

BIBIYAN LAW GROUP, P.C.

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

Keaton Mendoza (SBN 321172)

kmendoza@tomorrowlaw.com

1460 Westwood Boulevard

Los Angeles, California 90024

Tel: (310) 438-5555; Fax: (310) 300-1705

Attorneys for Plaintiff, ANA ORTIZ-GOMEZ,
on behalf of herself and all others similarly
situated

[Additional Counsel on following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ANA ORTIZ-GOMEZ, an individual, and on
behalf of all others similarly situated and
aggrieved,

Plaintiff,

v.

BEYOND RESOURCE SOLUTIONS, INC., a
California Corporation; CAPLUGS, INC., a
Delaware Corporation; GEORGE PORTILLO,
an individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 24STCV15833

Related to Case No.: 24STCV32252

[Assigned for all purposes to the Hon. Elaine
Lu in Dept. 9]

**DECLARATION OF KEATON D.
MENDOZA IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND PROVISIONAL
CLASS CERTIFICATION FOR
SETTLEMENT PURPOSES ONLY**

HEARING INFORMATION:

DATE: November 4, 2026

TIME: 8:30 a.m.

DEPT: 9

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6

7
8
9
0

1
2
3
4
5
6
7

8
9
0
1

2
3
4
5

6
7
8

1 Code violations (“Second PAGA Notice” and collectively with the PAGA Notice and Amended
2 PAGA Notice, the “PAGA Notices”). True and correct copies of the PAGA Notices are attached
3 hereto as Exhibit “2.”

4 7. Thereafter, Plaintiff and Defendants (collectively, the “Parties”) agreed to exchange
5 informal discovery and attend mediation.

6 8. Prior to mediation, Plaintiff confidentially obtained, through informal discovery: (a)
7 time and payroll records for approximately 25% of the estimated 158 putative class members during
8 the class period; (b) data points, including the number of putative class members, workweeks and
9 shifts during the class period, the number of putative class members separated during the waiting
10 time penalty period, the number of pay periods in the PAGA period, and the average hourly rate of
11 pay; (c) wage and hour policy documents of Defendants; and (d) all documents pertaining to Plaintiff
12 available to Defendants.

13 9. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set
14 forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker*
15 *Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 (“*Dunk/Kullar*”).

16 10. On or around March 17, 2026, the Parties participated in an all-day mediation
17 presided over by Lynn Frank, Esquire. The mediation was successful, and the Parties agreed to
18 globally resolve all class and PAGA claims in the Action. As part and parcel to the Agreement, the
19 Parties agreed to stipulate to Plaintiff’s filing a First Amended Complaint in the Class Action, adding
20 all allegations in the PAGA Action, and after acceptance of the First Amended Complaint, request
21 for dismissal without prejudice of the PAGA Action, thereby effectively consolidating the
22 allegations in the two actions for purposes of the Settlement.

23 11. On September 9, 2026, Plaintiff filed a First Amended Complaint in the Class Action,
24 adding all allegations in the PAGA Action. The First Amended Complaint is the operative complaint
25 in the Action (“Operative Complaint”).

26 12. Class Counsel has conducted significant investigation of the law and facts relating to
27 the claims asserted in the Action, and have concluded that the Settlement is fair, reasonable,
28 adequate, and in the best interests of the Settlement Class, taking into account the sharply contested

1 issues involved, the expense and time necessary to litigate the Action through trial and any appeals,
2 the risks and costs of further litigation of the Action, the risk of an adverse outcome, the uncertainties
3 of complex litigation, the information learned through informal discovery regarding Plaintiff's
4 allegations, and the substantial benefits to be received by Settlement Class Members.

5 **The Proposed Settlement**

6 13. Subject to Court approval pursuant to Code of Civil Procedure section 382 and
7 California Rules of Court, rule 3.679, *et seq.*, the Parties have agreed to settle the Action by
8 agreement upon the terms and conditions, and for the consideration set forth in the Agreement, a
9 copy of which is attached hereto as Exhibit "1." A summary of the terms of the settlement is as
10 follows:

11 Defendants will stipulate, for purpose of this settlement only, as follows:

- 12 • Certification of a Settlement Class Member ("Class Member" or "Settlement Class
13 Member") as "BRS Class" and "Caplugs Class" respectively, for the purpose of
14 settlement only:

