

David Mara, Esq. (230498)
dmara@maralawfirm.com
Jill Vecchi, Esq. (299333)
jvecchi@maralawfirm.com
MARA LAW FIRM, PC
2650 Camino Del Rio North, Suite 302
San Diego, California 92108
Telephone: (619) 234-2833
Facsimile: (619) 234-4048

Colette Mahon, Esq. (304745)
cmahon@lfecr.com

LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS
3500 West Olive Avenue, Third Floor
Burbank, California 91505
Telephone: (323) 486-5101
Facsimile: (323) 306-5571

Attorneys for Plaintiff JOSE BARAJAS, on behalf of himself,
all others similarly situated, and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JOSE BARAJAS on behalf of himself,
all others similarly situated, and on
behalf of the general public,

Plaintiffs,

v.

BENNETT ENTERPRISES, A
CALIFORNIA LANDSCAPE
CONTRACTING CORPORATION; and
DOES 1-100,

Defendants.

Case No. 24STCV12791

*[Assigned for All Purposes to the
Hon. Carolyn B. Kuhl; Dept. 12]*

**DECLARATION OF DAVID MARA , ESQ.,
IN SUPPORT OF PLAINTIFF JOSE
BARAJAS' MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF CLASS
NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE**

Date: March 16, 2026
Time: 10:30 a.m.

Complaint Filed: May 21, 2024
Trial Date: None Set

1 I, DAVID MARA, declare as follows:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for Plaintiff Jose Barajas and the
3 putative class in this matter. I am duly admitted to practice before all the courts of the state of
4 California. The following facts are within my personal knowledge and, if called to testify, I
5 could and would competently testify thereto.
- 6 2. I graduated from California Western School of Law and was admitted to practice law in
7 California in May 2004.
- 8 3. I extensively handle employment cases which involve violations of the California Labor
9 Code and Industrial Welfare Commission Wage Orders, such as wage and hour class actions
10 and cases alleging violations of the Private Attorneys General Act of 2004 (“PAGA”).
- 11 4. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County Superior
12 Court, Case No. GIC834348) which was the underlying case in the California Supreme Court’s
13 landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, in
14 which the California Supreme Court delineated the scope of employer obligations to provide,
15 and employee rights to receive, meal and rest periods under California law.
- 16 5. I am frequently called upon to author Amicus Curiae briefs on behalf of Consumer Attorneys
17 of California (“CAOC”). For example, I authored the Amicus Curiae briefs on behalf of CAOC
18 in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, (The California Supreme Court
19 ruling that, like meal periods, employers must relieve employees of all duty and relinquish all
20 control to satisfactorily discharge its obligation to authorize and permit rest periods.); *Frlekin v.*
21 *Apple, Inc.* (2020) 8 Cal.5th 1038 (The California Supreme Court ruling that the time spent on
22 the employer’s premises waiting for, and undergoing, required exit searches of packages, bags,
23 or personal technology devices voluntarily brought to work is compensable hours worked
24 within the meaning of the Wage Orders.); *Oliver v. Superior Court* (2021) California Court of
25 Appeal Case No. H049185 (A brief asking the California Court of Appeal for the Sixth
26 Appellate District to determine whether mandatory drive time of personal vehicles should be
27 considered hours worked within the meaning of the Wage Orders’ suffered or permitted test.).
28

- 1 *Davidson v. O'Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No. 18-56188) (a brief
2 seeking Review *En Banc* of an order denying class certification in a wage and hour matter).
- 3 6. I am also a member of CAOC's Amicus Committee that determines the cases in which the
4 organization will agree to provide amicus support.
- 5 7. I have also lectured as a panelist for California Employment Lawyers Association regarding
6 a host of wage and hour issues.
- 7 8. My firm has been granted class certification in both state and federal courts.
- 8 9. I have been named as class counsel in a number of wage and hour class actions in which the
9 Court granted the plaintiff's motion for class certification. For example, my firm has been
10 named class counsel: *Mario Norona v. B&G Delivery System, Inc.* (Sacramento County
11 Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald Schroeder v. YRC, Inc.; et*
12 *al.* (Central District of California, Case No. 12-cv-01374-TJH); *John Martin v. Sysco*
13 *Corporation, et al.* (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB);
14 *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.* (District of Nebraska, Case
15 No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San Diego County Superior Court, Case
16 No. 37-2014-00016621-CU-OE-CTL); *Eric Mendez v. M&N Consulting, Inc. dba A-Line*
17 *Messenger Service* (San Bernardino County Superior Court, Case No. CIVDS1923624);
18 *Denson Sales v. Professional Auto Transport, Inc. et al.* (San Bernardino County Superior
19 Court, Case No. CIVDS2010153); *Sonny Williams v. Hansen and Adkins Auto Transport, Inc.;*
20 *et al.* (San Bernardino County Superior Court, Case No. CIVDS2020832); *Bobby Williams v.*
21 *Mohsen Transport, Inc.* (San Diego County Superior Court, Case No. 37-2019-00063361-CU-
22 OE-CTL); and *Ashton Harden vs. Mushiana Transport Inc.* (Sacramento County Superior
23 Court, Case No. 34-2021-00301950-CU-OE-GDS).
- 24 10. I am also plaintiff's counsel in a host of other class actions involving violations of California's
25 wage and hour laws. For example, I have been and am involved as counsel for plaintiff in the
26 following sampling of class action cases involving wage and hour violations under California
27 law: *Alton Davis v. Apria Healthcare Group, Inc.* (San Diego County Superior Court, Case No.
28

37-2014-00004724-CU-OE-CTL); *Terrance Bailey v. Blue Apron, LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Moises Hernandez v. Pasha Distribution Services LLC et al.* (Alameda County Superior Court, Case No. RG21113722); *Keith Davis v. Walnut LLC* (Los Angeles County Superior Court, Case No. 20STCV34519); *Simon Munoz v. RDO Equipment Co.* (Eastern District of California, Case No. 23-cv-00979); *Paul Garcia et al. v. Haralambos Beverage Co.* (Los Angeles County Superior Court, Case No. BC660723); *Brett Kelly v. Conrad Wood Preserving Co.* (Stanislaus County Superior Court, Case No. CV-23-003516); *Robert Mark-Waterhouse v. DOT Transportation, Inc. et al.* (Stanislaus County Superior Court, Case No. CV-22-004102); *James Queen v. Sorenson Communications, LLC* (San Diego County Superior Court, Case No. 37-2023-00016623-CU-OE-CTL); *Marichu Jeffries v. The Meadows at Country Place, LLC* (Sacramento County Superior Court, Case No. 23CV003530); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVDS1928062); *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

11. Jill Vecchi is a partner at Mara Law Firm, PC. She solely handles wage and hour class actions and PAGA actions. Ms. Vecchi graduated from Santa Clara University School of Law and was admitted to practice law in California in December 2014 and received her undergraduate degree from University of California, Riverside in 2010. Ms. Vecchi has been litigating wage and hour class actions for almost nine (9) years and has handled over one hundred (100) class action and PAGA lawsuits.

12. Ms. Vecchi has been named as class counsel in the following certified cases as a result of the court granting a motion for class certification: *Mario Norona v. B&G Delivery System, Inc.*

(Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald Schroeder v. YRC, Inc.; YRC Worldwide, Inc.* (Central District of California, Case No. 12-cv-01374-TJH); *John Martin v. Sysco Corporation; Sysco Central California, Inc.* (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB); *Denson Sales, et al. v. United Road Services, Inc. et al* (Northern District of California, Case No. 19-cv-08404-JST); *Sonny Williams v. Hansen and Adkins Auto Transport, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVDS2020832); *Bobby Williams v. Mohsen Transport, Inc.* (San Diego County Superior Court, Case No. 37-2019-00063361-CU-OE-CTL); and *Ashton Harden v. Mushiana Transport Inc.* (Sacramento County Superior Court, Case No. 34-2021-00301950-CU-OE-GDS).

13. Ms. Vecchi has also been substantially involved in all phases of this litigation and in the following sampling of wage and hour class action and PAGA cases, of which our firm is the attorney of record: *Alton Davis v. Apria Healthcare Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-CTL); *Terrance Bailey v. Blue Apron, LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Moises Hernandez v. Pasha Distribution Services LLC et al.* (Alameda County Superior Court, Case No. RG21113722); *Keith Davis v. Walnut LLC* (Los Angeles County Superior Court, Case No. 20STCV34519); *Simon Munoz v. RDO Equipment Co.* (Eastern District of California, Case No. 23-cv-00979); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVDS1928062); *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

14. Lawyers for Employee and Consumer Rights (“LFECR”) is a law firm dedicated to protecting

1 the rights of employees in the workplace. They are dedicated to the prosecution of wage and
2 hour and wrongful termination matters in state and federal courts, and before various
3 arbitration tribunals.

4 15. LFECD handles exclusively employee-side employment cases which involve violations of
5 the California Labor Code and Industrial Welfare Commission Wage Orders, such as wage
6 and hour class actions and cases alleging violations of the Private Attorneys General Act of
7 2004 (“PAGA”).

8 16. LFECD is currently involved in litigation in over fifty (50) PAGA and class cases.

9 17. LFECD has been granted class certification in both state and federal courts.

