, hourly employee and who worked a shift of more than eight (8) hours in a day and/or forty (40) hours in a week during a period where they also received non-discretionary bonuses, incentive payment/pay, shift differentials, hazard pay, piece rate compensation, flat sum production bonuses, non-discretionary production bonuses, attendance bonuses, prevailing wages, any other form of non-discretionary bonus and/or incentive payment and/or a payment under the pay codes “PLA” or “X” from May 6, 2023 and continuing into the present. (“Regular Rate Overtime Aggrieved Employees”);
- (6) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) for one or more pay periods in California as a non-exempt, hourly employee and who worked a shift of more than twelve (12) hours in a week during a period where they also received non-discretionary bonuses, incentive payment/pay, shift differentials, hazard pay, piece rate compensation, flat sum production bonuses, non-discretionary production bonuses, attendance bonuses, prevailing wages, any other form of non-discretionary bonus and/or incentive payment and/or a payment under the pay codes “PLA” or “X” from May 6, 2023 and continuing into the present. (“Regular Rate Doubletime Aggrieved Employees”);

Collectively, aggrieved employee groups three (3), four (4), five (5), and six (6) may be referred to as the “Overtime Aggrieved Employees.”

- (7) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) in California who worked one or more shifts of more than six (6) hours as a non-exempt, hourly employee or other similar position from May 6, 2023 and continuing into the present. (“General Meal Period Aggrieved Employees”);

- (8) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) in California who were paid a meal and/or rest period premium within the same week that they also received non-discretionary bonuses, incentive payment/pay, shift differentials, hazard pay, piece rate compensation, flat sum production bonuses, non-discretionary production bonuses, attendance bonuses, prevailing wages, any other form of non-discretionary bonus and/or incentive payment and/or a payment under the pay codes “PLA” or “X” from May 6, 2023 and continuing into the present. (“Meal/Rest Period Premium Aggrieved Employees”);

Collectively, aggrieved employee groups seven (7), eight (8), nine (9), and ten (10) may be referred to as the “Meal Period Aggrieved Employees.”

- (9) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) in California as a non-exempt hourly employee, or other similar position, who worked one or more shifts of more than four (4) hours in length or major fraction thereof from May 6, 2023 and continuing into the present. (“General Rest Period Aggrieved Employee”);

Collectively, aggrieved employee groups eight (8) and nine (9) may be referred to as the “Rest Period Aggrieved Employees.”

- (10) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) for one or more pay periods in California as a non-exempt, hourly employee and whose employment concluded at any time between May 6, 2023 and continuing into the present. (“General Late Payment Aggrieved Employees”);
- (11) all individuals who were employed by Wright Celebrations, Inc. or its predecessor, merged or related entities (including any integrated enterprises, alter egos, or joint employers) for one or more pay periods in California, who received sick pay, and whose employment concluded at any time between May 6, 2023 and continuing into the present; (“Sick Pay Late Payment Aggrieved Employee”);

Collectively, aggrieved employee groups nine (9) and ten (10) may be referred to as the “Late Payment Aggrieved Employees.”

These groups may all collectively be referred to herein as aggrieved employees and/or all

aggrieved employees where appropriate. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.* We herein set forth some of the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and all aggrieved employees.¹ For all sections of the Labor Code referenced, Plaintiff alleges to cover and is hereby providing notice that this notice covers all theories under which claims under PAGA may be pursued, including but not limited to, as set forth in California's primary rights doctrine with respect to all such claims.

Among other claims, Plaintiff alleges that Defendant failed to provide timely first meal periods on occasion, failed to provide second meal periods when Plaintiff and the other aggrieved employees worked more than ten (10) and/or twelve (12) hours in a day, improperly rounded the time entries associated with meal periods and/or engaged in a policy of automatically deducting 30 minutes for meal periods (particularly first meal periods) regardless of whether or not the employee received a meal period, failed to compensate employees for the time associated with reviewing schedules and/or information about job sites while off-the-clock, and failed to include all necessary forms of remuneration—including, but not limited to, compensation under the pay codes PLA and/or X when calculating and paying overtime wages, meal/rest period premiums, and/or sick pay.

For instance, on September 22, 2023, Plaintiff worked at least 7.33 hours without receiving a first meal period and did not receive a second meal period even though he worked more than 12 hours.

Fri	09/22/2023	06:10 AM - 01:30 PM	7.33		000000
Fri	09/22/2023	02:00 PM - 07:04 PM	5.07		000000
Fri	09/22/2023	07:04 PM - 08:04 PM	1.00	13.40 PDLCHAWD	000000

Similarly, on September 26, 2023, December 11, 2023, and December 12, 2023, Plaintiff worked shifts in excess of ten (10) and/or twelve (12) hours in length, but was not authorized and permitted nor did he receive a second meal period.

Tue	09/26/2023	07:11 AM - 11:30 AM	4.32		000000	TENTI
Tue	09/26/2023	12:00 PM - 06:09 PM	6.15	10.47	000000	TENTI

Mon	12/11/2023	04:43 AM - 08:45 AM	4.03		
Mon	12/11/2023	09:15 AM - 06:18 PM	9.05	13.08	
Tue	12/12/2023	04:41 AM - 10:30 AM	5.82		
Tue	12/12/2023	11:00 AM - 07:00 PM	8.00		
Tue	12/12/2023	07:00 PM - 08:00 PM	1.00	14.82 PDLCHAWD	

As the California Supreme Court held in *Donohue v. Amn Servs.*, 11 Cal.5th 58, 81 (2021)

¹ See *Cardenas v. McLane FoodServices, Inc.* (C.D. Cal. Jul. 8, 2011) 796 F. Supp. 2d 1246, 1261; *Moua v. Int'l Bus. Machines Corp.* (N.D. Cal. Jan. 31, 2012) No. 5:10-CV-01070 EJD, 2012 WL 370570, at *5; *York v. Starbucks Corp.*, (C.D. Cal. Nov. 1, 2012) No. CV 08-07919 GAF PJWX, 2012 WL 10890355, at *4.

employers cannot engage in the practice of rounding time punches in the meal period context. Here, as in *Donohue*, Defendant engaged in a common policy and practice of rounding Plaintiff and the other aggrieved employees time entries associated with meal periods. This includes, but is not limited to due to failing to record the actual time that Plaintiff and the other aggrieved employees clocked-out for meal periods. For instance, Plaintiff and the other aggrieved employees' time records only show that they took a meal period at some point during a several hour period of always exactly 30 minutes in length regardless of the actual amount of time associated with meal periods due to Defendant's unlawful rounding policy as evidenced below:

Sat	09/16/2023	07:13 AM - 11:45 AM	4.53	
Sat	09/16/2023	12:15 PM - 06:34 PM	6.32	10.85
Sun	09/17/2023	05:40 AM - 10:00 AM	4.33	
Sun	09/17/2023	10:30 AM - 12:20 PM	1.83	
Sun	09/17/2023	12:20 PM - 02:45 PM	2.42	Drive Time
Sun	09/17/2023	02:45 PM - 02:53 PM	0.13	8.71
Mon	09/18/2023	08:40 AM - 01:00 PM	4.33	
Mon	09/18/2023	01:30 PM - 06:25 PM	4.92	9.25
Tue	09/19/2023	08:12 AM - 12:30 PM	4.30	
Tue	09/19/2023	01:00 PM - 03:01 PM	2.02	6.32
Thu	09/21/2023	07:44 AM - 12:00 PM	4.27	
Thu	09/21/2023	12:30 PM - 04:08 PM	3.63	7.90
Fri	09/22/2023	06:10 AM - 01:30 PM	7.33	
Fri	09/22/2023	02:00 PM - 07:04 PM	5.07	
Fri	09/22/2023	07:04 PM - 08:04 PM	1.00	13.40 PDLCHAWD
Sat	09/23/2023	05:27 AM - 09:30 AM	4.05	
Sat	09/23/2023	10:00 AM - 11:25 AM	1.42	5.47
Sun	09/24/2023	06:10 AM - 10:30 AM	4.33	
Sun	09/24/2023	11:00 AM - 03:25 PM	4.42	8.75
Mon	09/25/2023	07:12 AM - 11:30 AM	4.30	
Mon	09/25/2023	12:00 PM - 04:54 PM	4.90	9.20

Sat	05/27/2023	10:42 AM - 03:30 PM	4.80	
Sat	05/27/2023	04:00 PM - 05:04 PM	1.07	5.87
Sun	05/28/2023	08:12 AM - 12:21 PM	4.15	4.15
Tue	05/30/2023	05:59 AM - 10:30 AM	4.52	
Tue	05/30/2023	11:00 AM - 02:26 PM	3.43	7.95
Wed	05/31/2023	09:43 AM - 01:30 PM	3.78	
Wed	05/31/2023	02:00 PM - 06:20 PM	4.33	8.11
Thu	06/01/2023	04:11 AM - 08:30 AM	4.32	
Thu	06/01/2023	09:00 AM - 06:04 PM	9.07	13.39
Fri	06/02/2023	07:13 AM - 11:30 AM	4.28	
Fri	06/02/2023	12:00 PM - 04:37 PM	4.62	8.90
Sat	06/03/2023	05:55 AM - 10:32 AM	4.62	
Sat	06/03/2023	11:03 AM - 02:44 PM	3.68	8.30
Sun	06/04/2023	07:14 AM - 11:45 AM	4.52	
Sun	06/04/2023	12:15 PM - 02:17 PM	2.03	6.55
Tue	06/06/2023	06:45 AM - 11:00 AM	4.25	
Tue	06/06/2023	11:30 AM - 03:36 PM	4.10	8.35
Wed	06/07/2023	09:42 AM - 02:15 PM	4.55	
Wed	06/07/2023	02:45 PM - 05:54 PM	3.15	7.70
Thu	06/08/2023	04:44 AM - 09:00 AM	4.27	
Thu	06/08/2023	09:30 AM - 06:45 PM	9.25	13.52

Simply put, it is not believable that Plaintiff's meal periods were always and/or almost always exactly 30 minutes in length and Plaintiff's time records substantiate that he and the other aggrieved employees' meal periods were improperly rounded. Further, once again as evidenced above on June 1 and 8, 2023, Plaintiff worked shifts in excess of twelve (12) hours and did not receive either a second meal period and/or a meal period premium in violation of Labor Code §§ 226.7 and 512. Plaintiff alleges that Defendants engaged in the same pattern and practice with respect to all and/or many of the aggrieved employees.

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE §§ 1194, 1197, 1197.1, 1198 AND IWC WAGE ORDER NOS. 4-2001 and 7-2001 OR OTHER APPLICABLE WAGE ORDERS

Labor Code § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission or by any applicable state or local law, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles "any employee

receiving less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order Nos. 4-2001 and 7-2001 or other applicable wage orders obligate employers to pay each employee minimum wages for all hours worked.

These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta*, 135 Cal.App.4th at 324.

In addition, Labor Code § 1198 provides that “the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Here, Defendant regularly and consistently failed to pay Plaintiff and the aggrieved employees for all hours worked, including but not limited to, due to its policy and practice of not paying the aggrieved employees for the time spent reviewing schedules and other communications sent using electronic communication devices while off-the-clock—this issue was particularly notable because schedules were often sent daily due to Plaintiff and the aggrieved employees’ irregular start times—for required and/or expected pre-shift activities, impermissibly rounding employees’ time entries (including start times, time entries associated with meal periods, and stop times), failing to pay minimum wages in accordance with the local municipal wage ordinances in effect for their job assignments, automatically deducting the time associated with meal periods regardless of whether or not the aggrieved employee received a meal period, failing to compensate the aggrieved employees for security checks, for the time associated with uniform maintenance, for the time associated with filling up gas and/or replacing gas consumed in the discharge of the employee’s job duties, picking up supplies, due to Defendant’s communications with employees (whether by phone call, email, text message, or other method) while off-the-clock, failing to record all hours worked, for uncompensated time spent donning and doffing uniforms, and for the time spent working during interrupted meal and/or rest periods. *Barrett Business Services, Inc.*, 29 Cal. App. 5th 778, 808 (2018) (affirming the award of PAGA penalties for violations of Labor Code § 512 where employees meal periods were interrupted and remanding to the trial court the amount of PAGA penalties that should be awarded based upon the minimum wage violations associated with the same interrupted meal periods under Labor Code section 1194.). As such, Defendant failed to pay Plaintiff and all aggrieved employees for all hours worked in violation of Labor Code §§ 1194, 1197, 1197.1, 1198 and IWC Wage Order Nos. 4-2001 and 7-2001.

Defendant is also legally responsible for ensuring the accuracy of its time records and cannot rely upon time records that it knew were false and/or statements by employees as the California Supreme Court explained. *Donohue v. Amn Servs.*, 11 Cal.5th 58, 81 (2021) (“It is the

employer's duty to maintain accurate time records” and that the employer could not rely upon certifications from employees where the information provided to the employees was inaccurate and/or incomplete); *accord Feaver v. Kaiser Found. Health Plan, Inc.*, No. 15-cv-00890-EMC, 2016 U.S. Dist. LEXIS 9778, at *8 (N.D. Cal. Jan. 27, 2016) (conditionally certifying a class under the Fair Labor Standards Act where the employees could show that they received and/or sent emails off-the-clock despite the fact that the employer had a policy requiring all time to be recorded.); *Troester v. Starbucks Corp.*, 5 Cal.5th 829 (2018). As such, Defendant was obligated to maintain accurate time records of all hours worked and their failure to do so resulted in the underpayment of Plaintiff and the aggrieved employees.

Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. As set forth above, Defendant failed to compensate Plaintiff and all aggrieved employees for all minimum wages. Accordingly, through PAGA and to the extent permitted by law Plaintiff and all aggrieved employees are entitled to recover civil penalties for violations of Labor Code § 1197.1.

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE §§ 510, 558, 1197, 1197.1, AND 1198 AS WELL AS WAGE ORDER NOS. 4-2001, 7-2001, AND OTHER APPLICABLE WAGE ORDERS

Labor Code § 510 requires an employer to compensate an employee who works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee. Further, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a day or more than eight (8) hours on the seventh consecutive day of work. In accordance with Labor Code § 1194, Plaintiff and the other aggrieved employees could not agree to work for a lesser wage.

In addition, Labor Code § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission or by any applicable state or local law, and any payment of less than the minimum wage is unlawful.

Similarly, Labor Code § 1198 provides that “the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those

fixed by the order or under conditions of labor prohibited by the order is unlawful.”

As discussed in detail above, Defendant engaged in a common policy and practice of not paying the aggrieved employees for the time spent reviewing schedules and other communications sent using electronic communication devices while off-the-clock—this issue was particularly notable because schedules were often sent daily due to Plaintiff and the aggrieved employees’ irregular start times—for required and/or expected pre-shift activities, impermissibly rounding employees’ time entries (including start times, time entries associated with meal periods, and stop times), failing to pay minimum wages in accordance with the local municipal wage ordinances in effect for their job assignments, automatically deducting the time associated with meal periods regardless of whether or not an employee received a meal period, failing to compensate the aggrieved employees for security checks, for the time associated with uniform maintenance, for the time associated with filling up gas and/or replacing gas consumed in the discharge of the employee’s job duties, picking up supplies, due to Defendant’s communications with employees (whether by phone call, email, text message, or other method) while off-the-clock, failing to record all hours worked, for uncompensated time spent donning and doffing uniforms, and for the time spent working during interrupted meal and/or rest periods. As a result, Defendant often misclassified overtime hours as regular hours resulting in the underpayment of overtime wages and also failed to provide at least some of the aggrieved employees with any compensation for overtime hours whatsoever. For the same reasons as explained in detail above, Defendant also improperly failed to provide compensation for and/or misclassified doubletime hours as overtime hours or regular hours when the aggrieved employees worked more than twelve (12) hours in a day and/or more than eight (8) hours on the seventh day of work. Defendant also had a common policy and practice of only paying overtime hours when an employee works more than forty (40) hours in a week rather than eight (8) hours in a day. “Employees must be compensated for each hour worked at either the legal minimum or the contractual hourly rate, and compliance cannot be determined by averaging hourly compensation.” *Bluford vs. Safeway Stores, Inc.*, 216 Cal. App. 4th 864, 872 (2013); *Armenta v. Osmose, Inc.*, 135 Cal.App.4th 314, 324 (2005) (“While the averaging method utilized by the federal courts to assess whether a minimum wage violation has occurred may be appropriate when considered in light of federal public policy, it does not advance the policies underlying California’s minimum wage law and regulations.”). Defendant also engaged in a pattern and practice of sometimes only paying the aggrieved employees for overtime hours worked that were authorized in advance, but failed to pay for overtime hours unless the hours worked were authorized in advance. The above-described conduct violated Labor Code §§ 510, 558, 1197, 1197.1, and 1198.

Separate and independent of the foregoing, when calculating an employee’s regular rate, California and federal courts, with limited exceptions, look to the federal Fair Labor Standards Act (“FLSA”). *Huntington Mem’l Hosp. v. Sup. Ct.*, 131 Cal. App. 4th 893, 902 (2005). Under the FLSA, the regular rate of pay includes all forms of remuneration. See 29 U.S.C. § 207(e);

Huntington Mem'l, 131 Cal. App. 4th at 90 (holding that shift differential must be included in the regular rate when calculating and paying overtime).

“Under [29 C.F.R.] § 778.224(a), a payment may not be excluded from the regular rate of pay pursuant to § 207(e)(2) if it is generally understood as compensation for work, even though the payment is not tied to specific hours worked by an employee.” *Id.* (emphasis added). The Ninth Circuit summarized in *Flores v. City of San Gabriel*, 824 F.3d 890, 895 (9th Cir. 2016) that “the question of whether a particular payment falls within the ‘other similar payments’ clause does not turn on whether the payment is tied to an hourly wage, but instead turns on whether the payment is a form of compensation for performing work.” *Id.* Nor as the Ninth Circuit explained need compensation paid be measured by the number of hours worked. *Id.* (explaining “that the key point is whether payment is ‘compensation for work’” and that “even if payments to employees are not measured by the number of hours spent at work, that fact does not qualify for them for exclusion under section 207(e)(2).” *Id.* (citing *Local 246 Utility Workers Union of America v. Southern California Edison, Co.*, 83 F.3d 295).