- 15 I. All persons employed by Defendant Beyond Resource Solutions,
16 Inc. (Defendant "BRS") in California and classified as non-
17 exempt, hourly-paid employees, who were placed to work for
18 Caplugs, during the period from June 25, 2020, through (1) 90
19 days from the execution of the Memorandum of Understanding
20 ("MOU") executed by the Parties; or (2) the date upon which the
21 total number of workweeks from June 25, 2020 forward equals
22 9,460 workweeks; provided, however, that if BRS elects to pay
23 additional amounts pursuant to the Escalator Clause in Paragraph
24 9.1 of Settlement Agreement rather than cut off the BRS Class
25 Period at 9,460 workweeks, the BRS Class Period shall extend to
26 include all workweeks for which such additional payment is made
27 for the Defendant Beyond Resource Solutions, Inc. ("BRS Class
28 Period") and;

1 II. All persons directly employed by Defendant Caplugs, Inc.
2 (Defendant “Caplugs”) and Jorge Mejia (erroneously sued as
3 George Portillo) in California and classified as non-exempt,
4 hourly-paid employees who worked for Caplugs during the period
5 from August 26, 2021 through the earlier of (1) the date of
6 preliminary approval of the settlement; (2) 90 days from the
7 execution of the Memorandum of Understanding (“MOU”) executed by the Parties; or (3) the date upon which the total
8 number of workweeks from August 26, 2021 forward equals
9 24,640 workweeks; provided, however, that if Caplugs elects to
10 pay additional amounts pursuant to the Escalator Clause in
11 Paragraph 9.1 rather than cut off the Caplugs Class Period at
12 24,640 workweeks, the Caplugs Class Period shall extend to
13 include all workweeks for which such additional payment is
14 made. (“Caplug Class Period”).

- 16 • Defendants will pay \$900,000.00 (“Gross Settlement Amount”) to resolve the matter
17 and in which Defendant Caplugs agrees to pay \$675,000.00 and Defendant BRS agrees
18 to pay \$225,000.00.
- 19 • Caplugs represents that there are no more than 22,400 Workweeks during the Caplugs
20 Class Period. In the event the number of Workweeks during the Caplugs Class Period
21 increases by more than 10%, or 2,240 Workweeks, then, at Caplugs’ election: (1) the
22 Gross Settlement Amount shall be increased proportionally by the Workweeks in excess
23 of 24,640 multiplied by the Workweek Value; or (2) the Caplugs Class Period shall end
24 on the date the number of Workweeks reaches 24,640. The Workweek Value shall be
25 calculated by dividing the Gross Settlement Amount by 31,000. The Parties agree that
26 the Workweek Value amounts to \$29 per Workweek ($\$900,000.00 / 31,000$
27 Workweeks). Thus, for example, should there be 24,700 Workweeks in the Caplugs
28 Class Period, then the Gross Settlement Amount shall be increased by \$1,740.00.

1 (24,700 Workweeks – 24,640 Workweeks x \$29/Workweek.). Caplugs shall provide the
2 class data to the administrator no later than 7 days after the Court grants preliminary
3 approval of the Settlement. Caplugs shall make its election regarding the above no later
4 than 7 days after receiving information from the Administrator regarding the Workweek
5 count. Should Caplugs fail to make its election within the above timeframe, then option
6 (1) shall automatically apply.

- 7 • BRS represents that there are no more than 8,600 Workweeks during the BRS Class
8 Period. In the event the number of Workweeks during the BRS Class Period increases
9 by more than 10%, or 860 Workweeks, then, at BRS' election: (1) the Gross Settlement
10 Amount shall be increased proportionally by the Workweeks in excess of 9,460
11 multiplied by the Workweek Value; or (2) the BRS Class Period shall end on the date
12 the number of Workweeks reaches 9,460. The Workweek Value shall be calculated by
13 dividing the Gross Settlement Amount by 31,000. The Parties agree that the Workweek
14 Value amounts to \$29 per Workweek (\$900,000.00 / 31,000 Workweeks). Thus, for
15 example, should there be 9,500 Workweeks in the BRS Class Period, then the Gross
16 Settlement Amount shall be increased by \$1,160. (9,500 Workweeks – 9,460
17 Workweeks x \$29/Workweek.). BRS shall provide the class data to the administrator no
18 later than 7 days after the Court grants preliminary approval of the Settlement. BRS
19 shall make its election regarding the above no later than 7 days after receiving
20 information from the Administrator regarding the Workweek count. Should BRS fail to
21 make its election within the above timeframe, then option (1) shall automatically apply.
- 22 • Defendant will pay the employer's share of taxes separate and apart from the Gross
23 Settlement Sum.
- 24 • This is a non-reversionary settlement.
- 25 • Class Members will be paid their *pro rata* share of the class action settlement based
26 on the total number of Workweeks worked during the Class Period.