10 18. On May 21, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of
11 action against Bennett for (1) failure to pay all straight time wages; (2) failure to pay all
12 overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest
13 periods; (5) failure to authorize and permit recovery periods; (6) knowing and intentional
14 failure to comply with itemized employee wage statement provision; (7) failure to
15 reimburse/illegal deductions; (8) failure to pay all wages due at the time of termination of
16 employment; (9) failure to adopt a compliant sick pay/paid time off policy; and (10) violation
17 of the Unfair Competition Law.

18 19. On May 3, 2024, Plaintiff provided notice to the Labor and Workforce Development Agency
19 (“LWDA”) and Defendant in accordance with the Private Attorneys General Act of 2004
20 (“PAGA”). A true and correct copy of Plaintiff’s PAGA notice is attached hereto as **Exhibit**
21 **2**.

22 20. On September 17, 2024, Plaintiff filed a First Amended Complaint, adding a cause of action
23 against Bennett for violations of the PAGA.

24 21. On November 18, 2024, Plaintiff propounded one set of requests for production and one set
25 of special interrogatories on Defendant. Defendant responded to this discovery on January
26 14, 2025. In addition, Defendant propounded one set of requests for production and one set
27 of Form Interrogatories – General on Plaintiff on November 18, 2024. Plaintiff responded to
28

1 this discovery on January 17, 2025. The Parties engaged in meet and confer efforts related
2 to both Parties' discovery responses.

3 22. The Parties also engaged in informal discovery geared towards mediation. In addition,
4 Defendant took Plaintiff's deposition in person on September 11, 2025.

5 23. These discovery efforts led to Defendant producing policy documents that covered
6 employees' employment with Defendant, and time and wage records. Included within these
7 documents were Defendant's wage and hour policies, including its meal and rest period
8 policies. Defendant also produced time and wage records for a 20% random sampling of the
9 Class Members which Plaintiff's Counsel analyzed. The sampling should be reflective of the
10 entire Class as the employees included in it were selected at random. Defendant further
11 produced Plaintiff's personnel file and time and pay records. Plaintiff also requested, and
12 Defendant produced, data surrounding the number of current and former employees, as well
13 as the number of workweeks worked by Class Members during the relevant time period, to
14 establish a potential exposure model in preparation for mediation. From this discovery,
15 Plaintiff and his Counsel were able to analyze Defendant's liability in this action and prepare
16 a realistic damage model.

17 24. The Parties attended an all-day mediation presided over by wage and hour mediator Steven
18 Paul on September 23, 2025. This mediation was ultimately successful. The Parties then met
19 and conferred over all the terms of the settlement and finalized their settlement in the Parties'
20 Agreement. The Parties' Settlement Agreement is attached hereto as **Exhibit 1**.

21 25. Defendant contends that it has enforceable arbitration agreements that cover some of the
22 class members' employment. Defendant contends that Plaintiff cannot represent these
23 individuals because Plaintiff is dissimilar to these individuals on the basis that Plaintiff did
24 not sign an arbitration agreement. Defendant contends that if litigation were to continue, it
25 would argue at class certification that these individuals should not be included in the class.

26 26. Plaintiff asserts that the arbitration agreements Defendant procured after the filing of this
27 Action are misleading and aimed at derailing Plaintiff's class action. Plaintiff contends that
28

1 not only are employees forced to waive class and PAGA actions, but the agreement applies
2 retroactively. Moreover, Plaintiff asserts that Defendant's agreement does not mention
3 Plaintiff's class action, include the complaint, explain Plaintiff's claims, provide contact
4 information for Plaintiff's counsel, nor does Defendant inform putative class members that
5 they will be unable to participate in Plaintiff's class action by signing the agreement. Plaintiff
6 contends that when defendants engage in such activity, courts routinely take corrective action
7 and invalidate class action releases, opt-outs, and/or arbitration agreements that are obtained
8 from misleading or coercive communications. Should litigation continue, Plaintiff would
9 immediately file a motion for curative action to have these agreements invalidated and set
10 aside.

11 27. Recovery Periods

- 12 a. Under California Code of Regulations section 3395(c), employees must have
13 access to potable drinking water. In addition, under California Code of Regulations
14 section 3395(d), shade shall be present when the temperature exceeds 80 degrees
15 Fahrenheit. Employees must be allowed and encouraged to take a preventative
16 cool-down rest in the shade when they feel need to do so to protect themselves from
17 overheating for no less than 5 minutes in addition to the time needed to access the
18 shade.
- 19 b. Under California Code of Regulations section 3395(i), employers shall establish,
20 implement, and maintain, an effective heat illness prevention plan. The plan shall
21 be in writing in both English and the language understood by the majority of the
22 employees and shall be made available at the worksite to employees. The heat
23 illness prevention plan may be included as part of the employer's Illness and Injury
24 Prevention Program required by section 3203, and shall, at a minimum, contain: (1)
25 Procedures for the provision of water and access to shade; (2) the high heat
26 procedures referred to above; (3) Emergency Response Procedures; and (4)
27 Acclimatization methods and procedures.
- 28

- 1 c. Plaintiff asserts that Defendant fails to follow California Code of Regulations
2 section 3395. Plaintiff contends that Defendant does not provide employees with
3 access to drinking water. In addition, Plaintiff asserts that Defendant does not have
4 a written heat illness prevention plan in both English and the language understood
5 by a majority of the employees that is available to employees at the worksite that
6 contains, at a minimum: (1) Procedures for the provision of water and access to
7 shade; (2) the high heat procedures referred to above; (3) Emergency Response
8 Procedures; and (4) Acclimatization methods and procedures.
- 9 d. Defendant asserts that it has a lawful written heat illness prevention plan. Defendant
10 contends that it trained employees on its heat illness prevention plan at safety
11 meetings. Defendant asserts that even Plaintiff signed off on attending a meeting
12 regarding Defendant's heat illness prevention plan. Defendant contends that it
13 provided employees with preventative cool-down recovery periods. Defendant
14 asserts that it provided employees with water bottles and that these water bottles
15 were located in its office and employees could freely take them out on their routes
16 with them. Defendant contends that to resolve this claim, the fact finder would have
17 to ask each employee whether or not they received a written heat illness prevention
18 plan, were provided with water, and received recovery periods. Defendant asserts
19 that this would defeat class certification.
- 20 e. The temperatures in Los Angeles, California are, on average, over 80 degrees
21 Fahrenheit 25% of the year. As such, in approximately 25% of the shifts, employees
22 would have been entitled to recovery periods. If Plaintiff were to prevail on this
23 claim for the entire class period, Plaintiff and the Class Members would be entitled
24 to the following potential damages: \$409,561 (82,200 shifts x 0.25 x \$19.93
25 average hourly rate = \$409,561.50).
- 26 f. Defendant contends that this amount should be zero because it has a lawful written
27 heat illness prevention plan and provided recovery periods to employees.
28

1 Defendant contends that it would provide declarations confirming this is the case if
2 litigation were to continue.

3 28. Meal Periods

- 4 a. Employers have an obligation under California law to provide employees with
5 thirty (30) minute meal periods. Under California Labor Code § 512(a), “[a]n
6 employer may not employ an employee for a work period of more than five hours
7 per day without providing the employee with a meal period of not less than 30
8 minutes” Cal. Lab. Code § 512(a). An employer “satisfies this obligation [to
9 provide meal periods] if it relieves its employees of all duty, relinquishes control
10 over their activities and permits them a reasonable opportunity to take an
11 uninterrupted 30-minute break, and does not impede or discourage them from doing
12 so.” *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040.
13 Here, Plaintiff contends that Defendant’s time records show non-compliant meal
14 periods.
- 15 b. In *Donohue v. AMN Services, LLC*, the California Supreme Court issued a decision,
16 wherein it ruled that time records showing late, short, or missed meal periods raises
17 a rebuttable presumption that the meal periods were not provided: “If time records
18 show missed, short, or delayed meal periods with no indication of proper
19 compensation, then a rebuttable presumption arises” that the meal periods were not
20 provided in accordance with California law. *Donohue v. AMN Services, LLC* (2021)
21 11 Cal.5th 58, 74.
- 22 c. Plaintiff contends that, here, the time records show non-compliant meal periods. In
23 these shifts, under *Donohue*, Plaintiff contends that it is presumed that meal period
24 violations occurred.
- 25 d. Defendant asserts that its meal period policy is lawful and that it provides
26 employees with meal periods in compliance with California law. Further,
27 Defendant alleges that if litigation continues it would be able to show that it advised
28

1 employees of the right to take a meal period in compliance with California law.
2 Defendant contends that employees either took a lawful meal period or knowingly
3 and voluntarily decided to skip the meal period or take a late or short meal period.
4 Defendant contends that this evidence would rebut the presumption under *Donohue*
5 *v. AMN Services, LLC*. Defendant also asserts that in rebutting the presumption, the
6 Court or fact finder would have to ask each employee why their time records show
7 a non-compliant meal period. This could be due to employees knowingly and
8 voluntarily deciding to skip the meal period or taking a late or short meal period.
9 To make this determination, Defendant contends the Court or fact finder would
10 have to ask each employee about each instance which would defeat certification as
11 individual issues would predominate. Defendant also asserts that the evidence in
12 this case shows that it paid meal period premiums in shifts in which employees
13 were not provided with compliant meal periods. Thus, Defendant contends that to
14 the extent an employee was not provided the opportunity to take a legally compliant
15 meal period, they were provided a meal premium.