Here, Defendant paid Plaintiff and at least some of the aggrieved employees non-discretionary bonuses, incentive payment/pay, shift differentials, hazard pay, piece rate compensation, flat sum production bonuses, non-discretionary production bonuses, attendance bonuses, prevailing wages, any other form of non-discretionary bonuses and/or incentive payment and/or a payment under the pay codes “PLA” and/or “X” but failed to include such compensation when calculating and paying overtime wages.

Instead of including all required compensation when calculating and paying overtime wages (including double time wages when the aggrieved employees worked shifts in excess of 12 hours), Defendant instead improperly paid overtime wages only at one and one-half times Plaintiff and the aggrieved employees’ regular hourly base rate instead of at one and one-half time their regular rate of pay. In other words, Defendant improperly failed to include non-discretionary bonus, incentive payment/pay, shift differential, hazard pay, piece rate compensation, flat sum production bonuses, non-discretionary production bonuses, attendance bonuses, prevailing wages, any other form of non-discretionary bonus and/or incentive payment and/or a payment under the pay codes ““PLA” and/or “X” when calculating and paying overtime wages.

Based upon the foregoing, Defendant violated Labor Code § 510 with respect to Plaintiff and all aggrieved employees. The aggrieved employees who experienced a violation of Labor Code § 510 may pursue PAGA penalties under Labor Code § 558. Labor Code § 558 imposes a penalty upon employers “who violates, or causes to be violated...any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover

underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee.” For purposes of Labor Code § 558, Plaintiff and the aggrieved employees seek only the penalties assessed as civil penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019) and not any underpaid wages.

Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. As set forth above, Defendant failed to compensate Plaintiff and all aggrieved employees for all overtime wages at the proper rates. Accordingly, through PAGA and to the extent permitted by law, Plaintiff and all aggrieved employees are entitled to recover civil penalties for violations of Labor Code § 1197.1.

DEFENDANT VIOLATED AND CONTINUE TO VIOLATE LABOR CODE §§ 226.7, 512, 558, AND 1198 AS WELL AS IWC WAGE ORDER NOS. 4-2001, 7-2001, AND OTHER APPLICABLE WAGE ORDERS

Labor Code § 512 requires employers to provide employees with a thirty (30) minute uninterrupted and duty-free meal period within the first five (5) hours of work. Moreover, an employee who works more than ten (10) hours per day is entitled to receive a second thirty (30) minute uninterrupted and duty-free meal period. Pursuant to Labor Code § 512, an employer may not employ an employee for a work period of more than ten (10) hours, without providing the employee with a second meal period of not less than thirty (30) minutes. Moreover, the second meal period may not be waived if the total hours worked is more than twelve (12) hours.

Similarly, IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage orders prohibit an employer from “employ[ing] any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes.” IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage orders further obligates employers to provide an employee to “pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.” Labor Code section 1198 prohibits an employer from requiring an employee to work beyond the “standard conditions of labor fixed by the commission...or under conditions of labor prohibited by the order.”

Under Labor Code § 512, if an employer maintains a uniform policy that does not authorize and permit the amount of meal time called for under the law (as specified in the applicable Wage

Order), “it has violated the wage order and is liable.” The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—***it has violated the wage order and is liable.***

Brinker Rest. Corp. v. Sup. Ct., 53 Cal.4th 1004, 1033 (2012) [emphasis added].

Following *Brinker*, the Courts of Appeal have confirmed that liability for meal period violations arise when an employer adopts a uniform policy that fails to provide off-duty breaks. For example, in *Faulkinbury vs. Boyd & Associates, Inc.*, the California Court of Appeal explained: “the employer’s liability arises by adopting a uniform policy that violates the wage and hour laws. Whether or not the employee was able to take the required break goes to damages...” *Ibid.* (citations omitted); *see also Benton v. Telecom Network Specialists, Inc.*, 220 Cal. App. 4th 701, 728 (2013).

In *Alberts v. Aurora Behavioral Health Care*, 241 Cal. App. 4th 388, 410 (2015), the California Court of Appeal emphatically held that a meal period policy must specifically advise employees of the proper timing of meal periods. In *Alberts*, the meal break policy stated employees are entitled to “an unpaid thirty-minute break for a meal period, approximately half way between the beginning and ending of the employee’s shift.” *Id.* The court, in accordance with *Brinker*, found the defendant’s meal break policy violated California law because it did not specify “that a meal break be provided during the first five hours of an employee’s shift.” *Id.* (citing *Brinker, supra*, 53 Cal.4th at 1048–1049.² The California Supreme Court recently held in *Donohue v. Amn Servs.*, 11 Cal.5th 58 that “time records showing noncompliant meal periods raise a rebuttable presumption of meal period violations.” In order to defeat this presumption, an employer must show not only that it advised employees “of his or her legal right to take a meal period and has knowingly and voluntarily decided not to take the meal period.” *Id.* at *33 This presumption applies not only to missed meal periods, but also “to records showing short and delayed meal periods as well.” *Id.* at *34.

² Assuming *arguendo* Defendants had a compliant meal period—which it did not—even a formal written policy cannot save an employer where an employer or its supervisory employees interfered with meal periods or created a culture which makes taking a 30-minute break during the day infeasible. (*Chand v. Burlington Coat Factory of California, LLC*, No. CV F 13-2008 LJO JLT, 2014 WL 726837, at *5 (E.D. Cal. Feb. 24, 2014) (“The wage orders and governing statute do not countenance an employer’s exerting coercion against the taking of, creating incentives to forego, or otherwise encouraging the skipping of legally protected breaks.”) (citing *Brinker*, 53 Cal.4th at 1040); *accord Boyd v. Bank of Am. Corp.* C.D. Cal. May 6, 2015) No. SA CV 13–0056–DOC, 2015 WL 3650207, at *31; *Ricaldai v. U.S. Investigations Servs. LLC* (C.D. Cal. 2012) 878 F. Supp. 2d 1038, 1045; *Campbell v. Vitran Express Inc.* (C.D. Cal. Nov. 12, 2015) No. CV 11-5029 RGK (SHX), 2015 WL 7176110, at *8.)

Moreover, an employee who is not advised of their right to receive proper meal periods cannot waive their meal period. *Brinker* 53 Cal. 4th at 1033 (“No issue of waiver ever arises for a rest break that was required by law but never authorized; if a break is not authorized, an employee has no opportunity to decline to take it.”); *Bradley*, 211 Cal.App.4th at 1151 (“an employer is obligated to provide the rest and meal breaks, and if an employer does not do so, the fact that an employee did not take the break cannot reasonably be considered a waiver.”). Similarly, recently in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018), the California Court of Appeal affirmed a judgment in favor of employees who had signed first meal period waivers and did not take meal periods by the 5th hour when they were scheduled to work less than six (6) hours, but ultimately worked 6.01 hours or more. On these occasions, the employees did not know that they were entitled to take a timely meal period at the fifth hour and in fact were told that they were not. Accordingly, on such occasions the aggrieved employees were denied an opportunity to take a timely first meal period. *Carrington*, 30 Cal. App. 5th at 528.

Here, Defendant failed to authorize and permit Plaintiff and the other aggrieved employees to receive lawful meal periods, failed to advise them of their right to such meal periods, failed to authorize and permit them to take timely and uninterrupted first meal periods, and failed to authorize and permit employees to take 30-minute meal periods on occasion. Defendant’s meal period policies and practices also disincentivized and discouraged Plaintiff and the other aggrieved employees from taking timely first meal periods within the first five (5) hours of their shift.

Defendant also failed to authorize and permit Plaintiff and the other aggrieved employees to receive lawful second meal periods when they worked more shifts in excess of ten (10) hours per day and/or twelve (12) hours in a day. This includes, but is not limited to, failing to advise Plaintiff and the other aggrieved employees of their right to take a second thirty (30) meal period on such shifts and/or that they could not waive their second meal period if they worked a shift in excess of (12) hours.

For instance, on September 22, 2023, Plaintiff worked at least 7.33 hours without receiving a first meal period and did not receive a second meal period even though he worked more than 12 hours.

Fri	09/22/2023	06:10 AM - 01:30 PM	7.33		000000
Fri	09/22/2023	02:00 PM - 07:04 PM	5.07		000000
Fri	09/22/2023	07:04 PM - 08:04 PM	1.00	13.40 PDLCHAWD	000000

Similarly, on September 26, 2023, December 11, 2023, and December 12, 2023, Plaintiff worked shifts in excess of ten (10) and/or twelve (12) hours in length, but was not authorized and permitted nor did he receive a second meal period.

Tue	09/26/2023	07:11 AM - 11:30 AM	4.32		000000	TENTI
Tue	09/26/2023	12:00 PM - 06:09 PM	6.15	10.47	000000	TENTI

Mon	12/11/2023	04:43 AM - 08:45 AM	4.03	
Mon	12/11/2023	09:15 AM - 06:18 PM	9.05	13.08
Tue	12/12/2023	04:41 AM - 10:30 AM	5.82	
Tue	12/12/2023	11:00 AM - 07:00 PM	8.00	
Tue	12/12/2023	07:00 PM - 08:00 PM	1.00	14.82 PDLCHAWD

Defendant's meal period policies and practices disincentivized and discouraged Plaintiff and the other aggrieved employees from taking lawful meal periods due to issues related to understaffing, customer demands, and job assignments. As a result of Defendant's understaffing practices and policies, it was often not possible for Plaintiff and the other aggrieved employees to take meal periods and/or timely meal periods within the first five (5) hours of their shift. This includes, but is not limited to, graveyard shifts. Notably, although Defendant's meal period policies and practices are not compliant, it also pressured and coerced employees to forgo meal periods and made it difficult for employees to take lawful duty-free meal periods. Defendant's understaffing policies and practices also pressured, coerced, and forced employees to take untimely first meal periods and/or forced to forgo first and/or second meal periods (including, but not limited to on shifts worked in excess of 12 hours).

Defendant further violated Labor Code § 512 by failing to authorize timely meal periods within the first (5) hours of an employees' shift. Defendant(s) maintained a policy and practice of requiring Plaintiff and the aggrieved employees to waive first meal periods when working shifts of less than six (6) hours. In doing so, Defendant pressured and disincentivized employees from taking meal periods within the first five (5) hours of their shift. As employees did not know in advance whether or not they would work more than six (6) hours and were not permitted to take meal periods and/or discouraged from taking meal periods on shifts of less than six hours, Plaintiff and the Meal Period Aggrieved Employees were not offered the opportunity to take a meal period within the first five (5) hours of their shift. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018). Neither Plaintiff nor the aggrieved employees were given the opportunity to take a timely first meal period because they were not scheduled to be eligible to receive a meal period and did not know they were eligible for a timely period until after working more than six (6) hours at which point it was not possible for them to take a meal period within the first five (5) hours. Simply put, it's not possible for an employee to decide whether or not to take a timely first meal period when Defendant schedules them for a shift of six (6) hours or less such that they wouldn't have even known they were eligible for a meal period at the 5th hour.

Moreover, Defendant also actively interfered with Plaintiff and the other aggrieved employees' right to receive lawful meal periods including, but not limited to, their policy and practice of prohibiting the aggrieved employees from leaving the premises for a meal period. The

aggrieved employees' meal periods were also interrupted by their supervisors and other managers, customers, and/or by people asking them questions and by Defendant and its supervisory/managerial employees requiring and/or suffering or permitting them to perform work while they were supposed to be on their meal period (including when they were clocked-out).

Defendant also failed to provide uninterrupted meal periods of at least thirty (30) minutes in length, including but not limited due to its policy and practice of rounding the time entries associated with meal periods, understaffing conditions, and the job demands of aggrieved employees. Such practices sometimes made it impossible for the aggrieved employees to take thirty (30) minute uninterrupted meal periods. Defendant also engaged in a common pattern and practice of rounding meal period punches in violation of Labor Code sections 1194, 510, 512, and 226.7. As the California Supreme Court held in *Donohue v. Amn Servs.*, 11 Cal.5th 58, 81 (2021) employers cannot engage in the practice of rounding time punches—that is, adjusting the hours that an employee has actually worked to the nearest present time increment—in the meal period context. Here, as in *Donohue*, Defendant engaged in a common policy and practice of rounding Plaintiff and the other aggrieved employees time punches such that they did not receive minimum wages for all hours worked, overtime wages for the improperly rounded time punches, did not receive meal period premiums for rounded time punches, and/or proper and lengthy meal periods.

Moreover, as the California Supreme Court held in *Donohue v. Amn Servs.*, 11 Cal.5th 58, 81 (2021) employers cannot engage in the practice of rounding time punches in the meal period context. Here, as in *Donohue*, Defendant engaged in a common policy and practice of rounding Plaintiff and the other aggrieved employees time entries associated with meal periods. This includes, but is not limited to due to failing to record the actual time that Plaintiff and the other aggrieved employees clocked-out for meal periods. For instance, Plaintiff and the other aggrieved employees' time records only show that they took a meal period at some point during a several hour period of always exactly 30 minutes in length regardless of the actual amount of time associated with meal periods due to Defendant's unlawful rounding policy as evidenced below:

Sat	09/16/2023	07:13 AM - 11:45 AM	4.53	
Sat	09/16/2023	12:15 PM - 06:34 PM	6.32	10.85
Sun	09/17/2023	05:40 AM - 10:00 AM	4.33	
Sun	09/17/2023	10:30 AM - 12:20 PM	1.83	
Sun	09/17/2023	12:20 PM - 02:45 PM	2.42	Drive Time
Sun	09/17/2023	02:45 PM - 02:53 PM	0.13	8.71
Mon	09/18/2023	08:40 AM - 01:00 PM	4.33	
Mon	09/18/2023	01:30 PM - 06:25 PM	4.92	9.25
Tue	09/19/2023	08:12 AM - 12:30 PM	4.30	
Tue	09/19/2023	01:00 PM - 03:01 PM	2.02	6.32
Thu	09/21/2023	07:44 AM - 12:00 PM	4.27	
Thu	09/21/2023	12:30 PM - 04:08 PM	3.63	7.90
Fri	09/22/2023	06:10 AM - 01:30 PM	7.33	
Fri	09/22/2023	02:00 PM - 07:04 PM	5.07	
Fri	09/22/2023	07:04 PM - 08:04 PM	1.00	13.40 PDLCHAWD
Sat	09/23/2023	05:27 AM - 09:30 AM	4.05	
Sat	09/23/2023	10:00 AM - 11:25 AM	1.42	5.47
Sun	09/24/2023	06:10 AM - 10:30 AM	4.33	
Sun	09/24/2023	11:00 AM - 03:25 PM	4.42	8.75
Mon	09/25/2023	07:12 AM - 11:30 AM	4.30	
Mon	09/25/2023	12:00 PM - 04:54 PM	4.90	9.20

Sat	05/27/2023	10:42 AM - 03:30 PM	4.80	
Sat	05/27/2023	04:00 PM - 05:04 PM	1.07	5.87
Sun	05/28/2023	08:12 AM - 12:21 PM	4.15	4.15
Tue	05/30/2023	05:59 AM - 10:30 AM	4.52	
Tue	05/30/2023	11:00 AM - 02:26 PM	3.43	7.95
Wed	05/31/2023	09:43 AM - 01:30 PM	3.78	
Wed	05/31/2023	02:00 PM - 06:20 PM	4.33	8.11
Thu	06/01/2023	04:11 AM - 08:30 AM	4.32	
Thu	06/01/2023	09:00 AM - 06:04 PM	9.07	13.39
Fri	06/02/2023	07:13 AM - 11:30 AM	4.28	
Fri	06/02/2023	12:00 PM - 04:37 PM	4.62	8.90
Sat	06/03/2023	05:55 AM - 10:32 AM	4.62	
Sat	06/03/2023	11:03 AM - 02:44 PM	3.68	8.30
Sun	06/04/2023	07:14 AM - 11:45 AM	4.52	
Sun	06/04/2023	12:15 PM - 02:17 PM	2.03	6.55
Tue	06/06/2023	06:45 AM - 11:00 AM	4.25	
Tue	06/06/2023	11:30 AM - 03:36 PM	4.10	8.35
Wed	06/07/2023	09:42 AM - 02:15 PM	4.55	
Wed	06/07/2023	02:45 PM - 05:54 PM	3.15	7.70
Thu	06/08/2023	04:44 AM - 09:00 AM	4.27	
Thu	06/08/2023	09:30 AM - 06:45 PM	9.25	13.52

Simply put, it is not believable that Plaintiff's meal periods were always and/or almost always exactly 30 minutes in length and Plaintiff's time records substantiate that he and the other aggrieved employees' meal periods were improperly rounded. Further, once again as evidenced above on June 1 and 8, 2023, Plaintiff worked shifts in excess of twelve (12) hours and did not receive either a second meal period and/or a meal period premium in violation of Labor Code §§ 226.7 and 512. Plaintiff alleges that Defendants engaged in the same pattern and practice with respect to all and/or many of the aggrieved employees.

As such, Plaintiff alleges that Defendant violated Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, and IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage order when it engaged in such policies and practices.

Defendant also adopted an automatic deduction policy and practice whereby it automatically deducted thirty (30) minutes' worth of an employee's pay regardless of whether or not the employee took a meal period and/or the full amount of their meal period. As a result of Defendant's policy and practice of automatically deducting thirty (30) minutes' worth of pay regardless of whether or

not the aggrieved employee took a meal period and/or the length of the meal period, Defendant regularly failed to pay Plaintiff and all aggrieved employees for all hours worked in violation of Labor Code § 1194 and 1197 including hours that qualified as overtime hours pursuant to IWC Wage Order Nos. 4-2001, 7-2001, or other applicable wage order and Labor Code § 510. Defendant's rounded time entries for Plaintiff and the other aggrieved employees were also unlawful and non-neutral because Defendant failed to provide compensation for all hours worked and failed to round up in the employee's favor due, including, but not limited to, its off-the-clock policies even though such rounding is impermissible. As such, Defendant failed to pay Plaintiff wages for all hours worked (including overtime hours) and misclassified hours worked as regular hours as a result of its auto-deduction and unlawful time recording policies and procedures as discussed herein.