- 1 • “Workweek” means any week during which a Class Member worked for Defendants, for
2 at least one day during the Class Period, based on hire dates, re-hire dates (as applicable),
3 and termination dates (as applicable).
- 4 • The Settlement Administration costs, estimated not to exceed \$8,000.00, will be paid
5 out of the Gross Settlement Amount.
- 6 • Class Counsel, comprised of David D. Bibiyan and Vedang J. Patel of Bibiyan Law
7 Group, P.C., may apply for, and Defendants will not oppose, attorneys’ fees of not
8 more than thirty-five percent (35%) of the Gross Settlement Amount, which, unless
9 escalated pursuant to the Settlement Agreement, amounts to \$315,000.00, and actual
10 costs, not to exceed \$30,000.00, all of which will be paid out of the Gross Settlement
11 Amount.
- 12 • Class Counsel hereby applies for, and Defendants will not oppose, a service award of
13 not more than \$10,000.00; to Plaintiff, which will be paid out of the Gross Settlement
14 Amount.
- 15 • “Aggrieved Employees” means a person employed by Defendants Beyond Resource
16 Solutions, Inc., Caplugs, Inc., and Jorge Mejia, erroneously sued as George Portillo
17 (collectively, “Defendants”) in California and classified as a non-exempt, hourly-paid
18 employee who worked for Defendants during the period from June 19, 2023 through
19 the date of preliminary approval of the settlement, or September 14, 2026, whichever
20 comes sooner (“PAGA Period”).
- 21 • Defendants have agreed to pay \$90,000.00 as PAGA penalties, sixty-five percent
22 (65%) or \$58,500.00 of which will be paid to the LWDA out of the Gross Settlement
23 Amount, and thirty-five percent (35%) or \$31,500.00 of which will be distributed to
24 the Aggrieved Employees.
- 25 • For any Settlement Class Member whose Individual Class Payment check or Individual
26 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
27 shall transmit the funds represented by such checks to the *cy pres* recipient, Legal Aid at
28 Work.

1 **Settlement Agreement and Accompanying Documents**

2 14. Attached hereto as Exhibit “1” is a true and correct copy of the Agreement fully
3 executed by the Parties.

4 15. Attached to the Agreement as Exhibit “A” thereto is the proposed Notice of
5 Proposed Settlement (“Class Notice”) to be distributed to Class Members in English and Spanish.

6 16. The Parties have agreed to use Phoenix Settlement Administrators (“Phoenix”), an
7 experienced settlement administrator, to administer the settlement.

8 17. On or about September 22, 2026, my office submitted a copy of the Settlement
9 Agreement to the California Labor and Workforce Development Agency (“LWDA”) in
10 compliance with Labor Code section 2699, subdivision (1)(2). A true and correct copy of each
11 confirmation from the LWDA in connection with Plaintiff is attached hereto as Exhibit “3.”

12 **The Settlement was Negotiated at Arms-Length and not Collusive**

13 18. The Settlement that has been reached, subject to this Court’s approval, is a product
14 of substantial efforts by the Parties and their counsel. The Settlement was reached after extensive
15 factual and legal investigation and research; the exchange of informal discovery; substantial
16 negotiation regarding the scope of informal discovery; exchange of documents and information that
17 included review of time and pay records and analysis thereof with the aid of Plaintiff and expert
18 consultant; analysis of shifts and Workweeks worked by Class Members in the Class Period,
19 analysis of the number of pay periods and number of Aggrieved Employees in the PAGA Period for
20 calculating PAGA penalties, number of Class Members eligible for wage statement penalties and
21 waiting time penalties; an analysis of Defendants’ financial ability to fund the settlement; an analysis
22 of Plaintiff’s employment records; extensive correspondence and communication between counsel;
23 a review of pleadings, evidence and rulings in similar actions litigated elsewhere in the state; a
24 review of similar cases in the same industry elsewhere in the country; and preparation for and
25 attendance at a full-day mediation, followed by further discussions and coordination to finalize the
26 terms and conditions of the general settlement parameters agreed to by the Parties.