16 e. Plaintiff contends that approximately 49% of shifts have a meal period violation. If
17 Plaintiff were to prevail on this claim for the entire class period, Plaintiff and the
18 Class Members would be entitled to the following potential damages: \$802,740
19 $(82,200 \text{ shifts} \times 0.49 \times \$19.93 = \$802,740.54)$.

20 f. Defendant also contends that that this amount should be zero because provided
21 meal periods to employees in accordance with California law. Defendant also
22 asserts that employees sign attestations on their timecards that attest to being
23 provided with lawful meal and rest periods. As such, Defendant contends that it can
24 rebut the presumption under *Donohue v. AMN Services, LLC*.

25 29. Rest Periods

26 a. Employers have an obligation to provide employees with ten (10) minute rest
27 periods. An employer's obligation to provide its employees with rest periods arises
28

1 under the Industrial Welfare Commission Wage Orders. Wage Order 7-2001,
2 Section 12(A) states, “[e]very employer shall authorize and permit all employees
3 to take rest periods, which insofar as practicable shall be in the middle of each work
4 period. The authorized rest period time shall be based on the total hours worked
5 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
6 thereof.”

7 b. Plaintiff alleges that until January 1, 2025, Defendant did not provide employees
8 with a ten-minute rest period for every four hours or major fraction thereof.

9 c. Defendant asserts that its rest period policy is lawful and that it provides employees
10 with rest periods in compliance with California law. Defendant contends that it
11 provides employees with rest periods within the time periods outlined by California
12 law. Defendant asserts that it trained its foremen to provide rest periods to
13 employees for every four hours or major fraction thereof. Defendant contends that
14 if litigation were to continue, it would provide declarations from employees stating
15 that they knew they were entitled to rest periods in accordance with California law.

16 d. If Plaintiff were to prevail on this claim for the entire class period, Plaintiff and the
17 Class Members would be entitled to the following potential damages: \$1,638,246
18 (82,200 shifts x \$19.93 average hourly rate = \$1,638,246).

19 e. Defendant contends that this amount should be zero because it has a lawful rest
20 period policy. Defendant contends that it would provide declarations confirming
21 this is the case if litigation were to continue. In addition, as noted in relation to meal
22 periods, employees sign attestations on their timecards that attest to being provided
23 with lawful meal and rest periods.

24 30. Business Reimbursements

25 a. Labor Code § 2802, subdivision (a) provides, in pertinent part, “An employer shall
26 indemnify his or her employee for all necessary expenditures or losses incurred by
27 the employee in direct consequence of the discharge of his or her duties, or of his
28

1 or her obedience to the directions of the employer[.]” The California Supreme Court
2 in *Gattuso v. Harte-Hanks Shoppers, Inc.* set forth the liability standards applicable
3 to Plaintiffs’ reimbursement claims, explaining: “Labor Code section 2802,
4 subdivision (a), requires an employer to indemnify its employees for expenses they
5 necessarily incur in the discharge of their duties.” *Gattuso v. Harte-Hanks*
6 *Shoppers, Inc.* (2007) 42 Cal. 4th 554, 558-59. Under *Gattuso*, the goal of § 2802
7 is “to prevent employers from passing on their operating expenses to their
8 employees.” *Id.* at 569-71. Per *Grissom v. Vons Companies, Inc.*, to which *Gattuso*
9 cites, the “obvious purpose” of section 2802 “is to protect employees from suffering
10 expenses in direct consequence of doing their jobs.” *Grissom v. Vons Companies,*
11 *Inc.* (1991) 1 Cal. App. 4th 52, 60-61.

- 12 b. Plaintiff asserts that Defendant does not reimburse employees for all business
13 expenses. Plaintiff contends that Defendant requires employees to use their
14 personal cell phones for work related purposes and fails to reimburse employees
15 for this use. In addition, Plaintiff asserts that Defendant requires employees to wear
16 steel toed boots as part of their uniform but fails to either provide drivers with steel
17 toed boots or reimburse drivers for this expense. Plaintiff also asserts that
18 Defendant requires employees to purchase tools necessary to perform their jobs.
- 19 c. Defendant asserts that employers must only reimburse an employee for “necessary
20 expenditures.” Cal. Lab. Code § 2802(a). Defendant contends that a plaintiff must
21 show: (1) they incurred expenses; (2) the expenses were *necessary* to discharge
22 their duties; and (3) was not reimbursed. *Alvarado v. Wal-Mart Assoc., Inc.* (C.D.
23 Cal. Nov. 3, 2021) 2021 WL 6104234, *5. Defendant asserts that there is not a
24 necessity to use a personal cell phone. Further, Defendant contends that it is not
25 required to pay for basic work clothing that is usual and generally usable in the
26 occupation, such as steel toed boots. In addition, Defendant contends that it
27 provided employees with all necessary tools required for their jobs.

- 1 d. Plaintiff further contends that Defendant requires employees to use their personal
2 cell phones for work related purposes and fails to reimburse employees for this use.
3 If Plaintiff were to prevail on this claim, Plaintiff and the Class Members would be
4 entitled to approximately \$396,000 (66 months in the class period x \$60 per month
5 x 100 current employees at any one time = \$396,000) in damages. Moreover,
6 Plaintiff asserts that Defendant requires employees to wear steel toed boots but fails
7 to reimburse employees for this expense. If Plaintiff were to prevail on this claim,
8 Plaintiff and the Class Members would be entitled to approximately \$48,000 (320
9 employees x \$150 = \$48,000) in damages. In addition, Plaintiff contends that
10 employees must buy and supply tools. If Plaintiff were to prevail on this claim,
11 Plaintiff and the Class Members would be entitled to approximately \$32,000 (320
12 employees x \$100 = \$32,000) in damages.
- 13 e. Defendant contends that employees are not required to use their personal cell
14 phones for business purposes. Defendant contends that Plaintiffs cannot point to
15 any policy or practice under which employees are necessarily required to use their
16 personal cell phones. Defendant also asserts that it did not have a policy of requiring
17 drivers to wear steel toed boots, but that drivers wore steel toed boots as they are
18 standard clothing that is usual, customary, and common in the industry and can be
19 worn outside of work or for other employers. Defendant contends that it is not
20 required to pay for basic work clothing that is usual and generally usable in the
21 occupation. Defendant also contends that it provides employees with all necessary
22 tools required for their jobs. As such, Defendant asserts that there are no damages
23 for this claim.

24 31. Wage Statements and Waiting Time Penalties

- 25 a. Plaintiff also pursued claims for failure to provide accurate itemized wage
26 statements and waiting time penalty claims. These claims are derivative of
27 Plaintiff's meal, rest, and recovery period claims. Should Plaintiff's meal, rest, and
28

1 recovery period claims fail, these claims would also fail.

- 2 b. In addition, Defendant contends that even if Plaintiff were successful in his meal,
3 rest, and recovery claims, he would have to prove Defendant “willfully” failed to
4 pay employees the appropriate wages due upon separation of employment. “A
5 willful failure to pay wages within the meaning of Labor Code Section 203 occurs
6 when an employer intentionally fails to pay wages to an employee when those
7 wages are due. However, a good faith dispute that any wages are due will preclude
8 imposition of waiting time penalties under Section 203.” Cal. Code Regs. Tit. 8 §
9 13520. “A ‘good faith dispute’ that any wages are due occurs when an employer
10 presents a defense, based in law or fact, which would preclude any recovery on the
11 part of the employee. The fact that a defense is ultimately unsuccessful will not
12 preclude a finding that a good faith dispute did exist.” *Id.* Defendant contends that
13 any failure to pay wages due at the separation of employment was not willful.
14 Defendant argues that it would not be liable for waiting time penalties because a
15 “good faith dispute” exists over the payment of those wages. *See* Cal. Code Regs.
16 Tit. 8 § 13520; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201
17 and *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056.
- 18 c. The statute of limitations for Plaintiff’s wage statement claim is one year. Under
19 California Labor Code § 226(e)(1), the damages for breach of this section are fifty
20 dollars (\$50) for the initial pay period in which a violation occurs and one hundred
21 dollars (\$100) per employee for each violation in a subsequent pay period, not to
22 exceed an aggregate penalty of four thousand dollars (\$4,000). If Plaintiff were to
23 prevail on his wage statement claim, the potential damages would be \$141,000
24 (120 pay periods with an initial violation x \$50 = \$6,000 plus 1,350 pay periods
25 with a subsequent violation x \$100 = \$135,000 = \$141,000).
- 26 d. As these damages are derivative of Plaintiff’s meal, rest, and recovery claims, if
27 Plaintiff’s unpaid wages, meal period, and rest period claims fail, this claim also
28

would fail. Defendant also contends that Plaintiff would not be able to show that this violation was knowing and intentional. On this basis, Defendant contends that Plaintiff would not be entitled to any damages for unlawful wage statements.

e. If Plaintiff were to prevail on his meal, rest, and/or recovery claims, he and the Class Members may also be entitled to waiting time penalties. Plaintiff calculates the potential exposure under his waiting time penalties cause of action as \$1,068,507 (30 former employees x 7.77 hours per day x 30 days x \$19.93 = \$1,068,507.09).

f. As these damages are derivative of Plaintiff's meal, rest, and recovery period claims, if these claims fail, this claim also would fail. Defendant also contends that Plaintiff would not be able to show that this violation was willful. On this basis, Defendant contends that Plaintiff would not be entitled to any damages for waiting time penalties.