Defendant also failed to pay Plaintiff and the other aggrieved employees meal period premiums for each workday that the employees did not receive a compliant meal period and/or at the proper rate. Labor Code § 226.7 provides "an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ("IWC")."

Similarly, IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage orders prohibit an employer from "employ[ing] any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes." IWC Wage Order Nos. Nos. 4-2001, 7-2001, and other applicable wage orders further obligate employers to provide an employee to "pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided." Accordingly, for each day that Plaintiff and all aggrieved employees did not receive compliant meal periods, they are entitled to receive meal period premiums pursuant to Labor Code § 226.7 and IWC Wage Order Nos. Nos. 4-2001, 7-2001, and other applicable wage orders. Unfortunately, Plaintiff and the other aggrieved employees were not compensated with one (1) hours' worth of pay at their regular rate of compensation when they were not provided with a compliant meal period in violation of Labor Code § 226.7 and IWC Wage Order Nos. Nos. 4-2001, 7-2001, and other applicable wage orders.

Further, on the rare occasion, if any, that Defendant paid meal period premiums to the aggrieved employees, Defendant improperly paid the premium at the employee's hourly base rate instead of at their regular rate resulting in the underpayment of meal period premiums. Plaintiff contends that Defendant's policies and practices as alleged above violated Labor Code § 226.7 and seeks penalties pursuant to PAGA related thereto consistent with the California Supreme Court's decision in *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858, 878 (2021) ("we hold that the term 'regular rate of compensation' in section 226.7(c) has the same meaning of regular rate of pay' in section 510(a) and encompasses not only hourly wages, but all nondiscretionary payments for work performed by the employee.").

Based upon the foregoing, Defendants violated Labor Code §§ 226.7, 512, 558, 117, 1174.5, and 1198 as well as IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage orders with respect to Plaintiff and the aggrieved employees. As such, Plaintiff and the aggrieved employees are entitled to penalties under Labor Code § 558. Labor Code § 558 imposes a penalty upon employers “who violates, or causes to be violated...any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee.” For purposes of Labor Code § 558, Plaintiff and the aggrieved employees seek only the penalties assessed as civil penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019) and not any underpaid wages.

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE § 226.7 AND IWC WAGE ORDER NOS. 4-2001, 7-2001, AND OTHER APPLICABLE WAGE ORDERS

Labor Code § 226.7 provides “an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission (“IWC”). Under IWC Wage Order Nos. 4-2001 and 7-2001, an employer must authorize and permit all employees to take ten (10) minute duty free rest periods for every major fraction of four hours worked. *See Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 (concluding that “during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time.”).

The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—*it has violated the wage order and is liable.*

Brinker Rest. Corp. v. Sup. Ct., 53 Cal.4th 1004, 1033 (2012) (emphasis added).

Pursuant to Labor Code § 226.7 and IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage orders, Defendant failed to provide Rest Period Aggrieved Employees with rest periods of not less than ten (10) minutes for every major fraction of four (4) hours worked. Instead, Defendant regularly and consistently required at least some of the aggrieved employees to forgo rest

periods and/or required them to remain on the premises and failed to relieve them of all duties. This includes, but is not limited to, failing to advise Plaintiff and the aggrieved employees of their right to take a second rest period when they worked shifts in excess of six (6) hours, but less than eight (8) hours and of their right to a third rest period when they worked more than ten (10) hours. Instead, Defendant regularly and consistently required aggrieved employees to forgo a second rest period when they worked shifts in excess of six (6) hours—including, but not limited to when the aggrieved employees worked shifts in excess of six (6) hours, but less than eight (8) hours—and failed to authorize and permit employees who worked more than ten (10) hours a third rest period. Further, on least some occasions, Defendant failed to provide any rest periods to the aggrieved employees whatsoever including on shifts of all lengths. This includes, but is not limited to, due to Defendant's failure to advise employees of their right to rest periods on shifts of any length.

Moreover, the aggrieved employees were denied rest periods as a result of Defendant's understaffing practices and policies. Notably, although Defendant's rest period policies and practices are not compliant, they also pressured and coerced employees to forgo rest periods and made it difficult for employees to take lawful duty-free rest periods both due to their understaffing policies and practices and otherwise.

Further, on the rare occasion if any that Defendant paid rest period premiums, Defendant improperly paid the premium at the employee's hourly base rate instead of at their regular rate. Plaintiff contends that Defendant's policies and practices as alleged above violated Labor Code § 226.7 and seeks penalties pursuant to PAGA related thereto consistent with the California Supreme Court's decision in *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858, 878 (2021) ("we hold that the term 'regular rate of compensation' in section 226.7(c) has the same meaning of regular rate of pay' in section 510(a) and encompasses not only hourly wages, but all nondiscretionary payments for work performed by the employee.").

Based upon the foregoing, Defendant violated Labor Code § 226.7 and 1198 as well as IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage orders with respect to the aggrieved employees. Employees, including Plaintiff and the other aggrieved employees who experienced a violation of Labor Code § 226.7 may pursue PAGA penalties under Labor Code § 558. Labor Code § 558 imposes a penalty upon employers "who violates, or causes to be violated...any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee." For purposes of Labor Code § 558, Plaintiff and the aggrieved employees seek only the penalties assessed as

civil penalties pursuant to *ZB, N.A. v. Sup. Ct.* 8 Cal.5th 175 (2019) and not any underpaid wages.

DEFENDANT VIOLATED AND CONTINUE TO VIOLATE LABOR CODE §§ 226 and 226.3

As to Plaintiff and all aggrieved employees, Defendant also failed to provide accurate itemized wage statements in accordance with Labor Code § 226. Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (5) net wages earned;
- (6) the inclusive dates of the period for which the employee is paid;
- (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) the name and address of the legal entity that is the employer...;
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Due to Defendant's failure to pay Plaintiff and all aggrieved employees all minimum wages, overtime wages (including doubletime wages), meal period premiums, rest period premiums owed, and sick pay (at the correct rates), the wage statements issued by Defendant do not indicate the correct amount of gross wages earned, the total hours worked, the net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Thus, Plaintiff is an aggrieved employee within the meaning of PAGA and Defendant have violated Labor Code §226(a)(1), (2), (5), and (9) with respect to Plaintiff and all aggrieved employees. Plaintiff also alleges that Defendant issued some aggrieved employees some itemized wages statements, including but not limited to paper and/or final wage statements, that did not include the name of the employer, the address of the employer, all deductions, the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece rate, the inclusive dates of the period for which the employee is paid (omitted start dates, end dates, and/or both start dates and end dates) the name of the employee and only the last four digits of the employees or the last four digits of the employees social security number (left-off and/or all nine digits of the employees social security number) as well as the non-derivative information for the amount of gross wages earned, the total hours worked, the net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. This conduct violated Labor Code § 226(a)(1-9).

In addition, the wage statements issued to Plaintiff and all aggrieved employees did not include the actual total hours worked by the employee in violation of Labor Code § 226(a)(2). As previously explained, in express violation of Section 7(A)(3) of IWC Wage Order Nos. 4-2001, 7-2001, and other applicable wage orders which requires employers to record “when the employee begins and ends each work period.” Instead, Defendant failed to report the time that it knew that Plaintiff and the other aggrieved employees were working while off-the-clock—including but not limited to due to Defendant’s policy and practice of impermissibly rounding the time entries associated with meal periods, automatically deducting the time associated with meal periods regardless of whether or not the aggrieved employee received a meal period, and failing to record the time associated with communications with employees (whether by phone call, email, text message, or other method) while off-the-clock about job related issues (including, but not limited to scheduling), as explained in detail above. As a result, the wage statements issued by Defendant did not include the correct amount of total hours worked by Plaintiff and the other aggrieved employees.

Plaintiff and the aggrieved employees will prevail on their claim for PAGA penalties under Labor Code § 226(a). *See Lopez v. Friant & Assocs., LLC*, 15 Cal.App.5th 773, 788 (2017) (“hold[ing] a plaintiff seeking civil penalties under PAGA for a violation of Labor Code section 226(a) does not have to satisfy the ‘injury’ and ‘knowing and intentional’ requirements of section 226(e)(1).”); *Raines v. Coastal Pacific Food Distributors, Inc.*, 23 Cal.App.5th 667, 679 (2018) (finding that the “requirements for a section 226(e) claim do not apply to a PAGA claim for a violation of section 226(a).”).

There is currently a split of authority regarding which PAGA penalties apply to violations of Labor Code § 226(a). *Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 355 (2021) (holding that such violations give rise to a 2699.3 penalty) *cf.*; *Raines v. Coastal Pacific Food Distributors, Inc.*, 23 Cal.App.5th 667, 675 (2018) (holding that such violations give rise to a Labor Code § 226.3 penalty). Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” As explained in detail above, Defendant failed to provide Plaintiff and the other aggrieved employees with accurate itemized wage statements. Accordingly, to the extent it applies, Plaintiff and the other aggrieved employees may also recover Labor Code § 226.3 or 2699 penalties for Defendant’s violations of Labor Code § 226(a).

DEFENDANT VIOLATED AND CONTINUE TO VIOLATE LABOR CODE § 200-204, 210 and 1198 BY FAILING TO PROVIDE REPORTING TIME PAY

IWC Wage Order Nos. 4-2001, 7-2001, and other applicable Wage Order, § 5 provides that “[e]ach workday that an employee is required to report to the work site and does report, but is not put to work or is furnished less than half of his/her usual or scheduled day’s work, the employer shall pay him/her for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

Labor Code § 200 provides that “Wages includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.” Moreover, Labor Code § 1198 provides that the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

On several occasions, Plaintiff and the other aggrieved employees were required to report to work and would stay for approximately two (2) hours and would be sent home for lack of work despite being scheduled to work eight (8) hours or more. On these occasions, Defendant failed to pay Plaintiff and the other aggrieved employees reporting time pay consistent with IWC Wage Order Nos. 4-2001, 7-2001, and other applicable Wage Order, and Labor Code §§ 200 and 200-204, 210, and 1198. The text and information about Labor Code sections 201-204 and 210 can be found later in this letter and are hereby incorporated by reference for brevity purposes.

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE §§ 246 and 246.5

Labor Code § 246 requires employer to calculate sick leave pay based upon one of the following formulas:

- (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.
- (2) Paid sick time for nonexempt employees shall be calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.
- (3) Paid sick time for exempt employees shall be calculated in the same manner as the

employer calculates wages for other forms of paid leave time.

Lab. Code § 246.

Throughout Plaintiff and the aggrieved employees' employment, Defendant failed to include non-discretionary bonuses, incentive payment/pay, shift differentials, hazard pay, piece rate compensation, flat sum production bonuses, non-discretionary production bonuses, prevailing wages, attendance bonuses, any other form of non-discretionary bonus and/or incentive payment and/or a payment under the pay codes "PLA" and "X" when calculating and paying sick pay. *See Wood v. Kaiser Found. Hosps.*, 88 Cal. App. 5th 742, 759 (2023), as modified (Mar. 23, 2023)

Defendant also refused to allow at least some of their employees to use their protected sick leave on some occasions during the PAGA period in violation of Labor Code §§ 246 and 246.5. Defendant also on some occasions failed to include information about employees' accrued and used sick pay as well as the balance of their sick pay on the aggrieved employee's wage statement.

Further, as a result when Plaintiff and the Late Payment Aggrieved Employees' employment ended, they left their employment without having received compensation for all of their sick pay that they were owed under Labor Code § 246 and resulting in a violation of Labor Code §§ 201-203. As a result of Defendant's underpayment of sick pay, Plaintiff and the other Late Payment Aggrieved Employees also experienced a violation of Labor Code §§ 201-202 upon separation from Defendant. *See Powell v. Walmart Inc.*, No. 3:20-cv-2412-BEN-LL, 2021 U.S. Dist. LEXIS 20777, at *6 (S.D. Cal. Feb. 2, 2021) (denying a motion to dismiss claims under Labor Code section 203 based upon the employer's alleged failure to include incentive pay when calculating and paying sick pay); *accord Flores v. Dart Container Corp.*, No. 2:19-cv-00083 WBS EFB, 2020 U.S. Dist. LEXIS 93524, at *7 (E.D. Cal. May 27, 2020).

DEFENDANT VIOLATED AND CONTINUE TO VIOLATE LABOR CODE §§ 204 and 210

Labor Code § 204 expressly requires that "[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Pursuant to Labor Code § 204(a), "Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Labor Code § 204 also expressly requires that "[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Defendant pays Plaintiff and all aggrieved employees on a semi-monthly basis.

With respect to Plaintiff and all aggrieved employees, for part of the PAGA period, Defendant failed to maintain regular pay dates as required by Labor Code § 204.

Due to Defendant's failure to pay Plaintiff and all aggrieved employees all minimum wages, all overtime wages (including doubletime wages), meal period premiums, rest period premiums, sick pay wages (including at the proper rate) and reporting time pay for the reasons discussed above, Defendant failed to timely pay Plaintiff and all aggrieved employees all wages owed within the time constraints of Labor Code § 204 on a regular and consistent basis.

Labor Code § 210 provides that "in addition to, an entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections...204...shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25% of the amount unlawfully withheld." As a result of the faulty compensation policies and practices described in detail above, Plaintiff and the other aggrieved employees are entitled to recover penalties under Labor Code § 210 through PAGA. *See Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1209 (2008) (affirming an award of Labor Code section 210 penalties under PAGA due to the employer's failure to timely pay wages at the proper rate in accordance with a local wage ordinance).

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE §§ 201-203

Under Labor Code §§ 201-202, an employer must provide an employee their wages at the time of discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203 provides "if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty. . ." for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

In addition, Labor Code § 256 provides that the Labor Commissioner "shall impose a civil penalty in an amount not exceeding 30 days' pay as waiting time under the terms of Section 203. The California Supreme Court and California Court of Appeal have both specifically recognized the ability of an aggrieved employee to recover civil penalties under Labor Code § 256 for a defendant's willful violation of Labor Code § 201 and 202 under PAGA. In *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348, 381 (2014), the California Supreme Court acknowledged that PAGA penalties for the untimely payment of wages included the 30 days of pay as waiting time pursuant to Labor Code § 256. *See also Esparza v. KS Industries, L.P.* 13 Cal.App.5th 1228, 1242 (2017) (explaining that the Labor Code § 256 penalties only exist if the employer's failure to timely pay wages upon separation was willful is a "civil penalty" "recovered or imposed by the Labor Commissioner.").

Defendant failed to Plaintiff and the other Late Payment Aggrieved Employees any wages whatsoever within the time constraints of Labor Code section 201-202. Moreover, as described in detail above, Defendant failed to pay aggrieved employees whose employment concluded all wages owed, including but not limited to minimum wages, overtime wages (including doubletime wages), meal period premiums, rest period premiums, vacation wages, and sick pay (including at the correct rates) within time constraints proscribed in Labor Code §§ 201-202. Thus, as result of Defendant's faulty policies described above, the Late Payment Aggrieved Employees left their employment with Defendant without being compensated for each and every hour worked at the appropriate rate in violation of Labor Code §§ 201, 202, 203, and 256.

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE §§ 1174 and 1174.5

Labor Code § 1174 provides that each employer shall keep "payroll records showing the hours worked daily by and the wages paid to...employees employed at...establishments." An employer who fails to maintain the records proscribed by Labor Code § 1174 is subject to a civil penalty of five hundred (\$500) dollars under Labor Code § 1174.5.

As previously explained, Defendant failed to maintain accurate records of the total hours worked by employees or of the time associated with off-the-clock work as described above and failed to record time that employees were subject to Defendant's control and required to work during their meal/rest periods on a regular and consistent basis in express violation of Section 7(A)(3) of IWC Wage Order Nos. 4-2001, 7-2001, or other applicable wage order which require employers to record "when the employee begins and ends each work period."

7. RECORDS

- (A) Every employer shall keep accurate information with respect to each employee including the following:
- (1) Full name, home address, occupation and social security number.
 - (2) Birth date, if under 18 years, and designation as a minor.
 - (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

Due to Defendant's regular and consistent practice of not recording all hours worked, including the time associated with off-the-clock work and as described above, the time records maintained by Defendant do not show the actual hours worked daily by Plaintiff and the aggrieved employees. This caused Plaintiff and the other aggrieved employees time records not to actually show the total hours worked daily by each of them throughout the PAGA period in violation of Labor Code §§ 1174 and 1174.5.

Plaintiff seeks both PAGA penalties under Labor Code § 1174.5 for willful violations of Labor Code § 1174 since Defendant was previously sued for engaging in the same conduct, but also separate PAGA penalties pursuant to section 2699.3 for non-willful violations since no default is

proscribed for such violations. Labor Code § 2699.3 (identifying a violation of Labor Code section 1174 subdivisions (c) and (d) as non-curable PAGA claims).

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE § 2802

Labor Code §2802 provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

During at least part of the PAGA period, Defendant required and/or expected aggrieved employees to use their own tools and implements in the discharge of their job duties. By failing to provide Plaintiff and the aggrieved employees with all necessary implements and tools, Defendant caused Plaintiff and the other aggrieved employees to make expenditures and incur losses in the direct consequence of the discharge of their job duties. Moreover, Defendant also expected aggrieved employees to use their personal vehicles on occasion for business purposes and for which they did not receive reimbursement. During at least part of the PAGA period, Defendant also required some of the aggrieved employees to utilize their cell phones or other electronic devices in the discharge of their job duties for which they did not receive reimbursement and/or sufficient reimbursement. On the occasions where Defendant did provide reimbursement, Defendant provided an insufficient flat sum amount not tied in any way or appreciable manner to the amount of communications received and/or the costs incurred by the employees. Defendant’s conduct in requiring some of the aggrieved employees to engage in the above-described activities caused them to incur losses as a direct consequence of their duties. Although some of the aggrieved employees were regularly required to and/or ordered/directed to use their own personal communication devices for work purposes (including cell phones and other devices), those aggrieved employees were not provided with any and/or adequate reimbursement for the use of their personal cell phones. Based upon information and belief, some of the aggrieved employees were specifically directed by Defendant and/or its supervisory employees to utilize their cell phones in the discharge of their job duties for which they did not receive compensation. Defendant’s conduct in requiring some of the aggrieved employees to engage in the above-described activities caused them to incur losses as a direct consequence of their duties.