27 19. While Class Counsel believes in the chance of success of certifying the claims, Class
28 Counsel recognized the potential risk, expense and complexity posed by further litigation.

Moreover, litigating Plaintiff's claims in this litigation—claims that involve approximately 276 Class Members during the Class Period—would require substantial preparation and discovery and ultimately would involve the deposition and presentation of numerous more witnesses (including Class Members and expert witnesses), as well as the consideration, preparation and analysis of expert reports. Therefore, should litigation have progressed any further, there would have been significant expense incurred by each side (above and beyond the expense already incurred).

The Settlement Amount is Well Within the Range of Reasonableness

20. The settlement amount reached in this case provides significant recovery to Class Members and Aggrieved Employees and easily falls within the range of reasonableness. Based on documents and information provided by Defendants, Class Counsel understands there are no more than 31,000 Workweeks during the Class Period.

Recovery of Damages for Failure to Pay Wages for All Time Worked

21. Class Counsel theorized, based on Plaintiff's narrative evidence and documents produced by Defendants, that Defendants failed to pay all wages due to Class Members because Defendants required Class Members to work off-the-clock by requiring them waiting in line to clock in, making phone calls, cleaning their workstations and finishing their manufacturing duties off the clock. Class Counsel theorized, based on documents produced by Defendants, that Defendants rounded time entries in a manner detrimental to Class Members' interest. Class Counsel theorized based on Plaintiff's narrative evidence and documents produced by Defendants that Defendants rounded time entries exactly 8 hours every shift which create a non-rebuttable presumption that time entries were entirely synthetic, false, and did not accurately track Class Members' time worked. Class Counsel theorized based on documents produced by Defendants and Plaintiff's narrative evidence that Class Members have spent extensive amounts of uncompensated time under Defendants' control.

22. One theory advanced by Class Counsel alleged, based on Plaintiff's narrative evidence, that Class Members worked off-the-clock for approximately three (3) minutes each shift throughout the Class Period, without pay. Class Counsel understand, based on time and payroll records produced by Defendants and analysis thereof by expert data consultants retained by Class

1 Counsel, that there were approximately 146,255 shifts during the Class Period, 67.9% of which were
2 over eight (8) hours in length, and Class Members had an average hourly rate of pay of \$20.78.
3 Thus, one calculation performed by Class Counsel at mediation resulted in Defendants' exposure
4 for unpaid off-the-clock work in an approximate amount of **\$252,328** ([146,255 shifts x 0.679 shifts
5 over eight hours x 0.05 hour x \$20.78 x 1.5 overtime rate] + [146,255 shifts x 0.321 shifts under
6 eight hours x 0.05 hour x \$20.78 x 2 in liquidated damages]).

7 23. Class Counsel understand that Defendants explicitly deny these contentions and make
8 the following defenses in connection with this claim: Defendants contend that their policies
9 specifically prohibit off-the-clock work. Defendants contend that they did not require Class
10 Members to work off-the-clock, they were paid for all time suffered or permitted to work.
11 Defendants contend that any allegations that Class Members were required to be under Defendants'
12 control off-the-clock would necessitate an individualized inquiry into when and why, making this
13 claim not subject to class treatment and any trial in this litigation unmanageable. Thus, Defendants
14 contend that no damages can be recovered here, and, even if, *arguendo*, they could, an estimate of
15 three (3) minutes of unpaid work off-the-clock of Class Members for *every single shift* during the
16 Class Period is a wild exaggeration of time spent working off-the-clock if *any* such time was spent.

17 **Recovery of Damages for Non-Compliant Meal Periods**

18 24. Class Counsel theorized that Defendants' meal period practices throughout the
19 Class Period were non-compliant. Class Counsel theorized that Defendants' meal period practices
20 were non-compliant because, based on Plaintiff's narrative evidence and Defendants' records, that
21 Class Members were required to record the time entries at the time of leaving the premises. Class
22 Counsel also theorized based on Plaintiffs' narrative evidence that Class Members were regularly
23 interrupted by Defendants and Class Members were not relinquished from Defendants' control.
24 Moreover, Class Counsel theorized that Class Members did not receive full thirty (30) minute
25 meal periods, were late, or missed. Class Counsel also theorized that many meal periods were
26 synthetic, or fictional because they rounded to exactly thirty (30) minutes. Class Counsel based
27 on Plaintiffs' narrative and documents provided by Defendant theorized that no meal premium
28 was paid to the Class Members and Defendant never provided second meal period.