32. PAGA Penalties

a. Plaintiff also seeks PAGA penalties. The statute of limitations for PAGA violations go back one year. The potential damages under Plaintiff's PAGA claim are \$361,500:

$\$100 \times 2 \text{ PAGA violations (meal periods and rest periods)} \times 1,500 \text{ pay periods} = \$300,000$

$\$100 \times 1 \text{ PAGA violation (recovery periods)} \times 375 \text{ pay periods} = \$37,500$

$\$100 \times 2 \text{ violations (business expenses and waiting time penalties)} \times 120 \text{ pay periods} = \$24,000$

b. Defendant contends that Plaintiff would not be allowed to "stack" PAGA penalties. If the Court were to agree with this and only award one PAGA penalty per pay period, Defendant's exposure would be \$150,000 ($\$100 \times 1,500 \text{ pay periods} = \$150,000$).

c. As Plaintiff's PAGA claims are based on the same alleged unlawful conduct as his class claims, Plaintiff's PAGA claims are subject to the same risks on the merits as

1 Plaintiff's class claims. In addition, the Court may reduce any PAGA penalties
2 awarded under Section 2699, subdivision (e)(2). The likelihood of the Court
3 reducing the PAGA penalties awarded to Plaintiff and the Aggrieved Employees –
4 assuming liability is proven as to each of Plaintiff's claims – is higher in this case
5 where these same individuals may also be receiving money for the same unlawful
6 conduct under the class claims. *See Avila v. Cold Spring Granite Co.* (E.D. Cal.
7 Jan. 12, 2018) Case No. 1:16-cv-001533-AWI-SKO, 2018 U.S. Dist. LEXIS 6142
8 *17 (“Because the PAGA penalties sought are at least partially duplicative of
9 penalties granted by the underlying Labor Code violations, *see, e.g.*, Cal. Lab. Code
10 §§ 203, 226, 558(a), 1194.2, and because a Court has discretion in whether and in
11 what amount to award PAGA penalties, *see* Cal. Lab. Code § 2699(e)(2), Plaintiff
12 recognizes that the potential PAGA penalties are highly uncertain.”). As such, the
13 Court may reduce any PAGA penalty amount awarded to Plaintiff and the
14 Aggrieved Employees.¹

15 33. Thus, not taking into account any of its defenses or arguments, Plaintiff estimated that if
16 he were successful in his core claims, Defendant's total exposure would be approximately
17 \$3,326,547 [\$1,638,246 (rest period exposure) + \$802,740 (meal period exposure) +
18 \$409,561 (recovery period exposure) + \$476,000 (business reimbursements) =
19 \$3,326,547]. If Plaintiff is successful in his meal, rest, and/or recovery claims, he may also
20 be entitled to damages for wage statements and waiting time penalties in the amount of
21 \$1,209,507 [\$141,000 (wage statements) and \$1,068,507 (waiting time penalties) =
22 \$1,209,507]. If Plaintiff's claims are successful, he may also be entitled to PAGA penalties
23 in the amount of \$361,500.

24 34. In light of the risks Plaintiff's claims faced, including Defendant's arbitration agreements
25 and Defendant's arguments at class certification and on the merits, Plaintiff and his
26

27 ¹ The amount allocated to Plaintiff's PAGA claims takes into account the risk that the Court will likely reduce
28 Plaintiff's PAGA exposure for the reasons outlined above. It should be noted that all Aggrieved Employees are also
Class Members.

1 Counsel believe that the settlement amount of \$500,000 – with an average settlement share
2 amount estimated at \$703.71 – is a reasonable and fair settlement amount.

3 35. My firm requested administration quotes from three administration companies: APEX's
4 quote was \$8,890; ILYM Group, Inc.'s quote was \$8,350; and Simpluris' quote was
5 \$13,000.

6 36. My firm and I do not have any interest or involvement in APEX.

7 37. I am not aware of any related cases that involve the claims being released here.

8 38. Any attorneys' fees awarded in this case will be split equally between my firm and Lawyers
9 for Employee and Consumer Rights. Plaintiff gave written approval for this agreement on
10 April 30, 2024.

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

13 Dated: December 22, 2025

MARA LAW FIRM, PC

14 
15 _____
16 David Mara, Esq.

17
18
19
20
21
22
23
24
25
26
27
28

Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Jose Barajas (“Plaintiff”) and defendant Bennett Enterprises (“Bennett”). The Agreement refers to Plaintiff and Bennett collectively as the “Parties,” or individually as a “Party.”

1. DEFINITIONS.

- 1.1 “Action” means Plaintiff’s lawsuit alleging wage-and-hour violations against Bennett, captioned *Jose Barajas v. Bennett Enterprises*, initiated on May 21, 2024, and pending in the Superior Court of the State of California, County of Los Angeles.
- 1.2 “Administrator” means APEX, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4 “Aggrieved Employee” means all individuals who currently or formerly worked for Bennett as an hourly non-exempt employee, as a landscaper or in a similar job position, in California, at any time during the period of May 3, 2023, through the date the Court grants preliminary approval or November 22, 2025, whichever is earlier.
- 1.5 “Class” means all individuals who currently or formerly worked for Bennett as an hourly non-exempt employee, as a landscaper or in a similar job position, in California, at any time during the period of May 21, 2020, through the date the Court grants preliminary approval or November 22, 2025, whichever is earlier.
- 1.6 “Class Counsel” means David Mara and Jill Vecchi of Mara Law Firm, PC, and Colette Mahon of Lawyers for Employee and Consumer Rights.
- 1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8 “Class Data” means Class Member identifying information in Bennett’s possession, including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12 “Class Period” means the period from May 21, 2020, through the date the Court grants preliminary approval or November 22, 2025, whichever is earlier.
- 1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15 “Court” means the Superior Court of California, County of Los Angeles.
- 1.16 “Bennett” means named Defendant Bennett Enterprises.
- 1.17 “Defense Counsel” means Gregg Fisch of Sheppard Mullin Richter & Hampton.
- 1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement and the objections are overruled and no appeal is taken, the Effective Date shall be thirty (30) days after the Court enters final approval and judgment; or (c) if a timely appeal from the Judgment is filed, then the Effective Date shall be the day the final approval decision becomes final after all appeals have been resolved.
- 1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22 “Gross Settlement Amount” means \$500,000 which is the total amount Bennett agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the

LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

- 1.23 "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25 "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26 "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).
- 1.27 "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.28 "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29 "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30 "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Bennett for at least one day during the PAGA Period.
- 1.31 "PAGA Period" means the period May 3, 2023, through the date the Court grants preliminary approval or November 22, 2025, whichever is earlier.
- 1.32 "PAGA" means the Private Attorneys General Act (Lab. Code, § 2698 et seq.).
- 1.33 "PAGA Notice" means Plaintiff's May 3, 2024, letter to Bennett and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.34 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$6,250) and 75% to the LWDA (\$18,750) in settlement of PAGA claims.
- 1.35 "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

- 1.36 “Plaintiff” means Jose Barajas, the named plaintiff in the Action.
- 1.37 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.41 “Released Parties” means Bennett and any of its parent, subsidiary, affiliate, predecessor or successor entities, and all agents, employees, officers, directors, and attorneys thereof.
- 1.42 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) email or mail Requests for Exclusion from the Settlement, or (b) email or mail his, her, or their Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45 “Workweek” means any week during which a Class Member worked for Bennett for at least one day, during the Class Period.

2. RECITALS.

- 2.1 On May 21, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Bennett for (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to authorize and permit recovery periods; (6) knowing and intentional failure to comply with itemized employee wage statement provision; (7) failure to reimburse/illegal deductions; (8) failure to pay all wages due at the time of termination of employment; (9) failure to adopt a compliant sick pay/paid time off policy; and (10) violation of the Unfair Competition Law. On September 17, 2024, Plaintiff filed a First Amended Complaint, adding a cause of action against Bennett for violations of the PAGA. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). Bennett denies the allegations in the Operative Complaint, denies

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

- 2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to Bennett and the LWDA by sending the PAGA Notice.
- 2.3 On September 23, 2025, the Parties participated in an all-day mediation presided over by mediator Steven Paul, which led to this Agreement to settle the Action.
- 2.4 Prior to mediation, Plaintiff obtained, through formal and informal discovery, Bennett's relevant policies, such as its meal period, rest break, and recovery period policies. Plaintiff also received time records, route sheets, and wage statements. In addition, Defendant took Plaintiff's deposition on September 11, 2025, in person in Los Angeles. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.5 The Court has not granted class certification.
- 2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Bennett promises to pay \$500,000 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Bennett has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement.^v The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Bennett.
- 3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Bennett will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court

approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$166,666, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. Bennett will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Bennett harmless, and indemnifies Bennett, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$20,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$20,000, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1 Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000 to be paid from the Gross Settlement Amount, with 75% (\$18,750) allocated to the LWDA PAGA Payment and 25% (\$6,250) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Bennett estimates there are 360 Class Members who collectively worked a total of 20,550 Workweeks, and 120 Aggrieved Employees who worked a total of 1,500 PAGA Pay Periods.
- 4.2 Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Bennett will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Bennett has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Bennett must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3 Funding of Gross Settlement Amount. Bennett shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Bennett's share of payroll taxes

by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

- 4.4 Payments from the Gross Settlement Amount. Within 14 days after Bennett funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

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

4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Bennett to confer any additional benefits or make any additional

payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

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

- 5.1 Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally, release and discharge Released Parties from all claims, transactions or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, and Plaintiff's PAGA Notice. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

- 5.2 Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including, e.g., claims for failure to pay straight and overtime wages, failure to provide meal periods, rest breaks, and recovery periods, failure to provide accurate wage statements, failure to pay final wages, and failure to provide expense reimbursement. The release granted herein includes claims arising under the Labor Code and any other claims based on other state or federal statute or Wage Order provisions reasonably arising from the same factual allegations asserted in the Operative Complaint. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing

Act, unemployment insurance, disability, social security, workers' compensation or claims based on facts occurring outside the Class Period.