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE § 206.5

Labor Code § 206.5 states that:

(a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions

of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.

(b) For purposes of this section, execution of a release includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

At times during the PAGA period, Defendant required aggrieved employees to execute a release as a condition of being paid in the form of a statement of hours that he or she worked during the pay period that Defendant and/or some of its agents knew to be false, incomplete, and/or inaccurate. Such conduct violated Labor Code § 206.5.

DEFENDANT VIOLATED AND CONTINUES TO VIOLATE LABOR CODE § 2810.5

Labor Code § 2810.5 requires an employer to provide, at the time of hiring, to each employee a “written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information:

- (A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.
- (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.
- (C) The regular payday designated by the employer in accordance with the requirements of this code.
- (D) The name of the employer, including any “doing business as” names used by the employer.
- (E) The physical address of the employer’s main office or principal place of business, and a mailing address, if different.
- (F) The telephone number of the employer.
- (G) The name, address, and telephone number of the employer’s workers’ compensation insurance carrier.
- (H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.
- (I) Any other information the Labor Commissioner deems material and necessary.

Defendant failed to provide at least some of the employees with the written notice required by Labor Code § 2810.5 and also failed to provide some of the required information. Defendant’s failure to provide such information varied from time to time, but based upon information and belief, included violations of all nine subdivisions of Labor Code § 2810.5(a).

May 6, 2024
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CONCLUSION

Therefore, pursuant to Labor Code § 2699.3, we write to inform the Labor and Workforce Development Agency of information about Plaintiff's claims.

Very truly yours,

WINSTON LAW GROUP, P.C.

By: /s/ David S. Winston

DAVID S. WINSTON

Certified Mail #: 9589 0710 5270 0751 6153 83

Exhibit 2

PAGA SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiff Eduardo Juarez (hereinafter “Plaintiff”) as a private attorney general on behalf of the State of California pursuant to Labor Code section 2698 *et seq.*, the Private Attorneys General Act (“PAGA”) on the one hand, and Defendant Wright Celebrations, Inc. (“Defendant”) on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

This Settlement shall be binding on Plaintiff and the State of California to the extent permitted under PAGA and on Defendant subject to the terms and conditions hereof and the approval of the Court.

I. NATURE OF ACTION

1. On May 6, 2024, Plaintiff sent notice to the Labor and Workforce Development Agency (“LWDA”) giving notice of his intent to pursue a representative PAGA action on behalf of the State of California as well as on behalf of other aggrieved employees.

2. On July 11, 2024, Plaintiff filed a complaint that included his own individual claims as well as representative PAGA claims in the Placer County Superior Court.

3. For purposes of this settlement, the Aggrieved Employees or PAGA Members are defined as: all non-exempt employees who were employed by Wright Celebrations, Inc. in California as an employee at any point from May 6, 2023 through January 14, 2025.

4. Through informal discovery, Defendant provided Plaintiff and PAGA Counsel with information about the number of potentially aggrieved employees (175), the number of pay periods potentially at issue (3,526 pay periods), the relevant policy documents, as well as a sample of time and pay data for 35 aggrieved employees.

5. On January 14, 2025, the Parties mediated this case before experienced Mediator Jeffery Owensby of Judicate West and reached a settlement as to the PAGA and individual claims set forth in the July 11, 2024 complaint.

II. REPRESENTATIONS AND DEFINITIONS

1. “Aggrieved Employee,” “Aggrieved Employees,” “PAGA Member” or “PAGA Members” shall mean all non-exempt employees who were employed by Wright Celebrations, Inc. in California as an employee at any point from May 6, 2023 through January 14, 2025.

2. “PAGA Representative” or “Plaintiff” shall refer to the named Plaintiff Eduardo Juarez.

3. “Defendant” shall mean and refer to Wright Celebrations, Inc.

4. “Released Parties” shall mean and refer to Defendant and any predecessor, merged, or related entities, including any integrated enterprises, alter egos, or joint employers and its owners, managers, agents, attorneys, contractors, clients, or employees.

5. “Lawsuit” refers to the civil action pending in Placer County Superior Court titled, *EDUARDO JUAREZ, an individual, and on behalf of the State of California, as a private attorney general, Plaintiff, v. WRIGHT CELEBRATIONS, INC., a California Corporation, and DOES 1 thru 50, inclusive, Defendants*, Placer County Superior Court, Case No. S-CV-0053190.

6. “PAGA Counsel” shall refer to David S. Winston of the Winston Law Group, P.C.

7. “Counsel for Defendant” and “Defense Counsel” shall refer to Kevin Cleveland and Janelle Di Mino of O’Hagan Meyer.

8. “Covered Period” or “PAGA Period” shall mean the period from May 6, 2023 to January 14, 2025.

9. “Court” refers to the Placer County Superior Court.

10. “Aggrieved Employee Share” shall mean and refer to each PAGA Aggrieved Employees’ share of the 25% of PAGA penalties allocated to the Aggrieved Employees in accordance with Labor Code section 2699(i).

11. “Settlement Administrator” shall refer to ILYM Group, Inc.

12. “Covered Claims” means any and all claims, rights, or causes of action seeking civil penalties under PAGA that were alleged or reasonably could have been alleged for PAGA

penalties based on violations of the following Labor Code provisions: 201, 202, 203, 204, 206.5, 210, 226, 226.3, 226.7, 246-248, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and IWC Wage Order Nos. 4-2001 and 7-2001 and/or other applicable wage order or that reasonably could have been alleged based upon the facts alleged in the May 6, 2024 PAGA Notice and the July 11, 2024 Complaint. (the “Settled Claims” or “Released Claims”). This settlement does not cover any employees’ individual claims including Plaintiff’s own individual claims.

13. “Individual Settlement” shall mean and refer to Plaintiff Eduardo Juarez’s separate individual settlement for his separately pending individual claims in this Action that is being disclosed to the Court as part of the approval process. Defendant shall file Plaintiff’s individual settlement with the Court under seal in case the Court wishes to review it as part of the approval process.

14. “Eligible Pay Periods” means the total number of pay periods that each Aggrieved Employee received a wage statement during the Covered Period.

15. “Settlement” shall mean this Settlement and Release Agreement.

16. “Effective Date” and “Final” means the later of: (i) if no aggrieved employee files an objection (to the extent permitted by law) then the date the Court enters an order granting approval of the PAGA settlement; (ii) if an Aggrieved Employee objects then sixty-one (61) days following the date the Court enters an order granting approval, assuming no appeal is filed; or (iii) if an Aggrieved Employee objects and either timely intervenes or timely files a motion to vacate the Judgment despite the prohibition against such actions recognized in *Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664, 675 (2024) and nevertheless files a timely appeal, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible. In this regard, the Parties intend that the Effective Date of the PAGA Settlement shall not be a date before the Court’s order approving the PAGA Action settlement has become completely final and there is no timely recourse by any person who seeks to contest the PAGA Action settlement.

17. “Service Award” means a monetary amount of up to \$7,500.00 for Plaintiff Eduardo Juarez, which, subject to Court approval, will be paid as provided for below.

18. “Gross Settlement Amount” or “GSA” shall mean and refer to the \$150,000.00 that Defendant is obligated to pay under the terms of the proposed settlement. The Gross Settlement Amount consists of the settlement payment to PAGA Members, settlement administration fees and costs, Plaintiff’s incentive and/or enhancement as to the PAGA Action, payment to the Labor and Workforce Development Agency of its share under the Labor Code Private Attorneys’ General Act of 2004 (“PAGA”, codified at Labor Code section 2698, *et seq.*), and attorneys’ fees and costs. The Gross Settlement Amount is non-reversionary, such that the entire amount will be disbursed and none will revert to Defendant.

19. Plaintiff alleged on behalf of the State of California that Defendant failed to pay the aggrieved employees all minimum wages, all overtime wages, failed to provide lawful meal periods and pay meal period premiums at the proper rate, failed to provide lawful paid rest periods and pay rest period premiums at the proper rate, failed to provide complete or accurate itemized wage statements (pay stubs), failed to provide sick pay and/or pay sick pay at the correct rate, failed to timely pay all wages owed during and after employment, failed to maintain accurate time records, failed to reimburse business expenses, required employees to sign a release of their wage claims in order to receive their wages, and failed to provide required notices. Plaintiff alleges that this underlying conduct gives rise to a claim pursuant to Labor Code Section 2698, *et seq.*

20. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit, and denies any liability or intentional wrongdoing. Nothing contained herein nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendant denies that it has engaged in any unlawful activity, that it failed to comply with the law in any

material respect, or that it has any liability to anyone under the claims asserted in the Lawsuit. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendant. Nevertheless, Defendant is willing to resolve this matter in accordance with the terms set forth herein.

21. The purpose of this Settlement is to settle and compromise the Lawsuit and all Covered Claims that Plaintiff, the State of California and the Aggrieved Employees have under PAGA against Defendant and the Released Parties. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Nothing herein shall constitute an admission by Defendant that the Lawsuit was properly brought as a representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendant in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; and (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification, or administration other than for purposes of administering this Settlement.

22. The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation and the claims in this Action.

23. Plaintiff and PAGA Counsel contend that they have diligently pursued an investigation of the state of California's claims under PAGA against Defendant.

24. Based on their own independent investigations and evaluations and after attending Mediation, Plaintiff and PAGA Counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement is fair, reasonable, and adequate and that it is in the best interests of the Plaintiff, the Aggrieved Employees, and the State of California in light of all known facts and circumstances and the risks inherent in litigation.

25. In order to comply with the requirements of Labor Code Section 2699(I), Plaintiff shall submit a Motion for Approval of Representative PAGA Settlement to the Court identifying the key terms of this Settlement and Release agreement and requesting that the Court approve the Settlement ("Approval Motion"). The Settlement is contingent upon the approval by the Court. If the Court denies a Motion for Approval of Representative PAGA Settlement due to concerns that the Parties cannot address through non-material modifications of this Agreement, (i) this Settlement shall be considered null and void; (ii) neither this Settlement Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if this Settlement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Settlement, except for the amount of attorneys' fees and costs or Plaintiff's service award, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. The Parties agree to abide by all of the terms of the Settlement in good faith and to support the Settlement fully and to use their best efforts to defend this Settlement from any legal challenge, whether by appeal or collateral attack. The Parties shall make all possible good faith efforts to resolve any issues raised by the Court during the approval process.

26. In the event that the Court does not grant a Motion for Approval of Representative PAGA Settlement after several attempts and after exhausting all good faith efforts to address any concern raised by the Court, the Parties will be restored to their positions prior to the execution

of this Settlement Agreement and the Settlement Agreement shall be null and void and all materials related to seeking approval of the Settlement shall be inadmissible.

III. TERMS OF SETTLEMENT

27. In consideration of the mutual covenants, promises and representations set forth in this Settlement, Plaintiff, on behalf of the State of California as a Private Attorney General, and Defendant agree to settle and compromise the Lawsuit and the Covered Claims, subject to the terms and conditions set forth in this Settlement.

28. The Amount of the Settlement. As consideration for the settlement described herein and the release contained in this Settlement, Defendant agrees to pay the Gross Settlement Amount of \$150,000.00 in connection with the PAGA Settlement. The Gross Settlement Amount shall consist of and will be allocated as follows:

- (a) PAGA Counsel's attorney fee request of 1/3 of the Gross Settlement Amount (\$50,000.00);
- (b) PAGA Counsel's request for costs in the amount of up to \$20,000.00;
- (c) A PAGA service award in the amount of up to \$7,500.00 to Plaintiff Eduardo Juarez for his services on behalf of the state of California and aggrieved employees;
- (d) Administration costs of up to \$8,000.00 to be paid to the Settlement Administrator ILYM Group, Inc.; and
- (e) the remainder of the Settlement Payment after deducting the items (a), (b), (c), and (d) herein shall be designated as PAGA Penalties or PAGA Penalty Fund and is estimated to be \$64,500.00 and will be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i) with 75% paid to the LWDA (\$48,375.00) and 25% paid to the Aggrieved Employees on a pro-rata basis (\$16,125.00) based upon the number of pay periods worked during the Covered Period also referred to as the PAGA Period.

29. Allocation and Calculation of the PAGA Penalties. The anticipated total PAGA

Penalty Fund will be approximately \$64,500.00. Seventy-five percent of the PAGA Penalty Fund will be paid to the LWDA as required by Labor Code section 2699(i). The remaining 25% of the PAGA Penalty Fund will be distributed to Aggrieved Employees on a pro-rata basis based upon the number of pay periods worked during the Covered Period also referred to as the PAGA Period. The allocation amongst the Aggrieved Employees shall be determined by dividing the entire PAGA Fund allocated to the Aggrieved Employees by the number of pay periods in the PAGA Period. The resulting amount shall be the Pay Period Amount. Each Aggrieved Employee, including Plaintiff, shall receive a pro rata value equal to the number of pay periods worked during the PAGA Period multiplied by the Pay Period amount (the “Individual Settlement Payments”). All Individual Settlement Payments made to Aggrieved Employees will be reported on an IRS Form 1099-MISC to the extent required by law. Each Aggrieved Employee’s pro-rata share of the PAGA Penalty Fund represents their share of the 25% in PAGA penalties distributable to the aggrieved employees.

30. PAGA Representative Service Award. Plaintiff Eduardo Juarez may request a service award of up to \$7,500.00 in recognition for his services on behalf of the State of California and the aggrieved employees. Any service award awarded by the Court shall be paid out of the Gross Settlement Amount and will be reported on an IRS Form 1099-MISC basis. The PAGA Representative Service Award shall be an amount in addition to Plaintiff Eduardo Juarez’s pro-rata share of the PAGA Penalty Fund penalties awarded to the aggrieved employees. Defendant will not object to nor oppose a service award request for PAGA representative Eduard Juarez in the amount of up to \$7,500.00. Should the Court decline to provide a service award or approve a lesser amount, any amount not awarded by the Court shall be reallocated to the Net PAGA Penalty fund and distributed to the Aggrieved Employees.

31. PAGA Counsel’s Fees and Costs. As part of the request for approval of this Settlement, PAGA Counsel will request court approval of 1/3 of the Gross Settlement Amount, which is \$50,000.00. PAGA Counsel will also request cost reimbursement in the amount of up to \$20,000.00 for costs incurred and/or expected to be incurred by PAGA Counsel in the prosecution

of this Action. Should PAGA Counsel request a lesser amount of attorneys' fees and costs and/or the Court approve a lesser amount, the difference shall be allocated to the PAGA Penalty Fund and distributed accordingly. Any attorneys' fees and costs awarded to PAGA Counsel, hereinafter referred to as "PAGA Counsel Fees & Costs," shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the Lawsuit and all work remaining to be performed in fully and finally resolving the Lawsuit, including but not limited to securing Court approval of the settlement, appearing at any hearings, making sure that the settlement is fairly and properly administered, defending the settlement in any appeal or other post-approval matter, all other work that PAGA Counsel has performed or will perform, and all costs that PAGA Counsel has incurred or will incur. Defendant will not object to nor oppose a request for attorneys' fees in the amount of up to 1/3 of the Gross Settlement Amount nor any request for reimbursement for costs that do not exceed \$20,000.00.

32. Tax Treatment of Settlement Amounts. With regard to settlement payments to PAGA Aggrieved Employees reflecting each Aggrieved Employees' share of PAGA penalties, IRS Form 1099-MISCs will be issued if required by the Settlement Administrator. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that he has obtained no tax advice from Defendant and that neither Defendant nor its attorneys have made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement or any payment to be made pursuant to this Agreement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any Aggrieved Employees' tax obligations regarding the allocation of the settlement payments. Payment of PAGA Counsel Fees & Costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

IV. RELEASE

33. Release By All Aggrieved Employees. Upon the approval by the Court of this Settlement, Plaintiff, the State of California and each Aggrieved Employee, for the period from May 6, 2023, through January 14, 2025, shall fully release and forever discharge the Released Parties from any and all Covered Claims.

34. Release by Plaintiff and Plaintiff's Individual Settlement. In addition to his participation in the Release By all Aggrieved Employees and except as otherwise provided herein, upon the Effective Date of this Settlement, Plaintiff has agreed to a separate individual settlement that is intended to compensate Plaintiff for all additional claims, whether known or unknown, against Defendant, including but not limited to, his separately pled individual wage and hour claims pending in this Action and a general release that also covers claims for employment discrimination, retaliation, or other individual claims that are not being litigated in this case. As part of the settlement of his individual claims, Plaintiff is providing a full release of individual claims to the extent permitted by law, other than non-releasable claims such as and including workers' compensation claims, as part of this Settlement. PAGA Counsel is not receiving any attorneys' fees or cost reimbursement associated with Plaintiff's individual settlement. As part of the approval process, Plaintiff shall provide the Court with a copy of the individual settlement..

V. APPROVAL OF THE SETTLEMENT

35. The Parties recognize that in accordance with Labor Code Section 2699(I), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal.4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement *through* a motion for preliminary or final approval. *See also Mendoza vs. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) ("PAGA authorizes a representative action without the need for class certification."); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) ("a PAGA suit is fundamentally different than a class action" in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out

of a PAGA action.”); *Williams vs. Sup. Ct.*, 3 Cal.5th 531, 546-547 (2017) (“PAGA does not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class.”).

36. In order to comply with the requirements of Labor Code Section 2699(I), Plaintiff shall file a Motion for Approval of Representative PAGA Settlement identifying the key terms of this Settlement and Release agreement and requesting that the Court approve the Settlement (“Approval Motion”).