1 25. Class Counsel theorized that there are approximately 10,571 unique meal period
2 violation (*i.e.* meal periods that were missed, short, or were exactly 30 minutes in length). Thus,
3 one calculation performed by Class Counsel at mediation resulted in, **Defendants' exposure for**
4 **failure to provide compliant meal periods in a conservative amount of \$219,665** [(10,571
5 unique meal period violations x 20.78/hour].

6 26. Class Counsel understands that Defendants make the following defenses in
7 connection with this claim: Defendants argued that they had compliant meal period policies and
8 practices. Defendants argued that Settlement Class Members took timely and full meal periods, as
9 they were required to do. Defendants further contend that any instance of a Settlement Class
10 Member failing to take a compliant meal period was voluntary, in violation of their meal period
11 policy, would necessitate an individualized inquiry and would not lend itself to a manageable trial.
12 Thus, Defendants contend that *no* monies are owed for this account but, even if any amounts were
13 due, the amount calculated by Class Counsel is excessive.

14 **Recovery of Damages for Non-Compliant Rest Periods**

15 27. Class Counsel theorized, based on documents and information produced by
16 Defendants and Plaintiff's narrative evidence, that Defendants' rest period policies and practices
17 throughout the Class Period were non-compliant. Class Counsel understand from Defendants'
18 policy documents, that Defendants policies did not make any reference of rest break premiums.
19 Class Counsel theorized based on data produced by Defendants that non-payment of any rest break
20 premium to Class Members raises a rebuttable presumption that all rest periods throughout the
21 Class Period were non-compliant.

22 28. Thus, one calculation performed by Class Counsel at mediation resulted in,
23 assuming a 40% violation rate, **Defendants' exposure for failure to provide compliant rest**
24 **periods in a conservative amount of \$1,194,260** (143,679 shifts x 0.4 violation rate x
25 \$20.78/hour).

26 29. Class Counsel understand that Defendants make the following defenses in
27 connection with this claim: Defendants argue that it had compliant rest period policies and
28 practices. Defendants argue that Class Members took timely and full rest periods. Defendants

1 contend that its policy requires their employees to take timely and full rest periods. Defendants
2 further contend that any instance of a Class Member failing to take a compliant rest period was
3 voluntary, in violation of their rest period policy, would necessitate an individualized inquiry and
4 would not lend itself to a manageable trial. Finally, Defendants contend that a 40% violation rate
5 is a wild exaggeration of non-compliant rest periods, if there were any. Thus, Defendants contend
6 that *no* monies are owed for this account but, even if any amounts were due, the amount calculated
7 by Class Counsel is excessive.

8 **Wage Statement Violations**

9 30. Class Counsel theorized that Class Members are entitled to recover penalties for
10 Defendants' alleged failure to issue compliant wage statements under Labor Code section 226,
11 subdivision (e), for the derivative impact of the failure to pay all wages owed on providing
12 accurate information on wage statements. Specifically, Class Counsel theorized that penalties are
13 owed under Labor Code section 226 due to, at minimum, Defendants' failure to pay premium
14 wages. A non-exempt employee suffering injury as a result of a knowing and intentional failure
15 by an employer to comply with Labor Code section 226, subdivision (a), is entitled to recover the
16 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
17 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period.
18 Class Counsel understand from the data provided by Defendants that there were 13,074 pay
19 periods during the relevant statutory time period for Class Members. If, in fact, Class Members
20 worked every off-the-clock every shift as set forth above, and no rest premiums were paid, every
21 wage statement would thus, Class Counsel theorized, violate Labor Code section 226. However,
22 due to the derivative nature of wage statement penalties, as well as the requirement that
23 Defendants' failure to comply with Labor Code section 226 be knowing and intentional, one
24 calculation performed by Class Counsel at mediation, based on the initial penalty of fifty dollars
25 (\$50) in light of Defendants' defenses, resulted in **Defendants' maximum exposure for wage**
26 **statement violations in the amount of \$653,700** (13,074 pay periods x \$50/pay period).