- 5.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice submitted by Plaintiff on May 4, 2024, including, e.g., claims for failure to pay straight and overtime wages, failure to provide meal periods, rest breaks, and recovery periods, failure to provide accurate wage statements, failure to pay final wages, and failure to provide expense reimbursement. This release will be for the PAGA Period.

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

- 6.1 Bennett's Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, but in no event later than the deadline to file the preliminary approval motion, Bennett will prepare and deliver to Class Counsel a signed Declaration from Bennett and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Bennett shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members [and/or the proposed Cy Pres]; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, [and/or] the Administrator [and/or the proposed Cy Pres]; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (l)(1)), this Agreement (Lab. Code, § 2699, subd. (l)(2)); (vii) a redlined version of the parties' Agreement showing all

modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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

7. SETTLEMENT ADMINISTRATION.

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

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

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

7.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Bennett, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her/their representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or

telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.
- 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

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

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

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,

Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

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

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records, Bennett estimates that, as of the date of this Settlement Agreement, (1) there are 360 Class Members and 20,550 Total Workweeks during the Class period and (2) there were 120 Aggrieved Employees who worked 1,500 Pay Periods during the PAGA Period.

8.1 At the time of mediation, Bennett represented that there are 20,550 workweeks worked by the Class Members. If the number of actual total workweeks worked by Class Members during the Class Period, as reported to the Settlement Administrator following preliminary approval, exceeds this amount by more than 5% (*i.e.*, if there are 21,578 or more total workweeks), Bennett will either: (1) pay an additional sum necessary to increase the Gross Settlement Amount on a proportional basis above the 5% allowance (*e.g.*, if there was an

8% increase in workweeks, Bennett would increase the Gross Settlement Amount by only 3%); or (2) elect to shorten the Class Period and PAGA Period (along with their associated releases) to a date that the total number of workweeks worked is at or under the 21,578-workweek threshold.

9. **BENNETT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Bennett shall retain the right, in the exercise of its sole discretion, to nullify the entire settlement within thirty (30) days after expiration of the opt-out period, but in no event later than the Court's grant of final approval. The Parties agree that, if Bennett withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Bennett will remain responsible for paying all Settlement Administration Expenses incurred to that point. Late elections will have no effect. All signatories and their counsel must not encourage opt-outs.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subdivision (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
 - 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters and (iii) addressing such post-Judgment matters as are permitted by law.

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

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

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

12. **ADDITIONAL PROVISIONS.**

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

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

encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.

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

a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiff:

David Mara, Esq.
dmarai@maralawfirm.com
Jill Vecchi, Esq.
jvecchi@maralawfirm.com
MARA LAW FIRM, PC
2650 Camino Del Rio North, Suite 302
San Diego, California 92108
Telephone: (619) 234-2833
Facsimile: (619) 234-4048

To Bennett:

Gregg Fisch, Esq.
gfisch@sheppardmullin.com
SHEPPARD MULLIN RICHTER & HAMPTON, LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700

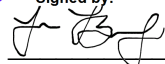
- 12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same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

- 12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

Dated: 11/20/2025

Signed by:

1883010038957443...
Jose Barajas

Dated:

By: _____
Sean Bennett
On behalf of Bennett Enterprises

Dated:

By: _____
David Mara
Jill Vecchi
Mara Law Firm, PC
Class Counsel

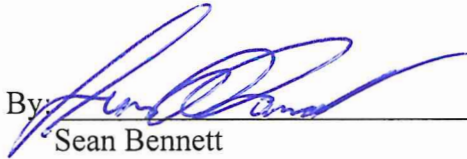
Dated:

By: _____
Gregg A. Fisch
Sheppard Mullin Richter & Hampton
Counsel for Bennett Enterprises

Dated:

Jose Barajas

Dated: 11-22-25

By: 

Sean Bennett
On behalf of Bennett Enterprises

Dated:

By: _____
David Mara
Jill Vecchi
Mara Law Firm, PC
Class Counsel

Dated: December 1, 2025

By: 

Gregg A. Fisch
Sheppard Mullin Richter & Hampton
Counsel for Bennett Enterprises

EXHIBIT A

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

Jose Barajas v. Bennett Enterprises
Los Angeles County Superior Court, Case No. 24STCV12791

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement or solicitation by a lawyer. You are not being sued.***
You may be eligible to receive money from an employee class action lawsuit (“Action”) against Bennett Enterprises (“Bennett”) for alleged wage-and-hour violations. The Action was filed by a former Bennett employee Jose Barajas (“Plaintiff”) and seeks payment of (1) wages and penalties for a class of hourly, non-exempt employees who worked as a landscaper or in a similar job position, in California, at any time for Bennett, (“Class Members”) during the Class Period of May 21, 2020, to [the date the Court grants preliminary approval or November 22, 2025, whichever is earlier]; and (2) civil penalties under the California Private Attorneys General Act (“PAGA”) for all hourly, non-exempt employees who worked as a landscaper or in a similar job position, in California, at any time for Bennett, (“Aggrieved Employees”) during the PAGA Period (May 3, 2023, to [the date the Court grants preliminary approval or November 22, 2025, whichever is earlier]).

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

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

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

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

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

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Bennett.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Bennett, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Bennett that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. <i>See Section 6</i> of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Bennett must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You

Written Objections Must be Submitted by _____	can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. <i>See Section 7</i> of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. <i>See Section 8</i> of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Bennett's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. <i>See Section 4</i> of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Bennett employee. The Action accuses Bennett of violating California wage-and-hour laws by failing to pay all straight time and overtime wages, failing to pay all wages due upon termination, failing to pay for reimbursable expenses, failing to provide lawful meal periods, rest breaks, and recovery periods, and failing to provide accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Lab. Code, § 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: David Mara and Jill Vecchi of Mara Law Firm, PC, and Colette Mahon of Lawyers for Employee and Consumer Rights ("Class Counsel.")

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

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

So far, the Court has made no determination whether Bennett or Plaintiff is correct on the merits. In the meantime, Plaintiff and Bennett hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Bennett have negotiated a proposed Settlement that is subject to the Court's Final Approval.

Both sides agree that the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Bennett does not admit any violations or concede the merit of any claims.

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

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

1. Bennett Will Pay \$500,000 as the Gross Settlement Amount (the “Gross Settlement”). Bennett has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorneys’ fees and expenses, the Administrator’s expenses, and civil penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Bennett will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court-Approved Deductions from the Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$166,666 [one-third of the Gross Settlement] to Class Counsel for attorneys’ fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 as a Class Representative Award to Plaintiff for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$20,000 to the Administrator for services administering the Settlement.
 - D. Up to \$25,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Bennett are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Bennett will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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

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

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than **RESPONSE DEADLINE** (“Response Deadline”), that you wish to opt-out of the Class Settlement. The easiest way to notify the Administrator of your decision to opt-out of the Class Settlement is to send a written and signed Request for Exclusion by the Response Deadline. The Request for Exclusion should be presented in the form of a letter from a Class Member or his/her/their representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (*i.e.*, Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage-and-hour claims against Bennett.