VI. THE SETTLEMENT PAYMENT PLAN AND ADMINISTRATION OF THE SETTLEMENT

37. Within 15 calendar days after the Effective Date, Defendant will compile and transmit to the Settlement Administrator an Aggrieved Employee list (“Aggrieved Employee List”) containing: (1) the name; (2) last known home address and telephone number; (3) the number of pay periods worked by an Aggrieved Employee during the Covered Period; and (4) the Aggrieved Employees’ social security numbers.

38. Defendant shall pay to the Settlement Administrator the Gross Settlement Amount within thirty (30) calendar days of the Effective Date. Once Defendant has complied with its obligation set forth in paragraph 37 and this paragraph, it shall be deemed to have satisfied all of the terms and conditions of this Agreement, shall be entitled to all the protections afforded it under the Agreement, and shall have no further obligations under the Agreement. Without prejudice to any other remedies, both the Settlement Administrator and PAGA Counsel shall hold Defendant harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any failure to timely or properly compensate PAGA Members as provided in this Agreement. The Settlement Administrator shall distribute each Aggrieved Employee Share to the Aggrieved Employees, any service award and the attorneys’ fees and costs awarded by the Court within fifty (50) days of the Effective Date, which is twenty (20) calendar days after Defendant deposits the entirety of the Gross Settlement Amount.

39. The Settlement Payment checks for each Aggrieved Employee's Share shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. A letter approved by the Parties, in advance of filing the Approval Stipulation, explaining this Settlement will be included in the mailing of each Aggrieved Employee's check and submitted to the Court for its review and approval. The date of the initial mailing of the payment check shall be conclusively determined according to the records of the Settlement Administrator.

40. The Settlement Administrator shall ensure that 75% of the PAGA Penalty Fund is paid to the LWDA.

41. Aggrieved Employee Share checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. Any funds associated with checks for the Aggrieved Employees Share of PAGA penalties that have not been cashed within 180 days, will become void and the amounts associated with the un-cashed check shall be paid out in accordance with Civil Code section 384 to a *cy pres* agreed to by the Parties as required by Code of Civil Procedure section 384 or any other method of distribution consistent with Code of Civil Procedure section 384. Upon the expiration of the 180 days, the Settlement Administration shall pay all remaining settlement funds to the designated *cy pres* recipient. The *cy pres* recipient shall be Child Advocates of Placer and Yuba Counties aka CASA of Placer and Yuba Counties. The Parties hereby expressly agree to this specific distribution for any and all unclaimed funds.

42. Escalator Clause. Defendants represented that there were approximately 175 Aggrieved Employees and 3,526 pay periods as of January 14, 2025. If the number of pay periods as of January 14, 2025 exceeds the estimate of 3,526 pay periods by more than 15% (*e.g.* if there are more than 4,055 pay periods), Defendants agree to increase the Gross Settlement Amount on a pro-rata basis equal to the increase in number of pay periods relative to the estimate minus the 15%. By way of example, if there turn out to be 4,400 pay periods, the settlement

shall be increased by 9.787% ((4,400 pay periods/3,526 estimated pay periods x 100%)– 15%), which is the amount of increase relative to the initial estimate minus the 15% buffer.

VII. DUTIES OF THE PARTIES PRIOR TO APPROVAL

43. Promptly upon execution of this Settlement, Plaintiff shall file a Motion for Approval of Representative PAGA Settlement. The Parties shall apply to the Court for the entry of an order and final judgment approving this Settlement as required by Labor Code section 2699(l). Plaintiff shall prepare and file a Motion for Approval of Representative PAGA Settlement. The Approval Motion will request Court approval of the following:

- a. Approving the terms of this Settlement and Release Agreement;
- b. Approving the amount of PAGA Counsel Fees & Costs;
- c. Appointing ILYM Group, Inc. as the Settlement Administrator and approving the amount of Settlement Administration Costs;
- d. Approving the amount of Plaintiff's Service Award; and
- e. Entering Final Judgment.

44. In conjunction with the Motion for Approval of PAGA Settlement, the Parties will submit a proposed Final Judgment requesting the entry of judgment on the PAGA claims in the amount of \$150,000.00 in favor of Plaintiff and the State of California.

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

VIII. MUTUAL FULL COOPERATION

46. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein.

X. NO ADMISSION

47. Nothing contained herein nor is the consummation of this Settlement to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendant denies that it has engaged in any unlawful activity, that it failed to comply with the law in any material respect, or that it has any liability to anyone under the claims asserted in the Lawsuit. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendant.

XI. NON-EVIDENTIARY USE

48. Whether or not the Effective Date occurs, neither this Agreement nor any of its terms, nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to establish that an Aggrieved Employee has resolved any of his/her claims released through this Agreement nor against Plaintiff in this Action.

XI. NULLIFICATION

49. If (a) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys' fees, costs, settlement administration costs, or the proposed service award), or (b) the Court's approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force

or effect; and (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Agreement, except for the amount of attorneys' fees and costs, settlement administration expenses, or the Plaintiff's proposed service award, shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

XII. ATTORNEYS' FEES, COSTS AND EXPENSES

50. Except as specifically set forth herein, each party shall bear their own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by her/ them arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Agreement. However, to the extent that any party must enforce the terms of this agreement, the prevailing party in such enforcement action will be entitled to their attorneys' fees and costs.

XIII. CONSTRUCTION

51. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arms-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff (on behalf of himself and the State of California) and Defendant regarding actual or potential claims asserted by Plaintiff against Releasees. Excluding the Arbitration Agreement entered into by the Parties prior to the commencement of this lawsuit and the Individual Settlement Agreement that covers Plaintiff's individual claims and will be disclosed to the Court, this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims. Consequently, no other agreement, statement, or promise made by one Party to another as to any matter addressed in this Agreement shall be binding or valid.

XIV. CAPTIONS AND INTERPRETATIONS

52. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this

Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

XV. MODIFICATION

53. This Settlement may not be amended, changed, altered, or modified, except in writing and signed by the Parties (or their successors-in-interest) hereto. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XVI. MISCELLANEOUS

54. Limited Waiver of Right to Appeal. Provided that the Judgment ultimately entered in this Action is consistent with the terms and conditions of this Agreement, specifically including the Plaintiff's Service Award, the PAGA Counsel's Fees and PAGA Counsel's expense reimbursement, the Parties and their respective counsel 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 or to oppose and/or appeal any adverse rulings related to any third-parties attempts to intervene or object to the Parties' proposed settlement or any of its terms.

55. Use and Return of PAGA Data. Documents provided to PAGA Counsel under the Mediation Privilege shall be deleted 1 year and 30 days after the entry of any amended judgment under Code of Civil Procedure section 384.

56. This Settlement contains the entire agreement between the Parties relating to the Settlement of the Covered Claims and all PAGA claims in the Parties' lawsuit, and all prior or contemporaneous agreements (except any Arbitration Agreement and Plaintiff's disclosed Individual Settlement Agreement that will be filed by Plaintiff with the Court), understandings, representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties have made such investigation of the facts and the law pertaining to the matters described

herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters that would alter or change the terms of this Agreement. No representations, warranties, or inducements have been made to any party concerning this Agreement other than those expressly set forth or referred to herein.

57. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

58. This Settlement may be executed in counterparts either via a wet written signature or an electronic signature (such as via Dropbox Sign or DocuSign). When each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

59. This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

60. The Parties have cooperated in the negotiation and preparation of this Agreement. This Agreement shall not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement. As such, both Parties agree that they bear the risk of mistake and that they each agree to bear such risks, including all potential risks associated with this Settlement, equally.

61. The Placer County Superior Court shall retain jurisdiction to enforce this Agreement pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties to the fullest extent to enforce and effectuate the terms and intent of this Agreement.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

DATED: 03 / 28 / 2025
_____, 2025



EDUARDO JUAREZ
as PAGA Representative

DATED: 04/02/2025


Michael Wright Page 0, 2025 10:35 PM

FOR WRIGHT CELEBRATIONS, INC.
By: Michael Wright
Its: Owner

ACUERDO DE ARREGLO Y EXENCIÓN DE RESPONSABILIDAD PAGA

Las partes de este Arreglo y Exención de Responsabilidad (de aquí en más, el “Arreglo” o el “Acuerdo”) son el Demandante Eduardo Juárez (de aquí en más, el “Demandante”) como un procurador general privado en representación del Estado de California de conformidad con la sección 2698 y subsiguientes del Código de Trabajo, la Ley de Procurador General Privado (“PAGA”, por sus siglas en inglés), y el Demandado Wright Celebrations, Inc. (el “Demandado”). Al Demandante y al Demandado nos referiremos colectivamente en el presente como las “Partes”.

Este Arreglo será vinculante para el Demandante y el Estado de California en la medida en que lo permita la PAGA y para el Demandado, sujeto a los términos y condiciones del presente y a la aprobación del Tribunal.

I. NATURALEZA DE LA ACCIÓN LEGAL

1. El 6 de mayo de 2024, el Demandante envió un aviso a la Agencia de Desarrollo de Trabajo y Fuerza Laboral (“LWDA”, por sus siglas en inglés) informando su intención de iniciar una acción legal PAGA representativa en representación del Estado de California, así como en nombre de otros empleados agraviados.

2. El 11 de julio de 2024, el Demandante presentó una demanda que incluía sus propios reclamos individuales, además de los reclamos PAGA representativos ante el Tribunal Superior del Condado de Placer.

3. Para los fines de este Arreglo, los Empleados Agraviados o Miembros PAGA se definen como: todos los empleados no exentos que trabajaron para Wright Celebrations, Inc. en California como un empleado en cualquier momento del 6 de mayo de 2023 al 14 de enero de 2025.

4. Mediante la presentación de pruebas informal, el Demandado proporcionó al Demandante y al Abogado PAGA información sobre la cantidad de empleados agraviados potenciales (175), la cantidad de períodos de pago potencialmente en cuestión (3,526 períodos de pago), los documentos de política pertinentes, además de una muestra de datos de horas y salarios de 35 empleados agraviados.

5. El 14 de enero de 2025, las Partes sometieron a mediación este caso ante el experimentado Mediador Jeffery Owensby de Judicate West, y llegaron a un acuerdo sobre la PAGA y los reclamos individuales establecidos en la demanda del 11 de julio de 2024.

II. DECLARACIONES Y DEFINICIONES

1. “Empleado Agraviado”, “Empleados Agraviados”, “Miembro PAGA” o “Miembros PAGA” significará todos los empleados no exentos que trabajaron para Wright Celebrations, Inc. en California como un empleado en cualquier momento del 6 de mayo de 2023 al 14 de enero de 2025.

2. “Representante PAGA” o “Demandante” se referirá al Demandante identificado Eduardo Juárez.

3. “Demandado” significará y se referirá a Wright Celebrations, Inc.

4. “Partes Eximidas” significará y se referirá al Demandado y a cualquier entidad antecesora, fusionada o relacionada, lo que incluye empresas integradas, alter egos o empleadores conjuntos y sus propietarios, gerentes, agentes, abogados, contratistas, clientes o empleados.

5. “Demanda” se refiere a la acción legal civil pendiente ante el Tribunal Superior del Condado de Placer titulada, *EDUARDO JUAREZ, an individual, and on behalf of the State of California, as a private attorney general, Plaintiff, v. WRIGHT CELEBRATIONS, INC., a California Corporation, and DOES 1 thru 50, inclusive, Defendants*, Tribunal Superior del Condado de Placer, No. de Caso S-CV-0053190.

6. “Abogado PAGA” se referirá a David S. Winston de Winston Law Group, P.C.

7. “Abogados del Demandado” y “Abogados Defensores” se referirá a Kevin Cleveland y Janelle Di Mino de O’Hagan Meyer.

8. “Período Cubierto” o “Período PAGA” significará el período del 6 de mayo de 2023 al 14 de enero de 2025.

9. “Tribunal” se refiere al Tribunal Superior del Condado de Placer.

10. “Parte de los Empleados Agraviados” significará y se referirá a la parte de cada Empleado Agraviado PAGA del 25% de las sanciones PAGA asignadas a los Empleados

Agraviados de conformidad con la sección 2699(i) del Código de Trabajo.

11. “Administrador del Arreglo” se referirá a ILYM Group, Inc.

12. “Reclamos Cubiertos” significa todos y cada uno de los reclamos, derechos o causas de acción legal que solicitan sanciones civiles conforme a la PAGA que se alegaron o que podrían haberse alegado razonablemente para las sanciones PAGA en base a infracciones de las siguientes disposiciones del Código de Trabajo: 201, 202, 203, 204, 206.5, 210, 226, 226.3, 226.7, 246-248, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, y Orden de Salario de la IWC Nos. 4-2001 y 7-2001 y/u otra orden de salario aplicable o que se podría haber alegado de forma razonable en base a los hechos alegados en el Aviso PAGA del 6 de mayo de 2024 y la Demanda del 11 de julio de 2024 (los “Reclamos Arreglados” o los “Reclamos Eximidos”). Este Arreglo no cubre los reclamos individuales de ningún empleado, lo que incluye los reclamos individuales del Demandante.

13. “Arreglo Individual” significará y se referirá al arreglo individual por separado del Demandante Eduardo Juárez por sus reclamos individuales pendientes por separado en esta Acción Legal que se divulga al Tribunal como parte del proceso de aprobación. El Demandado presentará el arreglo individual del Demandante ante el Tribunal sellado en caso de que el Tribunal desee evaluarlo como parte del proceso de aprobación.

14. “Períodos de Pago que Califican” significa la cantidad total de períodos de pago en los que cada Empleado Agraviado recibió un recibo de sueldo durante el Período Cubierto.

15. “Arreglo” significará este Acuerdo de Arreglo y Exención de Responsabilidad.

16. “Fecha de Vigencia” y “Definitivo” significa lo que tenga lugar primero de: (i) si ningún Empleado Agraviado presenta una objeción (en la medida de lo permitido por la ley), la fecha en que el Tribunal dicte una orden otorgando la aprobación del arreglo PAGA; (ii) si un Empleado Agraviado presenta una objeción, sesenta y un (61) días después de la fecha en que el Tribunal dicte una orden otorgando la aprobación, suponiendo que no se presente una apelación; o (iii) si un Empleado Agraviado presenta una objeción e interviene dentro de los plazos previstos o presenta dentro de los plazos previstos una moción para anular la Sentencia a pesar de la prohibición de tales medidas reconocida en *Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664, 675

(2024) y de todas maneras presenta una apelación dentro de los plazos previstos, la fecha de resolución definitiva de dicha apelación (lo que incluye toda solicitud de nueva audiencia y/o peticiones de revisión de sentencia), que den lugar a la aprobación judicial definitiva y plena del Arreglo en su totalidad, sin que sea posible ninguna otra impugnación del Arreglo. En este sentido, la intención de las Partes es que la Fecha de Vigencia del Arreglo PAGA no sea una fecha anterior a la fecha en que la orden del Tribunal que aprueba el arreglo de la Acción Legal PAGA se convierta en completamente definitiva y no exista recurso oportuno por parte de ninguna persona que pretenda impugnar el arreglo de la Acción Legal PAGA.

17. “Pago por Servicios” significa un monto monetario de un máximo de \$7,500.00 para el Demandante Eduardo Juárez que, sujeto a la aprobación del Tribunal, se pagará como se indica más abajo.

18. “Monto Bruto del Arreglo” o “GSA” significará y se referirá a los \$150,000.00 que el Demandado está obligado a pagar conforme a los términos del arreglo propuesto. El Monto Bruto del Arreglo consiste en el pago del arreglo a los Miembros PAGA, los honorarios y costos de administración del arreglo, el incentivo y/o mejora del Demandante en cuanto a la Acción Legal PAGA, el pago a la Agencia de Desarrollo de Trabajo y Fuerza Laboral de su parte conforme a la Ley de Procurador General Privado de 2004 (“PAGA”, codificada en la sección 2698 y posteriores del Código de Trabajo) del Código de Trabajo, y los honorarios y costos de los abogados. El Monto Bruto del Arreglo no es reversible, de tal manera que se desembolsará la totalidad del monto y ninguna parte será devuelta al Demandado.

19. El Demandante alegó en representación del Estado de California que el Demandado no pagó a los Empleados Agraviados todos los salarios mínimos, todos los salarios por horas extra, no proporcionó períodos para comer legales y no pagó las primas de los períodos para comer a la tarifa adecuada, no proporcionó períodos de descanso con sueldo legales y no pagó las primas de los períodos de descanso con sueldo a la tarifa adecuada, no proporcionó recibos de sueldo (talones de pago) detallados completos o correctos, no proporcionó pago por enfermedad y/o no pagó pago por enfermedad a la tarifa correcta, no pagó oportunamente todos

los salarios adeudados durante y después del empleo, no mantuvo registros de horas correctos, no reembolsó gastos de negocios, exigió a los empleados que firmaran una exención de responsabilidad de sus reclamos salariales para poder recibir sus salarios, y no proporcionó los avisos exigidos. El Demandante alega que esta conducta subyacente da lugar a un reclamo de conformidad con el artículo 2698 y subsiguientes del Código de Trabajo.

20. El Demandado rechaza toda responsabilidad o acto indebido de ningún tipo relacionado con los reclamos alegados en la Demanda, y rechaza toda responsabilidad o acto indebido intencional. Ninguna de las secciones incluida en el presente ni la consumación de este Arreglo será interpretada o considerada como una admisión de responsabilidad, culpabilidad, negligencia o acto indebido de parte del Demandado o ninguna de las Partes Eximidas. Cada una de las Partes del presente suscribió este Arreglo con la intención de evitar litigios y procesos judiciales adicionales con los consecuentes inconvenientes y gastos. El Demandado rechaza haber participado en actividades ilegales, haber incumplido la ley en algún aspecto material o tener alguna responsabilidad frente a nadie conforme a los reclamos que se hacen valer en la Demanda. Este Acuerdo se suscribe exclusivamente con el objeto de llegar a un arreglo de reclamos altamente disputados. Ninguna de las secciones de este Acuerdo tiene por objeto ni debe ser interpretada como una admisión de actos indebidos por parte del Demandado. No obstante, el Demandado está dispuesto a resolver este tema de acuerdo con los términos que se establecen en el presente.