27 31. Class Counsel understand that Defendants make the following defenses in
28 connection with this claim: Defendants contend that the wage statements issued to the employees

1 fully complied with Labor Code section 226. Defendants contend that because it believes no wages
2 are unpaid that, thus, there can be no derivative penalties. However, Class Counsel also understand
3 the risks inherent in this claim if the above claims were not certified. Class Counsel also had to
4 factor in, and did factor in, the risk that the Court would find there was no injury to Class Members
5 even if the wage statements were inaccurate or that Defendants' conduct was not intentional, both
6 of which are requirements of Labor Code section 226 before penalties can issue. Class Counsel
7 also note that the calculation used does not take into account the fact that all Class Members did
8 not work all pay periods and, therefore, Class Counsels' calculation does not take into account the
9 maximum penalty of \$4,000 in Plaintiff's exposure model used at mediation.

10 **Waiting Time Penalties**

11 32. Pursuant to Labor Code sections 201, 202 and 203, each employee in the relevant
12 statutory period (*i.e.*, three years before the filing of the initial Complaint) is entitled to 30 days'
13 worth of wages as waiting time penalty for not being paid all wages due upon separation from
14 employment. Class Counsel theorized at mediation, based on relevant documents provided by
15 Defendants, that, under Labor Code section 203, Defendants are liable to pay each Class Member,
16 who was terminated during the relevant statutory period, a full 30-day worth of wages as waiting
17 time penalty for failure to pay compensation in lieu of compliant meal and rest periods, and failure
18 to timely pay all wages due at the time of termination or resignation.

19 33. Based on relevant documents provided by Defendants, there were approximately
20 44 Class Members who were terminated or resigned during the relevant statutory period. Thus,
21 one calculation performed at mediation by Class Counsel resulted in **Defendants' exposure for**
22 **waiting time penalties to be approximately \$219,437** (44 separated Class Members x
23 \$20.78/hour x 8 hours x 30 days).

24 34. Class Counsel understand that Defendants contend that there is no credence to
25 Plaintiff's off-the-clock theory and that, thus, no waiting time penalties are owed based on that
26 theory. Finally, Defendants contend that its actions were not "willful" and that, thus, waiting time
27 penalties cannot be awarded. Thus, Defendants argued that no waiting time penalties are owed.

28 **PAGA Penalties**

1 35. Class Counsel understand from the time and payroll data provided by Defendants
2 that there are approximately 44 Aggrieved Employees who collectively worked 13,074 pay
3 periods in the PAGA Period. Plaintiff's claims in the Action under PAGA are substantially similar
4 to those described herein. PAGA penalties include penalties for initial violations and subsequent
5 violations. Defendants contend that only initial violation rates may be used instead of the
6 subsequent violation rates initially used by Class Counsel. With this in mind and because Class
7 Counsel through investigation and discovery did not come to the conclusion that Defendants at
8 any time was notified by any governmental entity that they violated any Labor Code sections
9 presented in the PAGA Notice and PAGA claims, Class Counsel adjusted the exposure model for
10 Defendants to include only initial violation rates.

11 36. While Class Counsel are informed and believe that reasonable minds differ with
12 regard to calculation of PAGA penalties, Class Counsel believe it is reasonable to calculate
13 Defendants' maximum exposure in PAGA penalties as follows:

14 37. Overtime Violations: Labor Code section 558 prescribes penalties of \$50 for an
15 initial violation and \$100 for each subsequent violation. Using the initial pay period rate for all
16 violations, and a violation every single pay period for every single non-exempt employee in the
17 PAGA Period, this amounts to a maximum exposure of \$653,700 (13,074 pay periods x \$50).

18 38. Minimum Wage Violations: Labor Code section 1197.1 prescribes penalties of
19 \$100 for an initial violation and \$250 for each subsequent violation. Using the initial pay period
20 rate for all violations and a violation every single pay period for every single Aggrieved Employee
21 in the PAGA Period, this amounts to a maximum exposure of \$1,307,400 (13,074 pay periods x
22 \$100).