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Bennett have agreed that, in either case, the Settlement will be void: Bennett would not pay any money as part of this Action and Class Members would not release any claims against Bennett.
8. Administrator. The Court has appointed a neutral company, APEX (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail (as necessary) settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice, below.
9. Participating Class Members’ Release. After the Judgment is final and Bennett has fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that, unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue or be part of any other lawsuit against Bennett or related entities for any wage-and-hour claims based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including, e.g., claims for failure to pay straight and overtime wages, failure to provide meal periods, rest breaks, and recovery periods, failure to provide accurate wage statements, failure to pay final wages, and failure to provide expense reimbursement. The release granted herein includes claims arising under the Labor Code and any other claims based on other state or federal statute or Wage Order provisions reasonably arising from the same factual allegations asserted in the Operative Complaint. Except as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees’ PAGA Release. After the Court’s Judgment is final, and Bennett has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Bennett, whether or not they exclude themselves from the Settlement. This means that all Aggrieved

Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue or participate in any other PAGA claim against Bennett or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice submitted by Plaintiff on May 4, 2024, including, e.g., claims for failure to pay straight and overtime wages, failure to provide meal periods, rest breaks, and recovery periods, failure to provide accurate wage statements, failure to pay final wages, and failure to provide expense reimbursement. This release will be for the PAGA Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$6,250 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Bennett's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number and a simple statement that you do not want to participate in the Class Settlement. The Administrator will exclude you from the Class Settlement based on any writing communicating your request that you want to be excluded. Be sure to personally sign your request, identify the Action as *Barajas v. Bennett Enterprises* (Case No. 24STCV12791), and include your identifying information (full name, address, telephone number, approximate dates of employment and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [RESPONSE DEADLINE], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Bennett are asking the Court to approve. At least 16 court days before the [INSERT DATE] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award, stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [ADMINISTRATOR WEBSITE] or the Court's website (lacourt.ca.gov).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class

Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [RESPONSE DEADLINE].** Be sure to tell the Administrator what you object to, why you object and any facts that support your objection. Make sure you identify the Action as *Barajas v. Bennett Enterprises* (Case No. 24STCV12791) and include your name, current address, telephone number and approximate dates of employment for Bennett and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [DATE] at [TIME] in Department 12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Bennett and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Settlement Administrator's website at [\(url\)](#).

You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://www.lacourt.ca.gov/pages/lp/access-a-case/tp/find-case-information/cp/os-civil-case-access>) and entering the Case Number for the Action, Case No. 24STCV12791. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney: David Mara and Jill Vecchi

Email Address: dmara@maralawfirm.com and jvecchi@maralawfirm.com

Name of Firm: Mara Law Firm, PC

Mailing Address: 3160 Camino Del Rio South, Suite 207, San Diego, CA 92108

Telephone: (619) 234-2833

Settlement Administrator:

Name of Company: APEX

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit 2



May 3, 2024

Via Upload to the LWDA Website and U.S. Certified Mail

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

TO: California Labor and Workforce Development Agency and Bennett Enterprises, A
California Landscape Contracting Corporation

*Jose Barajas, on behalf of himself, others similarly situated, and the general public v. Bennett
Enterprises, A California Landscape Contracting Corporation*

Factual Statement and Theories of Labor Code Violations

Jose Barajas was employed by Bennett Enterprises, A California Landscape Contracting Corporation ("Bennett Enterprises") as an hourly landscaper and/or similar job designation or title who worked for Bennett Enterprises from approximately December 28, 2022, to approximately January 29, 2024. Landscapers, such as Mr. Barajas, perform services for Bennett Enterprises out in the field. Therefore, while working for Bennett Enterprises, Mr. Barajas would provide services to customers throughout Southern California.

Mr. Barajas gives notice of his intent to file a lawsuit for violation of the Private Attorneys General Act of 2004 ("PAGA") for Bennett Enterprises' failure to comply with California's wage and hour requirements on behalf of himself and similarly aggrieved employees.

Bennett Enterprises provides services to both residential and commercial properties, including maintenance, tree trimming, irrigation, landscape design, and construction. Bennett Enterprises employs landscapers and/or other workers with similar job designations or titles, such as Mr. Barajas, to provide services to its customers.

I. Bennett Enterprises Failed to Pay All Straight Time Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in

a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

IWC Wage Order 5-2001 section (5) requires employers to pay “reporting time pay.” Each workday an employee is required to report to work, but is not put to work or is furnished with less than half of his or her usually or scheduled day’s work, must be paid for half of the usual or scheduled day’s work, but in no event less than two hours nor more than four hours, at his or her regular rate of pay. If an employee is required to report to work a second time in any one workday and is furnished less than two hours of work on the second reporting, he or she must be paid for two hours at his or her regular rate of pay.

Bennett Enterprises has a continuous policy of not paying Mr. Barajas and similarly aggrieved employees for all hours worked. Bennett Enterprises has not paid for all the time Mr. Barajas and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before shifts start, after shifts end, and/or any other time in the day when the employees were performing work tasks, subject to the control of Bennett Enterprises and/or otherwise had work duties. Further, Bennett Enterprises would fail to record and/or pay Mr. Barajas and the aggrieved employees for all of the hours they worked by requiring Mr. Barajas and the aggrieved employees to work additional time after they clocked out.

Additionally, Bennett Enterprises has had a continuous policy of not paying Mr. Barajas and the aggrieved employees for all hours worked in that Bennett Enterprises continuously and consistently clocked Mr. Barajas and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period and/or deducted time for a meal period, even though Mr. Barajas and the aggrieved employees work through their meal periods, are not relieved of all duties during meal periods, were not able to leave the work location during meal periods, and/or were unable to take meal periods wherever they wanted. Thus, Bennett Enterprises shaves/steals earned wages from Mr. Barajas and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

Likewise, Mr. Barajas and the aggrieved employees are informed and believe and thereon allege that Bennett Enterprises breached the legal duty to pay full wages to Mr. Barajas by deducting a portion of the wages earned by Mr. Barajas and the aggrieved employees when they worked through their meal periods, are not relieved of all work duties during their meal periods, are not allowed to leave the work location during meal periods, and/or when Bennett Enterprises recorded a meal period for Mr. Barajas and the aggrieved employees when no meal period was taken. Specifically, Mr. Barajas and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Bennett Enterprises, thereby denying them the right to be completely free from employer control under California law.

Bennett Enterprises committed the acts alleged herein knowingly and willfully, with the wrongful

and deliberate intention of injuring Mr. Barajas and the aggrieved employees. Bennett Enterprises acted with malice or in conscious disregard of Mr. Barajas's and the aggrieved employees' rights.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510 and 1194.

II. Bennett Enterprises Failed to Pay Overtime

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

California Labor Code section 510 dictates that any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Bennett Enterprises failed to pay overtime when Mr. Barajas and the aggrieved employees worked over eight (8) hours per day and when employees worked over 40 hours per week. Bennett Enterprises failed to pay Mr. Barajas and the aggrieved employees for all hours worked, including hours worked over eight (8) hours in a day and 40 hours in a week.

Bennett Enterprises has a continuous policy of not paying Mr. Barajas and similarly aggrieved employees for all hours worked. Bennett Enterprises has not paid for all the time Mr. Barajas and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before shifts start, after shifts end, and/or any other time in the day when the employees were performing work tasks, subject to the control of Bennett Enterprises and/or otherwise had work duties. Further, Bennett Enterprises would fail to record and/or pay Mr. Barajas and the aggrieved employees for all of the hours they worked by requiring Mr. Barajas and the aggrieved employees to work additional time after they clocked out. When employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

Additionally, Bennett Enterprises has had a continuous policy of not paying Mr. Barajas and the aggrieved employees for all hours worked in that Bennett Enterprises continuously and consistently clocked Mr. Barajas and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period and/or deducted time for a meal period, even though Mr. Barajas and the aggrieved employees work through their meal periods, are not relieved

of all duties during meal periods, were not able to leave the work location during meal periods, and/or were unable to take meal periods wherever they wanted. Thus, Bennett Enterprises shaves/steals earned wages from Mr. Barajas and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period. When employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

Likewise, Mr. Barajas and the aggrieved employees are informed and believe and thereon allege that Bennett Enterprises breached the legal duty to pay full wages to Mr. Barajas by deducting a portion of the wages earned by Mr. Barajas and the aggrieved employees when they worked through their meal periods, are not relieved of all work duties during their meal periods, are not allowed to leave the work location during meal periods, and/or when Bennett Enterprises recorded a meal period for Mr. Barajas and the aggrieved employees when no meal period was taken. Specifically, Mr. Barajas and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Bennett Enterprises, thereby denying them the right to be completely free from employer control under California law. When employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

Mr. Barajas and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

III. Bennett Enterprises Failed to Provide Meal Periods

Under *California Labor Code* section 512 no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

Bennett Enterprises breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Mr. Barajas and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by Bennett Enterprises, thereby denying Mr. Barajas and the aggrieved employees of the right to be

completely free from employer control under California law. Further, Bennett Enterprises did not allow Mr. Barajas and the aggrieved employees to leave the work location during meal periods. In addition, Mr. Barajas and the aggrieved employees were always responsible for their tools, including during meal period time. If Mr. Barajas' or the aggrieved employees' tools were stolen, Bennett Enterprise would hold Mr. Barajas and the aggrieved employees financially responsible for the tools. Mr. Barajas and the aggrieved employees were also responsible for ensuring that no damage happened to Bennett Enterprises truck. This included during Mr. Barajas' and the aggrieved employees' meal period time.

When Mr. Barajas and the aggrieved employees were able to take meal periods, they could only take them when their foreperson allowed them to take a meal period.

Additionally, Bennett Enterprises institutes a consistent policy/practice of not providing second meal periods to Mr. Barajas and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Mr. Barajas and the aggrieved employees are required to work ten (10) to twelve (12) hour shifts but never received second meal periods.

Moreover, Bennett Enterprises fails to keep records of when Mr. Barajas and the aggrieved employees take meal periods.