21. El objeto de este Arreglo es resolver y conciliar la Demanda y todos los Reclamos Cubiertos que el Demandante, el Estado de California y los Empleados Agraviados puedan tener conforme a la PAGA contra el Demandado y las Partes Eximidas. Ni la existencia de este Arreglo ni nada de lo incluido en este Arreglo se interpretará o considerará como una admisión de responsabilidad, culpabilidad, negligencia o acto indebido por parte del Demandado. Ninguna de las secciones del presente constituirá una admisión por parte del Demandado de que la Demanda fue presentada de forma adecuada como una acción legal representativa más allá de los fines de un arreglo. El Arreglo de la Demanda, la negociación y suscripción de este Arreglo, y todos los

actos realizados o documentos suscritos de conformidad o para perfeccionar este Arreglo o el arreglo de la Demanda: (a) no constituyen, no se considerarán y no podrán utilizarse como admisión o prueba de ningún acto indebido o responsabilidad por parte del Demandado, ni de la veracidad de ninguna de las alegaciones de hecho en la Demanda operativa en la Demanda; (b) no constituyen, no se considerarán y no podrán utilizarse como admisión o prueba de ninguna falta u omisión por parte del Demandado en ningún proceso civil, penal o administrativo ante ningún tribunal, agencia administrativa u otro tribunal; y (c) no constituyen, no se considerarán y no podrán utilizarse como admisión o prueba de la pertinencia de estos reclamos u otros similares para el tratamiento representativo, la certificación de clase o la administración más allá de para fines de la administración de este Arreglo.

22. Las Partes reconocen que es probable que los temas planteados en la Demanda solo se resuelvan con extensos y costosos procedimientos prejudiciales y judiciales, y que la continuación del proceso judicial causará inconvenientes, distracciones, trastornos, retrasos y gastos desproporcionados en relación con los beneficios potenciales del proceso judicial. Las Partes tuvieron en cuenta el riesgo y la incertidumbre del resultado inherentes a todo proceso judicial y los reclamos en esta Acción Legal.

23. El Demandante y el Abogado PAGA sostienen que llevaron a cabo de forma diligente una investigación de los reclamos del estado de California conforme a la PAGA contra el Demandado.

24. En base a sus propias investigaciones y evaluaciones independientes y después de asistir a mediación, la opinión del Demandante y del Abogado PAGA es que el arreglo por la contraprestación y según los términos que se establecen en este Arreglo es justo, razonable y adecuado, y que favorece los intereses del Demandante, los Empleados Agraviados y el Estado de California teniendo en cuenta todos los hechos y circunstancias conocidos y los riesgos inherentes en un proceso judicial.

25. Con el objeto de cumplir con los requisitos de la Sección 2699(l) del Código de Trabajo, el Demandante presentará una Moción de Aprobación del Arreglo PAGA Representativo

ante el Tribunal identificando los términos clave de este Acuerdo de Arreglo y Exención de Responsabilidad y solicitando que el Tribunal apruebe el Arreglo (la “Moción de Aprobación”). El Arreglo está supeditado a la aprobación del Tribunal. Si el Tribunal rechaza una Moción de Aprobación del Arreglo PAGA Representativo debido a inquietudes de que las Partes no pueden hacer frente a modificaciones no materiales de este Acuerdo, (i) este Arreglo se considerará nulo y sin efecto; (ii) ni este Acuerdo de Arreglo ni ninguna de las negociaciones o procesos relacionados tendrán vigencia ni efecto; y (iii) todas las Partes de este Acuerdo de Arreglo se encontrarán en la misma postura, sin perjuicio, como si este Arreglo no se hubiera suscrito ni presentado ante el Tribunal. La invalidación de toda sección material de este Arreglo, a excepción del monto de los honorarios de abogados y costos o el pago por servicios del Demandante, invalidará este Arreglo en su totalidad, a menos que las Partes acuerden posteriormente por escrito que las disposiciones restantes permanecerán en plena vigencia y efecto. Las Partes acuerdan cumplir con todos y cada uno de los términos del Arreglo de buena fe y apoyar plenamente el Arreglo y hacer todo lo posible para defender este Arreglo de toda impugnación legal, ya sea durante una apelación o mediante ataque indirecto. Las Partes harán todo lo posible de buena fe para resolver todo tema planteado por el Tribunal durante el proceso de aprobación.

26. Si el Tribunal no concede la Moción de Aprobación del Arreglo PAGA Representativo después de varios intentos y después de agotar todas las iniciativas de buena fe para corregir toda inquietud planteada por el Tribunal, las Partes volverán a sus posturas anteriores a la suscripción de este Acuerdo de Arreglo y el Acuerdo de Arreglo será nulo y sin efecto y todos los materiales relacionados con la solicitud de aprobación del Arreglo serán inadmisibles.

III. TÉRMINOS DEL ARREGLO

27. En contraprestación de los pactos, promesas y declaraciones mutuas establecidas en este Arreglo, el Demandante, en representación del Estado de California como un Procurador General Privado, y el Demandado acuerdan llegar a un arreglo y conciliar la Demanda y los Reclamos Cubiertos, sujeto a los términos y condiciones establecidos en este Arreglo.

28. El monto del Arreglo. Como contraprestación por el arreglo que se describe en el presente y la exención de responsabilidad incluida en este Arreglo, el Demandado acuerda pagar el Monto Bruto del Arreglo de \$150,000.00 en relación con el Arreglo PAGA. El Monto Bruto del Arreglo consistirá y se asignará de la siguiente manera:

- (a) La solicitud de honorarios de abogados del Abogado PAGA de 1/3 del Monto Bruto del Arreglo (\$50,000.00);
- (b) La solicitud de costos del Abogado PAGA de un monto de un máximo de \$20,000.00;
- (c) Un pago por servicios PAGA de un monto de un máximo de \$7,500.00 al Demandante Eduardo Juárez por sus servicios en representación del estado de California y los Empleados Agraviados;
- (d) Los costos de administración de un máximo de \$8,000.00 que se pagarán al Administrador del Arreglo ILYM Group, Inc.; y
- (e) El resto del Pago del Arreglo después de deducir los puntos (a), (b), (c) y (d) del presente se designará como Sanciones PAGA o Fondo de Sanciones PAGA y se estima que será de \$64,500.00 y se distribuirá a la LWDA y los Empleados Agraviados de conformidad con la sección 2699(i) del Código de Trabajo, pagándose el 75% a la LWDA (\$48,375.00) y el 25% a los Empleados Agraviados de forma prorrateada (\$16,125.00) conforme a la cantidad de períodos de pago trabajados durante el Período Cubierto, que también se denomina Período PAGA.

29. Asignación y cálculo de las Sanciones PAGA. El Fondo de Sanciones PAGA total previsto será de aproximadamente \$64,500.00. El setenta y cinco por ciento del Fondo de Sanciones PAGA se pagará a la LWDA, tal como lo exige la sección 2699(i) del Código de Trabajo. El 25% restante del Fondo de Sanciones PAGA se distribuirá a los Empleados Agraviados de forma prorrateada en función de la cantidad de períodos de pago trabajados durante el Período Cubierto, que también se denomina Período PAGA. La asignación a los Empleados Agraviados se determinará dividiendo la totalidad del Fondo PAGA asignado a los Empleados

Agraviados por la cantidad de períodos de pago en el Período PAGA. El monto resultante será el Monto de Período de Pago. Cada Empleado Agraviado, lo que incluye al Demandante, recibirá un valor prorrateado igual a la cantidad de períodos de pago trabajados durante el Período PAGA multiplicado por el Monto de Período de Pago (los “Pagos Individuales del Arreglo”). Todos los Pagos Individuales del Arreglo realizados a los Empleados Agraviados se informarán en un Formulario 1099-MISC del IRS en la medida en que lo exija la ley. La parte prorrateada de cada Empleado Agraviado del Fondo de Sanciones PAGA representa su parte del 25% de sanciones PAGA distribuibles a los empleados agraviados.

30. Pago por Servicios al Representante PAGA. El Demandante Eduardo Juárez puede solicitar un pago por servicios de un máximo de \$7,500.00 en reconocimiento por sus servicios en representación del Estado de California y de los Empleados Agraviados. Todo pago por servicios otorgado por el Tribunal se pagará del Monto Bruto del Arreglo y se informará en un formulario 1099-MISC del IRS. El Pago por Servicios al Representante PAGA será un monto adicional a la parte prorrateada de las sanciones del Fondo de Sanciones PAGA otorgadas a los Empleados Agraviados que corresponde al Demandante Eduardo Juárez. El Demandado no objetará ni se opondrá a una solicitud de pago por servicios para el representante PAGA Eduardo Juárez de un monto de un máximo de \$7,500.00. Si el Tribunal rechaza conceder un pago por servicios o aprueba un monto menor, todo monto no otorgado por el Tribunal se reasignará al fondo de Sanciones PAGA Netas y se distribuirá a los Empleados Agraviados.

31. Honorarios y Costos del Abogado PAGA. Como parte de la solicitud de aprobación de este Arreglo, el Abogado PAGA solicitará la aprobación del Tribunal de 1/3 del Monto Bruto del Arreglo, que asciende a \$50,000.00. El Abogado PAGA también solicitará el reembolso de costos de un monto de un máximo de \$20,000.00 por los costos en que haya incurrido y/o prevea que vaya a incurrir el Abogado PAGA en el procesamiento de esta Acción Legal. Si el Abogado PAGA solicita un monto menor en concepto de honorarios y costos y/o el Tribunal aprueba un monto menor, la diferencia se asignará al Fondo de Sanciones PAGA y se distribuirá en consecuencia. Los honorarios de abogados y costos otorgados al Abogado PAGA,

a los que nos referiremos de aquí en más como los “Honorarios y Costos del Abogado PAGA”, compensarán y reembolsarán íntegramente al Abogado PAGA por todo el trabajo ya realizado en relación con la Demanda y todo el trabajo que quede por realizar para resolver completa y definitivamente la Demanda lo que incluye, de forma enunciativa y no limitativa, obtener la aprobación del arreglo por parte del Tribunal, comparecer en toda audiencia, asegurarse de que el arreglo se administre de forma justa y adecuada, defender el arreglo en toda apelación u otro tema posterior a la aprobación, todo otro trabajo que el Abogado PAGA haya realizado o vaya a realizar, y todos los costos en los que el Abogado PAGA haya incurrido o vaya a incurrir. El Demandado no objetará ni se opondrá a una solicitud de honorarios de abogados de un monto máximo de 1/3 del Monto Bruto del Arreglo ni a una solicitud de reembolso de costos que no supere los \$20,000.00.

32. Tratamiento de impuestos de los montos del Arreglo. Con respecto a los pagos del arreglo a los Empleados Agraviados PAGA que reflejen la parte de cada Empleado Agraviado de las sanciones PAGA, se emitirá un Formulario 1099-MISC del IRS si así lo exige el Administrador del Arreglo. Ninguna de las secciones en este Arreglo tiene por objeto constituir asesoramiento legal en relación con las obligaciones de impuestos federales, estatales y/o locales. El Demandante reconoce que no obtuvo asesoramiento de impuestos del Demandado y que ni el Demandado ni sus abogados realizaron ninguna declaración en relación con las consecuencias de impuestos, si existen, del Monto del Arreglo en este Acuerdo o de ningún pago que se realice de conformidad con este Acuerdo. En la medida en que se interprete que este Arreglo o cualquiera de sus anexos contiene o constituye asesoramiento en relación con toda cuestión de impuestos estatal o federal, dicho asesoramiento no tiene por objeto ni fue escrito para ser utilizado, y no puede ser utilizado, por ninguna persona con el fin de evitar sanciones conforme al Código de Impuestos Internos. El Demandado no es responsable de las obligaciones de impuestos de ningún Empleado Agraviado en relación con la asignación de los pagos del arreglo. El pago de los Honorarios y Costos del Abogado PAGA se reflejará en un Formulario 1099 para el Abogado PAGA, quien asumirá plena responsabilidad por el pago de los impuestos adeudados sobre dichos

pagos.

IV. EXENCIÓN DE RESPONSABILIDAD

33. Exención de responsabilidad por parte de todos los Empleados Agraviados.

Después de que el Tribunal apruebe este Arreglo, el Demandante, el Estado de California y cada Empleado Agraviado, durante el período del 6 de mayo de 2023 al 14 de enero de 2025, eximirá de responsabilidad plenamente y para siempre a las Partes Eximidas por todos y cada uno de los Reclamos Cubiertos.

34. Exención de responsabilidad por parte del Demandante y Arreglo Individual del Demandante. Además de su participación en la exención de responsabilidad por parte de todos los Empleados Agraviados y a menos que se disponga lo contrario en el presente, en la Fecha de Vigencia de este Arreglo, el Demandante acordó un arreglo individual por separado que tiene como objeto compensar al Demandante por todos los reclamos adicionales, ya sean conocidos o desconocidos, contra el Demandado lo que incluye, de forma enunciativa y no limitativa, sus reclamos salariales y de carga horaria individuales presentados por separado pendientes en esta Acción Legal y una exención de responsabilidad general que también cubre reclamos por discriminación en el empleo, represalias, u otros reclamos individuales que no se estén litigando en este caso. Como parte del arreglo de sus reclamos individuales, el Demandante proporciona una exención de responsabilidad total de los reclamos individuales en la medida permitida por la ley, más allá de los reclamos que no se pueden eximir, tales como reclamos de compensación al trabajador. El Abogado PAGA no recibe ningún honorario de abogados ni reembolso de costos relacionado con el arreglo individual del Demandante. Como parte del proceso de aprobación, el Demandante proporcionará al Tribunal una copia del arreglo individual.

V. APROBACIÓN DEL ARREGLO

35. Las Partes reconocen que, de conformidad con la Sección 2699(l) del Código de Trabajo, se requiere la aprobación del Tribunal en caso de llegar a un arreglo sobre una acción legal PAGA sobre una base representativa. Sin embargo, como se explica en *Arias v. Superior Court*, 46 Cal.4th 969 (2009), las Partes no tienen la obligación de seguir las normas procesales

de las demandas colectivas en los casos PAGA y, por lo tanto, no tienen necesidad de obtener la aprobación del arreglo PAGA a través de una moción de aprobación preliminar o definitiva. Véase también *Mendoza vs. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) (“PAGA autoriza una acción legal representativa sin necesidad de certificación de clase”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) (“una demanda PAGA es fundamentalmente diferente de una demanda colectiva” en el sentido de que PAGA no tiene requisitos de aviso para los empleados agraviados no identificados, y dichos empleados no pueden excluirse de una acción legal PAGA.”); *Williams vs. Sup. Ct.*, 3 Cal.5th 531, 546-547 (2017) (“PAGA no convierte a otros empleados potencialmente agraviados en partes o clientes del abogado del demandante, no impone a un demandante o abogado ninguna obligación fiduciaria expresa, y no somete a un demandante o abogado a escrutinio con respecto a la capacidad de representar a una clase numerosa”).

36. Con el objeto de cumplir con los requisitos de la Sección 2699(l) del Código de Trabajo, el Demandante presentará una Moción de Aprobación del Arreglo PAGA Representativo identificando los términos clave de este acuerdo de Arreglo y Exención de Responsabilidad y solicitando que el Tribunal apruebe el Arreglo (la “Moción de Aprobación”).

VI. EL PLAN DE PAGO DEL ARREGLO Y LA ADMINISTRACIÓN DEL ARREGLO

37. En un plazo de 15 días calendario después de la Fecha de Vigencia, el Demandado compilará y entregará al Administrador del Arreglo una lista de Empleados Agraviados (la “Lista de Empleados Agraviados”) que incluirá: (1) el nombre; (2) la última dirección particular y número de teléfono conocidos; (3) la cantidad de períodos de pago trabajados por un Empleado Agraviado durante el Período Cubierto; y (4) los números de Seguro Social de los Empleados Agraviados.

38. El Demandado pagará al Administrador del Arreglo el Monto Bruto del Arreglo en un plazo de treinta (30) días de la Fecha de Vigencia. Una vez que el Demandado haya cumplido con su obligación establecida en el párrafo 37 y este párrafo, se considerará que satisfizo

todos los términos y condiciones de este Acuerdo, tendrá derecho a todas las protecciones que le otorga el Acuerdo, y no tendrá obligaciones adicionales conforme al Acuerdo. Sin perjuicio de cualquier otro recurso, tanto el Administrador del Arreglo como el Abogado PAGA eximirán al Demandado de toda responsabilidad, reclamo, causa de acción legal, costo y gasto (lo que incluye honorarios y gastos legales) que surjan de cualquier incumplimiento en compensar de forma oportuna o adecuada a los Miembros PAGA conforme a lo dispuesto en este Acuerdo. El Administrador del Arreglo distribuirá cada Parte de Empleado Agraviado a los Empleados Agraviados, todo pago por servicios y los honorarios de abogados y costos otorgados por el Tribunal en el plazo de cincuenta (50) días de la Fecha de Vigencia, que tendrá lugar veinte (20) días calendario después de que el Demandado deposite la totalidad del Monto Bruto del Arreglo.

39. Los cheques de Pago del Arreglo correspondientes a la Parte de cada Empleado Agraviado se enviarán a cada Empleado Agraviado por el correo de primera clase de los Estados Unidos a la dirección del Empleado Agraviado con instrucciones al Administrador de Correos para que reenvíe los cheques de pago y devuelva al Administrador del Arreglo todos los cheques de pago que no se puedan entregar. En el envío del cheque de cada Empleado Agraviado se incluirá una carta aprobada por las Partes, con anterioridad a la presentación de la Estipulación de Aprobación, en la que se explicará este Arreglo y que se presentará al Tribunal para su revisión y aprobación. La fecha del envío por correo inicial del cheque de pago se determinará de forma concluyente según los registros del Administrador del Arreglo.