23 39. Meal Period Violations: Labor Code section 558 prescribes penalties of \$50 for an
24 initial violation and \$100 for each subsequent violation. Using the initial pay period rate for all
25 violations and a violation every single pay period for every single non-exempt employee in the
26 PAGA Period, this amounts to a maximum exposure of \$653,700 (13,074 pay periods x \$50).

27 40. Rest Period Violations: Labor Code section 558 prescribes penalties of \$50 for an
28 initial violation and \$100 for each subsequent violation. Using the initial pay period rate for all

1 violations and a violation every single pay period for every single non-exempt employee in the
2 PAGA Period, this amounts to a maximum exposure of \$653,700 (13,074 pay periods x \$50).

3 41. Wage Statement Violations: According to *Gunther v. Alaska Airlines, Inc.* (2021)
4 287 Cal.Rptr.3d 229, in this instance, Labor Code section 2699 would be the appropriate penalty
5 for wage statement violations that are inaccurate, which prescribes penalties of \$100 for an initial
6 violation and \$200 for each subsequent violation (*Id.* at 247-248). Using the initial pay period rate
7 for all violations and a violation every single pay period for every single Aggrieved Employee in
8 the PAGA Period, this amounts to a maximum exposure of \$1,307,400 (13,074 pay periods x
9 \$100).

10 42. Waiting Time Penalties: Labor Code section 2699 prescribes penalties of \$100 for
11 an initial violation and \$200 for each subsequent violation. Because this violation is merited only
12 at separation of employment, a 100% violation rate would likely include just one violation per
13 employee. The data produced by Defendant indicate that there were 44 Aggrieved Employees
14 whose employment was separated during the PAGA Period. This amounts to a maximum exposure
15 of \$4,400 (44 Aggrieved Employees x \$100).

16 43. Conclusion: In sum, Class Counsel calculated Defendants' total maximum
17 exposure for PAGA violations if the Court were to find a 100% violation rate for every Aggrieved
18 Employee every pay period and not exercise its discretion to reduce any of those penalties to be
19 **\$4,580,300**. Class Counsel understand from the mediator and the mediation process that
20 Defendants argued the following in connection with this claim: Defendants contend that no PAGA
21 penalties are likely to be awarded and, even if they were, the maximum exposure calculated by
22 Class Counsel is vastly overstated. First, Defendants defend that PAGA penalties cannot and
23 should not be stacked. Second, Defendants assert that individualized issues predominate the
24 PAGA claims, making the claims unmanageable for trial. Third, Defendants deny that a violation
25 for each pay period can be established. Fourth, Defendants contend that a Court is unlikely to
26 exercise its discretion to award civil penalties under PAGA where, as here, there is no conduct
27 shown by Plaintiffs that would show any Labor Code violation by Defendants are knowing and
28 intentional. Defendants insist that this is especially true in this Action where class action damages

1 are available to Class Members, rendering an award of PAGA penalties in addition to class action
2 damages to be double recovery.

3 44. Class Counsel maintain that it is possible to recover the subsequent violation rate
4 for penalties, that stacking is permissible, and that there is no manageability requirement under
5 PAGA (citing *Estrada v. Royalty Carpet Mills, Inc.*). As such, Class Counsel believes a 90%
6 discount of this claim to be reasonable, resulting in a valuation of **\$458,030** as a reasonable
7 estimate of the likelihood of what Plaintiff may recover at trial for PAGA penalties (\$4,580,300
8 x .10).

9 **Conclusion**

10
11 45. When including derivative penalties, such as waiting time penalties, wage
12 statement violations, and discretionary PAGA penalties, Class Counsel theorized Defendants'
13 maximum exposure to be approximately **\$2,997,420**. In all, Class Counsel obtained a Gross
14 Settlement Amount of **\$900,000.00**. Particularly in light of the risks involving obstacles to class
15 certification, all issues and risks related to liability, the issues with manageability at trial, the
16 discretionary nature of PAGA penalties, and considering the case law regarding fair, reasonable
17 and adequate settlements, Class Counsel strongly believe that the settlement reached is fair,
18 reasonable and adequate, and in the best interest of Class Members.

19 46. Moreover, \$90,000.00 of the Gross Settlement Amount was attributed to PAGA
20 penalties. This allocation was decided mutually by the Parties and the mutual decision was based
21 on: (1) the fact that damages are available for the failure to pay wage claims while only penalties
22 are available for the PAGA claims; (2) the risk that the Court may exercise its discretion to decline
23 to stack PAGA penalties; (3) the risk that the Court may exercise its discretion to not award the
24 full amount of PAGA penalties available; and (4) the risk that the Court may decline to award any
25 PAGA penalties at all in light of the fact that damages are available for Class Members and it may
26 find any further liability against Defendant unnecessarily punitive.