By failing to provide statutory first and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, Bennett Enterprises willfully violated the provisions of *Labor Code* sections 226.7 and 512.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Barajas has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

IV. Bennett Enterprises Failed to Provide Rest Periods

Bennett Enterprises has had a consistent policy and/or practice of not providing duty free ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Mr. Barajas and the aggrieved employees.

Industrial Welfare Commission Order No. 5-2001 section 12(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof."

Bennett Enterprises has had a consistent policy and/or practice of not providing rest periods to Mr. Barajas and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Mr. Barajas and the aggrieved employees are required to work ten (10) to twelve (12) hour shifts but never received first, second, third, or fourth rest breaks.

Furthermore, Bennett Enterprises breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring Mr. Barajas and the aggrieved employees to work through their rest periods to satisfy the demanding workload duties imposed by Bennett Enterprises, thereby denying Mr. Barajas and the aggrieved employees of the right to be completely free from employer control under California law. Further, Bennett Enterprises did not allow Mr. Barajas and the aggrieved employees to leave the work location during rest periods. In addition, Mr. Barajas and the aggrieved employees were always responsible for their tools, including during rest period time. If Mr. Barajas' or the aggrieved employees' tools were stolen, Bennett Enterprise would hold Mr. Barajas and the aggrieved employees financially responsible for the tools. Mr. Barajas and the aggrieved employees were also responsible for ensuring that no damage happened to Bennett Enterprises truck. This included during Mr. Barajas' and the aggrieved employees' rest period time.

By failing to provide rest periods for every four (4) hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided periods, as alleged above, Bennett Enterprises willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 5-2001 section 12(A).

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a non-exempt employee who was unlawfully deprived of paid ten (10)-minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Barajas has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 5-2001 section 20 for violations of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 5-2001 section 12(A).

V. Bennett Enterprises Failed to Provide Recovery Periods

Bennett Enterprises has a consistent policy and/or practice of not providing preventative cool down rest and recovery periods under California Code of Regulations section 3395 to Mr. Barajas and the aggrieved employees.

Under California Code of Regulations section 3395(c), employees shall have access to potable drinking water. The water must be located as close as practicable to the areas where employees are working. Where drinking water is not plumbed or otherwise continuously supplied, it must be provided in sufficient quantity at the beginning of the work shift to provide one quart per employee per hour for drinking for the entire shift. Employers may begin the shift with smaller quantities of water if they have effective procedures for replenishment during the shift as needed to allow

employees to drink one quart or more per hour. The frequent drinking of water must be encouraged.

Under California Code of Regulations section 3395(d), shade shall be present when the temperature exceeds 80 degrees Fahrenheit. Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel need to do so to protect themselves from overheating for no less than 5 minutes in addition to the time needed to access the shade.

Under California Code of Regulations section 3395(e), employers shall implement high-heat procedures when the temperature exceeds 95 degrees Fahrenheit. These procedures include: (1) Ensuring that effective communication by voice, observation, or electronic means is maintained so that employees at the work site can contact a supervisor when necessary. An electronic device, such as a cell phone or text messaging device, may be used for this purpose only if reception in the area is reliable; (2) Observing employees for alertness and signs or symptoms of heat illness; (3) Designating one or more employees on each worksite as authorized to call for emergency medical services, and allowing other employees to call for emergency services when no designated employee is available; (4) Reminding employees throughout the work shift to drink plenty of water; and (5) Pre-shift meetings before the commencement of work to review the high heat procedures, encourage employees to drink plenty of water, and remind employees of their right to take a cool-down rest when necessary. The employer shall ensure effective employee observation/monitoring by implementing one or more of the following: (A) Supervisor or designee observation of 20 or fewer employees; (B) Mandatory buddy system; (C) Regular communication with sole employee such as by radio or cellular phone; or (D) Other effective means of observation.

Under California Code of Regulations section 3395(i), employers shall establish, implement, and maintain, an effective heat illness prevention plan. The plan shall be in writing in both English and the language understood by the majority of the employees and shall be made available at the worksite to employees. The Heat Illness Prevention Plan may be included as part of the employer's Illness and Injury Prevention Program required by section 3203, and shall, at a minimum, contain: (1) Procedures for the provision of water and access to shade; (2) the high heat procedures referred to above; (3) Emergency Response Procedures; and (4) Acclimatization methods and procedures.

While working for Bennett Enterprises, Mr. Barajas and the aggrieved employees worked in outdoor places of employment. Mr. Barajas and the aggrieved employees worked shifts during which the temperature exceeded 80 degrees Fahrenheit. Mr. Barajas and the aggrieved employees worked shifts during which the temperature exceeded 95 degrees Fahrenheit.

Bennett Enterprises has a consistent policy and/or practice of failing to provide employees with drinking water. Bennett Enterprises never provided Mr. Barajas and the aggrieved employees with water.

Bennett Enterprises has a consistent policy and/or practice of not providing preventative cool-down rest and recovery periods to Mr. Barajas and all aggrieved employees. Specifically, Bennett Enterprises failed to provide Mr. Barajas and the aggrieved employees with access to shade and preventative cool-down recovery periods when the applicable temperatures were reached. Bennett Enterprises failed to follow the applicable high-heat procedures and failed to establish, implement, and maintain an effective heat illness prevention program.

By failing to provide preventative cool-down rest and recovery periods to non-exempt employees, and by failing to provide compensation for these unprovided periods, as alleged above, Bennett Enterprises willfully violated the provisions of *Labor Code* section 226.7.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a non-exempt employee who was unlawfully deprived of preventative cool-down rest and recovery periods, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Barajas has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 226.7.

VI. Bennett Enterprises Failed to Pay Wages Due at Termination and During Employment

Bennett Enterprises willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left Bennett Enterprises' employ or who were terminated.

The aggrieved employees who ended their employment with Bennett Enterprises during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, Bennett Enterprises intentionally and willfully failed to pay the aggrieved employees who are no longer employed by Bennett Enterprises their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Bennett Enterprises' employ.

Bennett Enterprises fails to provide Mr. Bennett and the aggrieved employees with their final paychecks at the time their employment is terminated by Bennett Enterprises. For example, Bennett Enterprises terminated Mr. Barajas' employment on or about January 29, 2024. At the time of his termination, Bennett Enterprises required Mr. Barajas to sign paperwork regarding his termination. Because Mr. Barajas refused to sign this paperwork, Bennett Enterprises refused to give Mr. Barajas his final paycheck at the time his employment was terminated.

As outlined above, Bennett Enterprises has a continuous policy of not paying aggrieved employees for all hours worked. Specifically, Bennett Enterprises has not paid for all the time Mr. Barajas and similarly aggrieved employees worked throughout the day, including, but not limited to

rounding, before shifts start, after shifts end, and/or any other time in the day when the employees were performing work tasks, subject to the control of Bennett Enterprises and/or otherwise had work duties. Further, Bennett Enterprises would fail to record and/or pay Mr. Barajas and the aggrieved employees for all of the hours they worked by requiring Mr. Barajas and the aggrieved employees to work additional time after they clocked out. As such, Mr. Barajas and the aggrieved employees were not paid all wages owed at the termination of employment.

Moreover, Mr. Barajas and the aggrieved employees are informed and believe and thereon allege that Bennett Enterprises failed to pay all meal and rest period premium wages owed to the aggrieved employees at the time of their termination.

Bennett Enterprises' failure to pay the aggrieved employees who are no longer employed by Bennett Enterprises their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Bennett Enterprises' employ, is in violation of *California Labor Code* sections 201 and 202.

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

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

VII. Bennett Enterprises' Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions

Section 226(a) of the *California Labor Code* requires Bennett Enterprises to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Mr. Barajas and the aggrieved employees.

California Labor Code section 226 subdivision (a) requires that Bennett Enterprises, at the time of each payment of wages, "furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized 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 basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an

employee identification number other than the 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 and the corresponding number of hours worked at each hourly rate by the employee...”

Labor Code section 226, subdivision (a) also requires that “deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California” to itemize in wage statements and to accurately report the total hours worked and total wages earned.

Bennett Enterprises has knowingly and intentionally failed to comply with *Labor Code* section 226(a) on each and every wage statement provided to Mr. Barajas and the other aggrieved employees.

Bennett Enterprises knowingly and intentionally did not include the gross wages earned on wage statements. Bennett Enterprises therefore knowingly and intentionally failed to itemize the gross wages earned on Mr. Barajas’s and the aggrieved employees’ wage statements.

In every pay period during the period of the relevant statute of limitations, Bennett Enterprises knowingly and intentionally did not itemize the total hours worked on wage statements as *Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, Bennett Enterprises knowingly and intentionally did not include the total hours worked on wage statements. Bennett Enterprises therefore knowingly and intentionally failed to itemize the total hours worked on Mr. Barajas’s and the aggrieved employees’ wage statements.

As outlined herein, Bennett Enterprises has a continuous policy of not paying Mr. Barajas and similarly aggrieved employees for all hours worked. Bennett Enterprises has not paid for all the time Mr. Barajas and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before shifts start, after shifts end, and/or any other time in the day when the employees were performing work tasks, subject to the control of Bennett Enterprises and/or otherwise had work duties. Further, Bennett Enterprises would fail to record and/or pay Mr. Barajas and the aggrieved employees for all of the hours they worked by requiring Mr. Barajas and the aggrieved employees to work additional time after they clocked out. These wages are not included on wage statements.