40. El Administrador del Arreglo se asegurará de que el 75% del Fondo de Sanciones PAGA se paga a la LWDA.

41. Los cheques de la Parte de Empleados Agraviados seguirán siendo válidos y negociables durante ciento ochenta (180) días calendario a partir de la fecha de su emisión. Todo fondo relacionado con cheques para la Parte de Empleado Agraviado de sanciones PAGA que no fueron cobrados en un plazo de 180 días se convertirá en nulo, y los montos relacionados con el cheque no cobrado se pagarán de conformidad con la sección 384 del Código Civil a un receptor “cy pres” acordado por las Partes, tal como lo exige la sección 384 del Código de

Procedimientos Civiles o mediante todo otro método de distribución consistente con la sección 384 del Código de Procedimientos Civiles. Al vencimiento de los 180 días, el Administrador del Arreglo pagará todos los fondos del arreglo restantes al receptor “cy pres” designado. El receptor “cy pres” designado será Child Advocates of Placer and Yuba Counties, que también se conoce como CASA of Placer and Yuba Counties. Las Partes acuerdan expresamente esta distribución específica para todos y cada uno de los fondos no reclamados.

42. Cláusula de Ajuste Proporcional. El Demandado declaró que existían aproximadamente 175 Empleados Agraviados y 3,526 períodos de pago al 14 de enero de 2025. Si la cantidad de períodos de pago al 14 de enero de 2025 supera la estimación de 3,526 períodos de pago en más del 15% (por ejemplo, si hay más de 4,055 períodos de pago), el Demandado acuerda aumentar el Monto Bruto del Arreglo de forma prorrateada igual al aumento de la cantidad de períodos de pago en relación con las estimaciones menos el 15%. A modo de ejemplo, si el resultado es que hay 4,400 períodos de pago, el arreglo aumentará en un 9.787% $((4,400 \text{ períodos de pago} / 3,526 \text{ períodos de pago estimados} \times 100\%) - 15\%)$, que es el monto del aumento en relación con la estimación inicial menos el margen del 15%.

VII. OBLIGACIONES DE LAS PARTES ANTES DE LA APROBACIÓN

43. Inmediatamente después de la suscripción de este Arreglo, el Demandante presentará una Moción de Aprobación del Arreglo PAGA Representativo. Las Partes solicitarán al Tribunal que dicte una orden y sentencia definitiva que apruebe este Arreglo, tal como lo exige la sección 2699(l) del Código de Trabajo. El Demandante preparará y presentará una Moción de Aprobación del Arreglo PAGA Representativo. La Moción de Aprobación solicitará al Tribunal la aprobación de lo siguiente:

- a. Aprobación de los términos de este Acuerdo de Arreglo y Exención de Responsabilidad;
- b. Aprobación de los montos de los Honorarios y Costos del Abogado PAGA;
- c. Designación de ILYM Group, Inc. como el Administrador del Arreglo y aprobación del monto de Costos de Administración del Arreglo;

- d. Aprobación del monto del Pago por Servicios del Demandante; y
- e. Dictado de la Sentencia Definitiva.

44. Junto con la Moción de Aprobación del Arreglo PAGA, las Partes presentarán una propuesta de Sentencia Definitiva solicitando el dictado de la sentencia sobre los reclamos PAGA por un monto de \$150,000.00 a favor del Demandante y del Estado de California.

45. Los signatarios del presente declaran que cuentan con autorización plena para suscribir este Arreglo y vincular a las Partes del presente a los términos y condiciones del presente.

VIII. COOPERACIÓN MUTUA PLENA

46. Las Partes acuerdan cooperar plenamente de forma mutua para hacer cumplir los términos de este Arreglo incluyendo, de forma enunciativa y no limitativa, suscribir todo documento y tomar toda medida que pueda ser necesaria de forma razonable para implementar los términos de este Arreglo. Las Partes de este Arreglo harán todo lo posible, incluyendo todo lo que se contempla en este Arreglo y todo lo que pueda convertirse en necesario debido a una orden del Tribunal o de otra manera, para poner en práctica este Arreglo y los términos en el mismo.

X. SIN ADMISIÓN

47. Ninguna de las secciones incluida en el presente ni la consumación de este Arreglo será interpretada o considerada como una admisión de responsabilidad, culpabilidad, negligencia o acto indebido de parte del Demandado o ninguna de las Partes Eximidas. Cada una de las Partes del presente suscribió este Arreglo con la intención de evitar litigios y procesos judiciales adicionales con los consecuentes inconvenientes y gastos. El Demandado rechaza haber participado en actividades ilegales, haber incumplido la ley en algún aspecto material o tener alguna responsabilidad frente a nadie conforme a los reclamos que se hacen valer en la Demanda. Este Acuerdo se suscribe exclusivamente con el objeto de llegar a un arreglo de reclamos altamente disputados. Ninguna de las secciones de este Acuerdo tiene por objeto ni debe ser interpretada como una admisión de actos indebidos por parte del Demandado.

XI. USO NO PROBATORIO

48. Independientemente de si tiene lugar la Fecha de Vigencia, ni este Acuerdo ni

ninguno de sus términos, ni el Acuerdo en sí mismo: (a) se interpretarán, ofrecerán o admitirán como prueba, se recibirán como prueba o se considerarán como prueba para cualquier fin adverso al Demandado o a cualquier otra de las Partes Eximidas lo que incluye, de forma enunciativa y no limitativa, prueba de presunción, concesión, indicación o admisión por cualquiera de las Partes Eximidas de toda responsabilidad, falta, acto indebido, omisión, concesión o daño, o (b) se divulgará, se hará referencia, u ofrecerá como prueba en contra de cualquiera de las Partes Eximidas en todo proceso posterior en la Demanda, o en toda otra acción legal o proceso civil, penal o administrativo, excepto a los fines de poner en práctica el Arreglo conforme a este Acuerdo o para que el Demandado establezca que un Empleado Agraviado resolvió cualquiera de sus reclamos eximidos a través de este Acuerdo ni en contra del Demandante en esta Acción Legal.

XI. ANULACIÓN

49. Si (a) el Tribunal por cualquier motivo no aprueba este Arreglo en la forma acordada por las Partes (a excepción del monto de honorarios de abogados y costos, costos de administración del arreglo, o el pago por servicios propuesto) o (b) la aprobación del Tribunal de este Arreglo es revocada, modificada, declarada o dejada sin efecto, (i) este Arreglo se considerará nulo y sin efecto; (ii) ni este Acuerdo ni ninguna de las negociaciones o procesos relacionados tendrán ninguna vigencia ni efecto; y (iii) todas las Partes de este Acuerdo se encontrarán en la misma postura, sin perjuicio, como si este Acuerdo no se hubiera celebrado ni presentado ante el Tribunal. La invalidación de toda sección material de este Acuerdo, a excepción del monto de los honorarios de abogados y costos, los gastos de administración del arreglo o el pago por servicios propuesto del Demandante, invalidará este Acuerdo en su totalidad, a menos que las Partes acuerden posteriormente por escrito que las disposiciones restantes permanecerán en plena vigencia y efecto.

XII. HONORARIOS DE ABOGADOS, COSTOS Y GASTOS

50. A excepción de lo que se establece específicamente en el presente, cada una de las partes correrá con sus propios honorarios de abogados, costos y gastos, ya sea sujetos a

impuestos o no, incurridos por las mismas que surjan de la Demanda y no solicitarán el reembolso de los mismos de ninguna otra parte en este Acuerdo. Sin embargo, en la medida en que cualquiera de las partes deba hacer cumplir los términos de este acuerdo, la parte vencedora en dicha acción legal de cumplimiento tendrá derecho a los honorarios y costos de sus abogados.

XIII. INTERPRETACIÓN

51. Las Partes del presente acuerdan que los términos y condiciones de este Arreglo son resultado de negociaciones prolongadas, intensivas y en condiciones de igualdad entre las Partes, y que este Acuerdo constituye el acuerdo completo entre el Demandante (en su nombre y en representación del Estado de California) y el Demandado sobre los reclamos concretos y potenciales que hace valer el Demandante contra las Partes Eximidas. Excluyendo el Acuerdo de Arbitraje que suscribieron las Partes antes del inicio de este proceso judicial y el Acuerdo de Arreglo Individual que cubre los reclamos individuales del Demandante y se dará a conocer al Tribunal, este Acuerdo reemplaza a todos los acuerdos anteriores, escritos o verbales, entre las Partes en relación con dichos reclamos o reclamos potenciales y la resolución de dichos reclamos. Por lo tanto, ningún otro acuerdo, declaración o promesa hecha por una Parte a otra en relación con todo tema tratado en este Acuerdo será vinculante o válido.

XIV. ENCABEZADOS E INTERPRETACIONES

52. Los títulos o encabezados de párrafos incluidos en el presente se insertan por un motivo de conveniencia y para referencia y de ninguna manera definen, limitan, amplían o describen el alcance de este Arreglo ni ninguna de sus disposiciones. Cada término de este Arreglo es contractual y no meramente declaratorio.

XV. MODIFICACIÓN

53. Este Arreglo solo puede ser enmendado, cambiado, alterado o modificado por escrito con la firma de las Partes (o sus sucesores en interés) del mismo. Este Arreglo se extinguirá únicamente debido a su cumplimiento de conformidad con sus términos o mediante un escrito firmado por las Partes del mismo.

XVI. DISPOSICIONES VARIAS

54. Renuncia limitada al derecho a apelar. Si la Sentencia dictada en última instancia en esta Acción Legal es consistente con los términos y condiciones de este Acuerdo, incluyendo específicamente el Pago por Servicios al Demandante, el Pago de Honorarios del Abogado PAGA y el reembolso de gastos del Abogado PAGA, las Partes y sus respectivos abogados renuncian a todo derecho a apelar la Sentencia, lo que incluye todos los derechos a procesos posteriores a la sentencia y de apelación, el derecho a presentar mociones para revocar la sentencia, moción para un nuevo juicio, auto extraordinario y apelaciones. La renuncia a apelación no incluye la renuncia al derecho a oponerse a tales mociones, autos o apelaciones o a oponerse y/o a apelar cualquier decisión adversa relacionada con cualquier intento de terceros de intervenir u objetar el arreglo propuesto de las Partes o cualquiera de sus términos.

55. Uso y devolución de los Datos de la PAGA. Los documentos proporcionados al Abogado PAGA conforme al Privilegio de Mediación se eliminarán 1 año y 30 días después del dictado de cualquier sentencia enmendada conforme a la sección 384 del Código de Procedimientos Civiles.

56. Este Arreglo incluye el acuerdo completo entre las Partes en lo que se refiere al Arreglo de los Reclamos Cubiertos y todos los reclamos PAGA en el proceso judicial de las Partes, y todos los acuerdos (excepto cualquier Acuerdo de Arbitraje y el Acuerdo de Arreglo Individual divulgado por el Demandante), entendimientos y declaraciones anteriores o actuales, ya sean verbales o escritos, y ya sea de una parte o de los abogados de dicha Parte, quedan fusionados por el presente. Solo es posible renunciar a un derecho conforme al presente por escrito. Las Partes investigaron los hechos y las leyes relativas a los temas que se describen en el presente y a este Acuerdo según lo consideraron necesario, y no se basaron, ni se basan, en ninguna declaración, promesa o representación de hecho o de derecho, realizada por cualquiera de las otras partes, o cualquiera de sus agentes, empleados, abogados o representantes, con respecto a cualquiera de sus derechos o derechos hecho valer, o con respecto a la conveniencia de realizar y suscribir este Acuerdo, o con respecto a cualquiera de dichos temas que alteraría o

cambiaría los términos de este Acuerdo. No se hizo ninguna declaración, ni se otorgó ninguna garantía o incentivo a ninguna parte sobre este Acuerdo más allá de las que se establecen o a las que se hace referencia en el presente.

57. Este Arreglo será vinculante y en beneficio de las Partes del mismo y sus respectivos herederos, fideicomisarios, albaceas, administradores, sucesores y cesionarios.

58. Este Arreglo puede suscribirse en ejemplares mediante una firma manuscrita por escrito o una firma electrónica (como a través de Dropbox Sign o DocuSign). Cuando cada Parte haya firmado y entregado al menos uno de dichos ejemplares, cada uno de ellos se considerará un original y, junto con los demás ejemplares firmados, constituirá un Arreglo, que será vinculante y válido para todas las Partes. Los ejemplares se pueden suscribir y/o enviar electrónicamente o por facsímil.

59. Este Acuerdo se registrará, interpretará y regulará, y los derechos de las Partes se determinarán de conformidad con las leyes del Estado de California, con independencia de los principios de elección de derecho del Estado de California.

60. Las Partes cooperaron para la negociación y preparación de este Acuerdo. Este Acuerdo no se interpretará contra ninguna de las Partes debido a que la Parte o el abogado de la Parte fue el que redactó o participó en la redacción de este Acuerdo. Por lo tanto, ambas Partes acuerdan que asumen el riesgo de error y que cada una de ellas acepta asumir por igual dichos riesgos, lo que incluye todos los riesgos potenciales relacionados con este Arreglo.

61. El Tribunal Superior del Condado de Placer conservará la jurisdicción para hacer cumplir este Acuerdo, de conformidad con la sección 664.6 del Código de Procedimientos Civiles de California. El Tribunal conservará la jurisdicción permanente sobre esta Demanda y sobre todas las Partes en la mayor medida posible para hacer cumplir y hacer efectivos los términos y la intención de este Acuerdo.

LAS PARTES LEYERON EL ACUERDO ANTERIOR. LAS MISMAS CONSULTARON A SUS ABOGADOS SOBRE EL ACUERDO ANTERIOR Y CONOCEN LOS CONTENIDOS DEL MISMO Y LO FIRMAN COMO UN ACTO LIBRE, A SABIENDAS Y VOLUNTARIO, SIENDO PLENAMENTE CONSCIENTES DE SUS CONSECUENCIAS Y EFECTO DEFINITIVO Y VINCULANTE.

FECHA: 03 / 28 / 2025 de 2025



EDUARDO JUÁREZ
como Representante PAGA

FECHA: 04/02/2025 de 2025



Michael Wright (Apr 2, 2025 19:35 PDT)

POR WRIGHT CELEBRATIONS, INC.

Por: Michael Wright

Su: Owner



CERTIFIED TRANSLATION

A copy of the translated version is attached to this statement of certification.

Documents Translated For:

LAST NAME: Winston	FIRST NAME: David	MIDDLE NAME: N/A
COMPANY: Winston Law Group, P.C.	DIVISION: N/A	

List of Materials Translated:

Juarez vs. Wright Celebrations, Inc., Placer County Superior Court Case No. S-CV-0053190 – PAGA Settlement and Release Agreement

Source Language:	English
Target Languages:	Spanish

Dallas, Texas

WITH REFERENCE TO THE ABOVE-MENTIONED MATERIALS/DOCUMENTS, we at ASTA-USA Translation Services, Inc., a professional document translation company, confirm that we are accredited and competent to translate the above referenced document(s) and attest that the language translation completed by ASTA-USA's certified professional translators, represents an accurate and correct interpretation of the terminology/content of the source document(s). **This is to certify the correctness of the translation only.** We do not guarantee that the original is a genuine document or that the statements contained in the original document(s) are true.

IN WITNESS WHEREOF, ASTA-USA Translation Services, Incorporated has caused the Certificate to be signed by its duly authorized officer(s).

By:

Alain J Roy, President

Date: March 14, 2025



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Member in Good Standing #7031



The American Translators Association
Member in Good Standing #243198



International Operations: Dallas, Texas
Administrative Offices: P.O. Box 22259 - Cheyenne, Wyoming 82003
Tel. 1.866.446.1860 □ ASTA-USA.com □ LegalTranslationSolutions.com

Exhibit 3

Exhibit 4

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse, Department 23

JUDICIAL OFFICER: HONORABLE BRAD SELIGMAN

Courtroom Clerk: Thaylore Smith

CSR: None

RG21107711

February 28, 2023

3:00 PM

Santillanes VS 1st Class Laundry

MINUTES

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement

The Motion for Final Approval of Settlement filed by Luz Santillanes on 02/02/2023 is Granted.

The Motion for Final Approval of Class Settlement is GRANTED. The parties are ORDERED to submit a MS Word version of the proposed order and judgment to the Department 23 Clerk. The proposed order and judgment should include a proposed compliance date, which can be any Tuesday at 3:00pm.

BACKGROUND

Plaintiff initiated this action on August 4, 2021, and filed the operative first amended complaint ("FAC") on August 16, 2022. The FAC alleges various wage and hour violations, violation of California's Unfair Competition Law, and seeks penalties under California's Private Attorneys General Act ("PAGA").

This Court granted preliminary approval of the class settlement on October 13, 2022.

Plaintiff now seeks final approval of the class settlement, as well as an award of attorneys' fees in the amount of \$100,000, which represents 1/3 of the Settlement Fund, an award of litigation costs in the amount of \$11,366.26, an award of settlement administration expenses of \$12,500, and a service award to Plaintiff in the amount of \$7,500.

Notably, the Motion explains that "Defendant inadvertently excluded 15 Class Members in the prior data provided to Plaintiff and the Court. These employees were always included within the aggrieved employee group, but for some reason were left out of the Class data. Defendant also discovered that it had accidentally included three (3) class members within the class list twice. These issues were discovered after Defendant submitted the class data to the settlement administrator and before the class notice went out to the class. Nevertheless, due to cost reductions, the average estimated settlement award is now estimated to be \$240.80 as opposed to the \$227.64 estimated at preliminary approval." (MPA, p. 4 at fn. 3; see also Elliott Declaration, ¶¶ 4, 5.)

DISCUSSION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

The Court finds the settlement fair, reasonable, and adequate, and therefore, the Motion for Final Approval of Class Action Settlement is GRANTED. (CRC 3.769.)