27 **The Proposed Attorneys' Fees and Costs are Reasonable**

28 47. Class Counsel seeks an attorneys' fees award of not more than thirty-five percent

(35%) of the Gross Settlement Amount, which, unless escalated pursuant to this Agreement, would amount to \$315,000.00. Class Counsel also seek reimbursement of costs not to exceed \$30,000.00.

The Requested Enhancement Award to the Named Plaintiffs

and Class Representatives are Reasonable

48. I am informed and believe Defendants do not oppose the requested enhancement to Plaintiff. Class Counsel seeks an extremely limited enhancement of up to \$10,000.00 to Plaintiff.

Conditional Certification for Settlement Purposes

Ascertainability

49. Here, the Class Members' definition for both Defendants respectively are; ((1) for BRS; all persons employed by BRS in California and classified as non-exempt, hourly-paid employees, who were placed to work for Caplugs, during the BRS Class Period, and (2) for Defendant Caplugs: all persons directly employed by Caplugs in California and classified as non-exempt, hourly-paid employees who worked for Caplugs during the Caplugs Class Period) are derived from the operative complaint. Based solely on Defendants' payroll records, which amount to approximately 276 persons.

Numerosity

50. Class Counsel understand from documents provided that Defendants identified at least 276 Class Members.

Commonality

51. This litigation is brought to resolve common issues that include whether Defendants failed to pay for all hours worked; whether Defendants provided full, timely and un-interrupted meal and rest periods; whether Class Members are entitled to premium pay for incomplete, untimely or interrupted meal or rest periods, among other claims as set forth above.

Typicality

52. Plaintiff's claims are typical of those of other Class Members as Plaintiff: (1) is a non-exempt, hourly paid employee like other Class Members; (2) complains of not being paid for all time under Defendants' control or suffered and/or permitted to work for Defendants; (3) did not receive premium pay for meal periods that were not compliant with the Labor Code; (4) did

1 not receive premium pay for rest periods that were not provided, among others as set forth above.

2 **Adequacy of Keaton Mendoza**

3 53. I graduated with a Bachelor of Science degree in Business Administration from San
4 Diego State University in 2011.

5 54. I received my Juris Doctorate from California Western School of Law in 2016.

6 55. From 2018 to 2022, I practiced law in the General Counsel's office for Adventist
7 Health, handling labor and employment matters for the health system, specifically in harassment,
8 discrimination, retaliation, and wage and hour matters.

9 56. From 2023 through 2026, I practiced law as an attorney for Lewis Brisbois
10 Bisgaard & Smith handling general liability defendant-side litigation.

11 57. Thereafter, I joined Bibiyan Law Group, P.C., practicing law on behalf of plaintiffs
12 in matters of employment law, and specifically on issues of unpaid wages and class action
13 settlements. Among other tasks, I oversee and manage class action and PAGA action settlements
14 at Bibiyan Law Group, P.C. I have led settlement negotiations and the approval process for class
15 action and PAGA settlements, including some of those set forth in the declaration of David D.
16 Bibiyan, filed concurrently with this declaration.

17 **Adequacy of Plaintiff**

18 58. Class Counsel believe no conflicts, disabling or otherwise, exists between Plaintiff
19 and Class Members because Plaintiff alleges to have been damaged by the same alleged conduct of
20 Defendants (*i.e.*, Plaintiff is classified as non-exempt, hourly paid employees, not paid premium
21 pay, etc.) and thus has the incentive to fairly represent all Class Members' claims to achieve the
22 maximum possible recovery.

23 **Superiority of Class Action**

24 59. Class Counsel believe this wage and hour class action is a superior vehicle for
25 resolution of the issues it seeks to resolve. It deals with common issues that are most efficiently
26 adjudicated together, as indicated above. Moreover, with at least 276 Class Members, presentation
27 of all of them before this Court may be problematic, impractical, and burdensome.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct this September 22, 2026, at Los Angeles, California.

/s/ Keaton D. Mendoza
KEATON D. MENDOZA