In every pay period during the period of the relevant statute of limitations, Bennett Enterprises knowingly and intentionally did not include the net wages earned on wage statements.

Moreover, Bennett Enterprises failed to include all meal and rest period premiums that were owed to Mr. Barajas and the aggrieved employees on wage statements.

Throughout the statutory period, as a result of the knowing and intentional failure by Bennett Enterprises to comply with itemized employee wage statement provisions, Mr. Barajas and the

aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Further, Bennett Enterprises knowingly and intentionally did not include Mr. Barajas's and the aggrieved employees' last four digits of his or her social security number or an employee identification number other than the social security number.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a non-exempt employee who Bennett Enterprises failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Barajas has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 226.

VIII. Bennett Enterprises Failed to Reimburse Employees for Business Expenses

Section 2802(a) of the *Labor Code* requires "[a]n employer [to] 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."

Mr. Barajas and the aggrieved employees incurred expenses in the discharge of their duties without receiving reimbursement from Bennett Enterprises. These expenses include, but are not limited to, to purchase tools. Mr. Barajas had to purchase tools, such as a rose pruner and holster for use in his position with Bennett Enterprises. Mr. Barajas and the aggrieved employees also have to purchase safety glasses if the ones provided by Bennett Enterprises break.

In addition, Mr. Barajas and the aggrieved employees have to incur expenses associated with laundering and maintaining their work uniforms.

Further, if tools provided to Mr. Barajas and the aggrieved employees by Bennett Enterprises were stolen or lost, Bennett Enterprises would charge Mr. Barajas and the aggrieved employees to replace the tool.

California Labor Code section 2802(a) entitles Mr. Barajas and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas is an aggrieved employee with standing to bring an action under the PAGA. Furthermore, Mr. Barajas satisfies all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section

2699.5 for violations of *Labor Code* section 2802(a).

IX. Bennett Enterprises Failed to Provide Paid Sick Days

Section 246(a) of the *California Labor Code* requires “[a]n employee who, on or after July 1, 2015, works in California for the same employer for thirty (30) or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, “an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later.”

California Labor Code section 246(b) requires “[a]n employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked....”

California Labor Code section 246(k) provides that, “[a]n employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.”

California Labor Code section 246(i) requires that, “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

California Labor Code section 233(c) states: “An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5” *California Labor Code* section 233(d) provides relief for violations of this section, stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate equitable relief.”

California Labor Code section 234 further forbids employers from adopting an “absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

Bennett Enterprises fails to comply with these provisions. Bennett Enterprises operates under an absence control policy that counts sick leave taken pursuant to Section 233 as an unexcused absence. Thus, Bennett Enterprises’ sick pay policy punishes employees for use of protected and appropriate sick leave. Bennett Enterprises further fails to provide paid sick days for all hours worked in compliance with these sections.

In addition, Bennett Enterprises does not provide employees with written notice that sets forth the

amount of sick leave available for use, either in employees' itemized wage statements or in a separate writing provided to employees on the designated pay date.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 246 and 247.5.

X. Bennett Enterprises Underpaid Employees Every Pay Period

Section 558(a) of the *California Labor Code* subjects any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty for every pay period for which the employee was underpaid, which includes the underpaid wages related to each violation.

Every pay period, Bennett Enterprises failed to pay employees the legal minimum wage in violation of *California Labor Code* section 1197.1, and employees are entitled to underpaid wages pursuant to Section 558(a).

Bennett Enterprises has a continuous policy of not paying Mr. Barajas and similarly aggrieved employees for all hours worked. Bennett Enterprises has not paid for all the time Mr. Barajas and similarly aggrieved employees worked throughout the day, including, but not limited to rounding, before shifts start, after shifts end, and/or any other time in the day when the employees were performing work tasks, subject to the control of Bennett Enterprises and/or otherwise had work duties. Further, Bennett Enterprises would require Mr. Barajas and the aggrieved employees to conduct work before clocking in, including but not limited to, loading equipment into a truck. In addition, Bennett Enterprises would fail to record and/or pay Mr. Barajas and the aggrieved employees for all of the hours he worked by requiring Mr. Barajas and the aggrieved employees to sign fraudulent time cards which reduced the number of hours actually worked by Mr. Barajas and the aggrieved employees. Bennett Enterprises did not have any way for Mr. Barajas and the aggrieved employees to record their work hours.

Additionally, Bennett Enterprises has had a continuous policy of not paying Mr. Barajas and the aggrieved employees for all hours worked in that Bennett Enterprises continuously and consistently clocked Mr. Barajas and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Mr. Barajas and the aggrieved employees work through their meal periods, are not relieved of all duties during meal periods, were not able to leave the work location during meal periods, and/or were unable to take meal periods. Thus, Bennett Enterprises shaves/steals earned wages from Mr. Barajas and the aggrieved employees every day they work without a lawful meal period and have time deducted for a meal period.

Likewise, Mr. Barajas and the aggrieved employees are informed and believe and thereon allege that Bennett Enterprises breached the legal duty to pay full wages to Mr. Barajas by deducting a portion of the wages earned by Mr. Barajas and the aggrieved employees when they worked through their meal periods and/or when Bennett Enterprises recorded a meal period for Mr. Barajas and the aggrieved employees when no meal period was taken. Specifically, Mr. Barajas and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by Bennett Enterprises, thereby denying them the right to be completely free from employer control under California law.

Every pay period, Bennett Enterprises failed to pay overtime when employees worked over eight (8) hours per day and when employees worked over 40 hours per week in violation of *California Labor Code* section 510, and employees are entitled to underpaid overtime wages pursuant to Section 558(a).

Every pay period, Bennett Enterprises has had a consistent policy and/or practice of not providing meal periods to Mr. Barajas and all aggrieved employees and/or providing compensation in lieu thereof in violation of *California Labor Code* section 512, and employees are entitled to underpaid meal period premium wages pursuant to Section 558(a).

Every pay period, Bennett Enterprises have had a consistent policy and/or practice of not providing rest periods to Mr. Barajas and the aggrieved employees and/or providing compensation in lieu thereof, and employees are entitled to underpaid rest period premium wages pursuant to Section 558(a).

Mr. Barajas and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Mr. Barajas and all landscapers and/or other workers with similar job designations or titles, and all other similarly situated non-exempt, hourly employees of Bennett Enterprises in California.

Mr. Barajas, as a non-exempt employee who unlawfully was underpaid every pay period during his employment, is an aggrieved employee with standing to bring an action under the PAGA. Mr. Barajas has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 558(a) for violations of *Labor Code* sections 510 and 512 and California's labor laws.

///

///

///

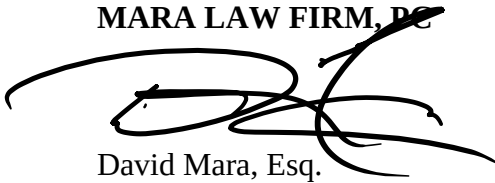
///

XI. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. Barajas will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,

MARA LAW FIRM, PC

A handwritten signature in black ink, appearing to read 'David Mara', is written over the printed name 'MARA LAW FIRM, PC'.

David Mara, Esq.

Attn: PAGA Administrator

California Labor and Workforce Development Agency

455 Golden Gate Avenue, 9th Floor

San Francisco, CA 94102

Via Web Submission and Certified Mail

Attn: Sean A. Bennett

Bennett Enterprises, A California Landscape Contracting Corporation

25889 Belle Porte Avenue

Harbor City, CA 90710

Agent for Service of Process for Defendant

Via Certified Mail

Case Name: **Jose Barajas v. Bennett Enterprises**

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of: San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is:
2650 Camino Del Rio North, Suite 302 San Diego, CA 92108

On May 3, 2024, I served the foregoing document(s) described as:

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION
2699.3**

On interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Attn: Sean A. Bennett
**Bennett Enterprises, A California
Landscape Contracting Corporation**
25889 Belle Porte Avenue
Harbor City, CA 90710
*Agent for Service of Process for Defendant
Via Certified Mail*

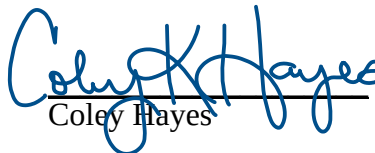
Attn: PAGA Administrator
**California Labor and Workforce
Development Agency**
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Electronic Filing

[XX] (BY UNITED STATES CERTIFIED MAIL) On May 3, 2024, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses named above and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

[XX] (BY ELECTRONIC SUBMISSION) On May 3, 2024, I caused the documents to be sent to the persons at the electronic notification addresses of the parties named above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[XX] (DECLARATION) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: May 3, 2024


Coley Hayes

Coley Hayes

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Friday, May 3, 2024 4:29 PM
To: Coley Hayes
Subject: Thank you for submission of your PAGA Case.

5/3/2024

LWDA Case No. LWDA-CM-1026194-24

Law Firm : Mara Law Firm

Plaintiff Name : Jose Barajas

Employer: Bennett Enterprises, A California Landscape Contracting Corporation Filing Fee : \$75.00 IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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