The case preliminarily settled for a total of \$300,000, which included PAGA penalties in the amount of \$20,000.00 to be split with the Labor & Workforce Development Agency (“LWDA”).

The Class Notice and procedure was adequate.

Following the Court’s preliminary approval, the Settlement Administrator ILYM Group, Inc. sent the Notice Packet, via First Class Mail, to the 638 individuals on the Class List. (Nava Decl., ¶ 7.) This included the 15 inadvertently omitted class members. (Elliott Decl., ¶ 5.) The Settlement Administrator also set up a website and posted copies of the Settlement Agreement, the Order granting preliminary approval, and other case-related documents. (Nava Decl., ¶ 15.)

Sixty-one Notice Packets were deemed undeliverable. (Nava Decl., ¶ 11.) The Settlement Administrator did not receive any objections by the deadline to submit written objections. (Nava Decl., ¶ 12.) Thus, Participating Class Members will receive an estimated average gross payment of \$240.81, with the highest gross payment being \$2,432.80 and the estimated minimum award being \$3.68. (Nava Decl., ¶ 15.)

A. Attorneys’ Fees & Costs

Class counsel seeks \$100,000 in attorneys’ fees, which represents 1/3 of the Gross Settlement Amount, and costs in the amount of \$11,366.26.

The Court finds the attorneys’ fees reasonable and necessary. Counsel Winston spent 138.40 hours on this case at an hourly rate of \$875. (Winston Decl., ¶ 34.) Counsel Na spent 31.1 hours on this case at an hourly rate of \$475. (Ibid.) Counsel collectively expended 169.50 hours for a total amount of \$135,875.50 in fees. (Ibid.)

Including two additional hours for future work results in a lodestar of \$137,622.50. (Winston Decl., ¶ 35.) Therefore, the requested fee award includes a negative multiplier. (Ibid.)

The Court finds the litigation costs reasonable and necessary. (Winston Decl., ¶ 38.)

Therefore, the Court approves the requested attorneys’ fees and costs. The Court ORDERS that 10% of the fee award to be kept in the administrator’s trust fund until the completion of the distribution process and Court approval of a final accounting.

B. Administration Costs

Counsel seeks settlement administration costs in the amount of \$12,500.00. (Nava Decl., ¶ 16.) The Court approves the administration costs of \$12,500.00.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

C. Service Award

Plaintiff requests a service award of \$7,500. (Santillanes Decl., ¶ 12.) Plaintiff estimates spending approximately 60.6 hours on this action. (Santillanes, ¶ 9.)

Additionally, during the pendency of this action, and before the parties mediated, Defendant ended its relationship with Plaintiff. (Santillanes Decl., ¶ 8 [ended in February 2022].) Plaintiff's releases all claims, known and unknown, "arising out of or in any way connected with her employment with Defendant..." and includes a Civil Code § 1542 waiver.

The Court approves a \$7,500 service award to Plaintiff.

The Court orders counsel to obtain a copy of this order from the eCourt portal.



By:

T. Smith, Deputy Clerk

Minutes of: 02/28/2023

Entered on: 03/01/2023

Exhibit 5

**SUPERIOR COURT OF SAN MATEO COUNTY**

400 County Center
Redwood City, CA 94063

1050 Mission Road
South San Francisco, CA 94080
www.sanmateo.courts.ca.gov

800 North Humboldt Street
San Mateo, CA 94401

Minute Order

**CLAUDIA CHACHAVAC vs. KUMAR MANAGEMENT CORPORATION, a
California Corporation, et al**

22-CIV-03110

04/02/2024 2:00 PM
Motion for Final Approval of
Class Settlement
Hearing Result: Held

Judicial Officer: Fineman, Nancy L.
Courtroom Clerk: Edward Tsai

Location: Courtroom G
Courtroom Reporter: Wendy Conde

Parties Present**Exhibits****Minutes**Journals

- At 2:02 PM - Matters are called.

No appearance by any parties herein or their counsel of record.

The court finds/orders:

Tentative Ruling is Adopted for both matters.

At 2:45 PM - After the Law and Motion calendar is called, the Court noticed a typo in the third paragraph in the Tentative Ruling where it incorrectly lists "\$15,00" instead of "\$15,000." The Court corrects and Adopts the Tentative Ruling with the following modification:

There is a \$1 million gross settlement to 1,708 current and former hourly-paid employees of defendant with \$15,000 being paid to the Labor and Workforce Development Agency (LDWA).

Case Events

- Tentative ruling modified and becomes order;; PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

TENTATIVE RULING:

The court rules on plaintiff's unopposed motion for final approval of class action settlement and award of attorneys' fees, service award and costs as follows:

The Court Grants Approval of the Settlement

Except as modified below, the court will sign the proposed final order submitted on February 9, 2024.

The court modifies Local Rule 3.403(b)(iv) (amended effective January 1, 2024) regarding the wording of proposed orders. Plaintiff shall submit an order which incorporates the tentative and the non-contradictory language in the submitted proposed order.

On October 31, 2023, the court granted preliminary approval to this class and PAGA (Private Attorney General Act) settlement. The action alleges wage and hour violations. There is a \$1 million gross settlement to 1,708 current and former hourly-paid employees of defendant with \$15,000 being paid to the Labor and Workforce Development Agency (LDWA). The LDWA has not objected to the settlement. The estimated recovery ranges from just over \$6.00 to about \$1,700. (Frost Decl., ¶ 15.)

In ruling on settlements involving class and PAGA claims, this court has a duty to independently determine whether a settlement is fair, reasonable and adequate. (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76-77 ["trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws."]; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129 ["The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement."].)

In reviewing the evidence presented and conducting its independent review, the court finds that all the conditions for final approval have been met. The court gives final approval to the settlement, including the allocation between the class and PAGA settlement. (Code of Civ. Proc., § 382; *Richmond v. Dart Industries* (1981) 29 Cal.3d 462, 470). The class members were provided proper notice asset forth in the declaration of Jennifer Forst of CPT Group, Inc., the court approved settlement administrator. (Forst Decl., ¶¶ 2-5.) She explains the reasonable attempts to locate class members whose notices were returned and actions taken when it was determined a class member was improperly included in the class. (*Id.*, ¶¶ 6-10, 17.) There were one objection, which is considered untimely by the settlement administrator and no requests for exclusions. (*Id.*, ¶¶ 11, 12, Ex. B.) The class is ascertainable in that the class members have already been identified by defendant and they received notice of the settlement

There is a community of interest in that common questions of law and fact predominate involving whether defendant properly calculated employee compensation. For settlement purposes, this community of interest is sufficient. Plaintiff/class representative's claims are typical of the class claims because she is alleged to have suffered the same injury as other class members. Claudia Chachavac adequately represents the class, as set forth in her declaration and in having experienced class counsel. The settlement avoids the risk of the uncertainty of litigation. The settlement is fair adequate and reasonable. The law favors settlement and the fact that the class might be able to obtain more from a trial must be balanced against the risk of not having a class certified, receiving less than the settlement, including a defense verdict, the time and money that it would take to take the case to trial and through a potential appeal, and the potential for a change in law. While the attorney declaration in support of final approve is conclusory regarding the risks and benefits of the settlement (*Winston Decl.*, ¶¶ 7, 8), the attorney declaration supporting preliminary approval demonstrates that plaintiffs' counsel have weighed the pros and cons of proceeding with this case and concluded that the settlement is fair and reasonable. (*Ackermann Decl.* filed August 10, 2023, ¶¶ 9-35.) The settlement occurred after mediation based upon a mediator's proposal. (*Id.*, ¶¶ 8-9.) The fact that only one class member out of almost 2,000 objected to the settlement also strongly supports approval of the settlement. The class member who filed an objection not only filed the objection late, but provides no reason for the objection. The court approves the settlement.

The Court Grants Attorneys' Fees, Costs and Service Award

The court grants the attorneys' fees of 30% of the gross settlement amount. While a common fund fee is appropriate here, even a proper common fund-based fee award should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503 (*Lafitte*), the Supreme Court

endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. The Supreme Court stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (Id. at p. 505.)

In this case, the court believes that a fee of 30% is the proper award of attorneys' fees. (See, e.g., *Lafitte*, supra, 1 Ca1.5th at p. 506 ["33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits"]; *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 545 [fee awards in class actions average about one-third of recovery]; *Chavez v. Nelflix* (2008) 162 App. 4th 43, 66 fn. 11 [final fee award was 27.9% of the benefits].) This court may use its own experience to determine the value of attorneys' fees. (*Spencer v. Collins* (1909) 156 Cal. 298, 306 ["The value of attorney's services is a matter with which a judge must necessarily be familiar. When the court is informed of the extent and nature of such services, its own experience furnishes it with every element necessary to fix their value."]; *Reynolds v. Ford Motor Company* (2020) 47 Cal.App.5th 1105, 1113-14 ["The trial court acted well within its discretion in using 'the prevailing market value in the community for similar legal services' relying on its personal knowledge and familiarity with the area legal services, as the 'touchstone' for determination" of the reasonable hourly rates." (citations omitted)]). This court had extensive experience in class action and other common fund cases while an attorney and has made decisions about attorneys' fees and costs frequently during her time as a judicial officer. While plaintiffs' counsel has requested 33%, the court has decreased that amount to 30%. There were no difficult issues in this case, and the parties started settlement negotiations quickly after the case was filed, there was no motion practice or formal discovery. Thus, the risk for counsel of not obtaining any compensation was small although, the court has taken into consideration the fact that plaintiffs' counsel has not been paid for any work.

Plaintiff references two cases venued in San Mateo County where the judges awarded 33%. The court has reviewed those cases and finds them distinguishable. Case no. 22Civ01708 assigned to the Hon. Robert D. Foiles (Ret.) was a case that had been litigated in federal court where extensive discovery, including depositions, had occurred before the case was remanded to this court. The case was litigated over four years in both courts and there were numerous issues. Judge Foiles' fee award was a negative multiplier. In 19Civ04765, assigned to the Hon. Marie S. Weiner (Ret.), there was a removal to federal court and remand, a motion to compel arbitration and two amended complaints. Judge Weiner crossed out on the fee award order that she found the rates reasonable. Neither of the judges' orders provide any analysis of why they found the 33% fee award reasonable. In this case, in contrast to the other two San Mateo cases, on August 1, 2022, plaintiffs filed the complaint, there was no law and motion activity and no formal discovery. In the first joint case management conference filed November 4, 2022, the parties stated that they were focused on informal discovery and mediation. In the joint case management conference filed on August 26, 2023, the parties stated that they have reached a settlement through mediation that had occurred on March 30, 2023. Plaintiff also reference trial court orders by judges in Alameda and San Joaquin counties, but the attached orders do not provide any analysis of why the court approved the fee award. The court does not mean to downplay the skill and hard work that plaintiffs' counsel expended to obtain the settlement, but only that this court in weighing all the facts exercises its discretion to award a 30% contingent on the gross recovery.

The court performs a lodestar cross-check. Cragg J. Ackermann and David Winston, attorneys on the case submitted declarations. They outlined their experience with employment law, providing information to justify their hourly rate, and provide a summary of the work that they and people in their firms performed. Ackerman's firm expended about 212 hours of time for a lodestar of about \$150,000. (Ackerman Decl., ¶¶ 8 14.) Winston spent about 70 hours for a total lodestar of about \$61,000. (Winston Decl., ¶ 30.) Based upon the court's knowledge and experience in San Mateo County, the court finds the hourly rates reasonable for San Mateo County. Plaintiffs contend that the court should take into account the reasonable rate for Los Angeles, but this court disagrees. In any event, that

argument is irrelevant because the court has found the hourly rates reasonable for comparable work performed in San Mateo County. The court finds that the work done by the attorneys was reasonable and necessary.

The court believes that a small multiplier is appropriate in this case. The lodestar amount " 'may be adjusted by the court based on factors including ... (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award.' ([Citations])" (Center for Biological Diversity v. County of San Bernardino (2010) 185 Cal.App.4th 866, 899.) " '[T]he purpose of a fee enhancement is primarily to compensate the attorney for the prevailing party at a rate reflecting the risk of nonpayment in contingency cases as a class.' [Citation] '[T]he unadorned lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider.... The adjustment to the lodestar figure, e.g., to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees.' [Citation] In cases involving the enforcement of constitutional or statutory rights, "such fee enhancements may make such cases economically feasible to competent private attorneys. [Citation.] '[M]ost lawyers of this quality do seem to consider the prospects of success and the fee recoverable before adding to their crowded calendars a case in which payment is contingent.' " [Citation.] (Ibid.) The trial court can consider contingent risk and delay in determining the reasonable hourly rates of the attorneys and not consider it when considering a multiplier. (California DUI Lawyers Assn. v. Department of Motor Vehicles (2022) 77 Cal.App.5th 517, 537.)

The court believes that a multiplier is appropriate here because of the fact that plaintiffs' counsel has had to wait to get paid for the work they have performed. The court believes that this multiplier is the appropriate multiplier based on the hours worked, the lack of motion practice or trial, and the fact that the case presented no novel issues. The court also notes that some of the work could have been performed by attorneys that had less experience and who would have billed at lower rates and that there is some duplication of effort. However, it might have taken less experienced lawyers more time to perform the work and there may have been inefficient work if more lawyers had worked on the case and thus the comment is not a criticism of the attorneys' work assignments.

The court awards the requested costs of \$27,693.90 and finds them reasonable and necessary for the litigation. The court also awards CPT Group, Inc., the settlement administrator, \$17,500.00 (Forst Decl., ¶17) finding that amount reasonable and necessary. The court approves the cy pres recipient of St. Jude's Children's Hospital.

The court awards \$5,000 to plaintiff Claudia Chachavac. The court has reviewed plaintiff's declaration and recognizes the work that plaintiff has performed and the potential reputational risk by agreeing to be a putative class representative. She states that she has spent about 24 hours working on the case and during the relevant time period she made \$17.25 per hour. (Chachavac Decl., ¶¶ 10.) Based upon the awards that each employee will receive and the fact that plaintiff did not have to sit for a deposition, respond to any formal discovery, or appear in person at the mediation, but only be on telephone standby, the court, in balancing the factors and exercising its discretion, finds that \$5,000 to plaintiff is a reasonable award. The law protects an employee from being retaliated against by an employer and if plaintiff believes that her employer is retaliating against her for being a plaintiff in this lawsuit, she shall notify her counsel who shall immediately notify the court. The court has not been advised at any time during the course of this litigation of any alleged retaliation.

The court sets a compliance hearing for February 4, 2025 at 2:00 p.m. No later than five court days before the hearing, the parties shall file and serve a compliance report.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, counsel for plaintiff shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

- Party shall prepare formal order consistent w/order herein; Counsel for Plaintiff.

Others

Comments:

Future Hearings and Vacated Hearings

April 02, 2024 2:00 PM Motion for Attorney Fees

Conde, Wendy

Fineman, Nancy L.

Tsai, Edward

Courtroom G

February 04, 2025 2:00 PM Other hearing

Fineman, Nancy L.

Courtroom G

Exhibit 6

[CLAIMS ADMINISTRATOR LETTERHEAD]

Mailing Date

NOTICE OF SETTLEMENT

Re: *EDUARDO JUAREZ, v. WRIGHT CELEBRATIONS, INC., Placer County Superior Court, Case No. S-CV-0053190*

On **XXXX**, the Placer County Superior Court issued an Order approving the settlement of claims brought pursuant to the Private Attorneys General Act of 2004 (“PAGA”). The Court approved a Settlement in the amount of \$150,000.00. After accounting for the Plaintiff’s attorney’s fees of \$50,000.00 and costs of \$11,942.92; settlement administration costs of \$4,750.00; and a service award to Plaintiff Juarez in the amount of \$7,500.00; the remainder of the settlement (\$75,807.08) shall be paid as PAGA penalties pursuant to Labor Code section 2699(i) with 75% of the PAGA Penalties being paid to the California Labor and Workforce Development Agency (\$56,855.31), as required under PAGA, and 25% (\$18,951.77) paid to the Aggrieved Employees on a pro-rata basis based upon the number of pay periods worked from May 6, 2023 through January 14, 2025. Specifically, the portion of PAGA penalties distributed to each PAGA Aggrieved Employee shall be calculated by dividing the number of PAGA periods worked by an aggrieved employee during the covered period (May 6, 2023 through January 14, 2025) by the total number of pay periods worked by all aggrieved employees during the covered period and multiplying that amount by the amount of PAGA penalties awarded to the Aggrieved Employees (i.e. \$18,951.77).

By way of this Settlement, Defendant Wright Celebrations, Inc. and any predecessor, merged, or related entities, including any integrated enterprises, alter egos, or joint employers and its owners, managers, agents, attorneys, contractors, clients, or employees have been released from claims the State of California can pursue for Labor Code violations committed against you for any and all claims, rights, or causes of action seeking civil penalties under PAGA that were alleged or reasonably could have been alleged for PAGA penalties based on violations of the following Labor Code provisions: 201, 202, 203, 204, 206.5, 210, 226, 226.3, 226.7, 246-248, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and IWC Wage Order Nos. 4-2001 and 7-2001 and/or other applicable wage order or that reasonably could have been alleged based upon the facts alleged in the May 6, 2024 PAGA Notice and the July 11, 2024 Complaint. This Settlement does not cover any individual claims. Defendant denies any liability or wrongdoing and contends, among other things, that it has complied at all times with the California Labor Code, the related California Wage Orders, and all other state and federal wage laws, and further contends that the Lawsuit is without merit.

You are receiving money under the Settlement because you are or were a non-exempt employee of Wright Celebrations, Inc. within the State of California who worked one or more pay periods from May 6, 2023 through January 14, 2025. Your settlement amount is <<**\$ Amount**>>. Your enclosed check is valid for one hundred and eighty (180) days from the date of its issuance. After that date, you cannot cash the check and it will be null and void. Funds attributable to such uncashed checks will be sent to the Child Advocates of Placer and Yuba Counties aka CASA of Placer and Yuba Counties.

Questions About Your Check or Address Information:

[INSERT CONTACT INFORMATION for the Settlement Administrator]