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6 Attorneys for Plaintiff MICHAEL SIANO
As an individual and on behalf of all others similarly situated
7

8 **SUPERIOR COURT OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF RIVERSIDE**

10
11 MICHAEL SIANO, as an individual on behalf
12 of himself and on behalf of all others similarly
situated,

13 Plaintiff,

14
15 v.

16 ACCELERATE360 DISTRIBUTION, LLC, a
Delaware limited liability company; 4052342
17 WEST DE LLC, a Delaware limited liability
company; and DOES 1-100, inclusive,
18

19 Defendants.
20
21

Case No.: CVRI2301109

Assigned for All Purposes to:
Hon. Harold Hopp
Dept. 1

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

Date: March 23, 2026
Time: 8:30 a.m.
Dept.: 1

Reservation No.: 159702831360

1 I, BRANDON BROUILLETTE, declare as follows:

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

5 2. Attached hereto as Exhibit 1 is a fully-executed, true and correct copy of the
6 Parties' Joint Stipulation of Class and Representative PAGA Action Settlement ("Settlement
7 Agreement"). Attached hereto as Exhibit 2 is a true and correct copy of the proposed Class
8 Notice. Attached hereto as Exhibit 3 is a true and correct copy of the proposed Objection form.
9 Attached hereto as Exhibit 4 is a true and correct copy of the proposed Request for Exclusion
10 form. Attached hereto as Exhibit 5 is a true and correct copy of Plaintiff's PAGA notice letter and
11 proof of submission to the Labor & Workforce Development Agency ("LWDA"). Attached
12 hereto as Exhibit 6 is proof of submission of the complaint to the LWDA. Attached hereto as
13 Exhibit 7 is proof of submission of the settlement to the LWDA.

14 3. **Case Management Order ("CMO"), ¶ G(3)(a)(vii):** After inquiry to all other
15 members of my firm, I am unaware of any other class, representative or other collective action in
16 any other court in this or any other jurisdiction that asserts claims against similar to those asserted
17 in this action on behalf of a class or group of individuals that would include some or all of the
18 individuals who would be Class Members or Aggrieved Employees in this matter.

19 **FACTUAL BACKGROUND AND PROCEDURAL POSTURE**

20 4. Defendants operated a business distributing magazines and other periodicals
21 throughout Southern California until approximately August 2020, when Defendants ceased
22 operations in California. Plaintiff was a magazine delivery driver who worked for Defendants from
23 July 2014 through on or about August 5, 2020, when his employment ended and he was laid off due
24 to Defendants' decision to wind up their business in California. Plaintiff both delivered and picked up
25 returned magazine bundles to retailers throughout Southern California.

26 5. Plaintiff alleges Defendants violated California wage and hour law in several
27 respects. First, he alleges a failure to pay all wages due, including failing to pay for time spent
28 subject to employer control while on meal breaks, Next, Plaintiff alleges Defendants also failed to

1 provide compliant meal and rest periods by requiring employees to perform work while clocked
2 out for meal periods and not relieving employees of all employer control while on a break.
3 Plaintiff also claims employees had to use their personal phones on company business and
4 without reimbursement and, as a result of the above allegations, Plaintiff also alleges Defendants
5 failed to provide accurate, itemized wage statements and failed to pay all wages owed upon
6 separation of employment.

7 6. Based on these allegations, and after exhausting PAGA administrative remedies,
8 on June 7, 2024, Plaintiff filed the underlying class and PAGA action on behalf of himself and the
9 Class Members, asserting claims for (1) failure to pay minimum wages; (2) failure to pay
10 overtime; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to
11 reimburse expenses, (6) failure to provide itemized wage statements; (7) failure to pay all wages
12 due at termination; (8) unfair competition, (9) and violation of PAGA based on the same alleged
13 Labor Code violations.

14 7. Defendants have at all times denied Plaintiff's allegations, and contend their
15 timekeeping and payroll policies accurately track and pay for all hours worked by its employees
16 and at the correct rates of pay. Defendants further maintain their meal and rest break and payroll
17 policies and procedures comply with California law, and that class members received required
18 meal and rest breaks. Defendants further contend use of personal phones was not necessary to
19 perform the job and accordingly no reimbursement is owed. Finally, Defendants contend they
20 complied with applicable law and the WARN Act with respect to the closure of their California
21 operations. Defendants also strongly contend the case cannot be maintained as any kind of class
22 or representative action, arguing for example that to the extent class members missed meal and/or
23 rest breaks, or that such breaks were non-compliant, it was intermittent and infrequent and
24 evidence of such missed breaks would be purely anecdotal, and therefore individualized issues
25 predominate and trial on a representative basis would be unmanageable.

26 8. **CMO, ¶ G(3)(a)(vi):** Since Plaintiff filed the initial complaint, the Parties initiated
27 discovery and, after extensive meeting and conferring on discovery issues, case management, and
28 potential law and motion, the Parties ultimately agreed to mediation. They further agreed to

1 additional informal discovery to facilitate an exchange of information necessary to engage in a
2 meaningful mediation. Consequently, Plaintiff's counsel reviewed payroll records, personnel
3 policies/handbooks, meal and rest break policies, personnel files, and paystubs and time records
4 for the class. Defendants also provided documents reflecting their wage and hour policies and
5 practices, and data regarding the total number of current and former employees, the estimated
6 total amount of workweeks and pay periods they worked, and average hourly pay rates, among
7 other relevant data. Plaintiff reviewed with the assistance of a consulting expert to help
8 determine, inter alia, potential violation rates for meal breaks, potential unpaid wages, and to help
9 formulate a damages model.

10 9. The Parties then engaged Michael Young, Esq., a highly respected mediator with
11 extensive wage and hour class action experience and, in March 2024, participated in a full day
12 mediation with Mr. Young. Throughout the day, the arms-length negotiations were hard-fought
13 and adversarial as the Parties exchanged extensive information on their legal and factual
14 positions, and made numerous offers and counter-offers. Near the end of the day, the Parties
15 reached agreement on all major issues and thereafter jointly prepared the Settlement Agreement.

16 10. Finally, as a result of the pre-mediation exchange of information, Plaintiff
17 concluded Defendants may have failed to provide sufficient notice of the mass lay off of
18 employees when Defendants ceased operations in California, and potentially violated both the
19 federal and California WARN Acts. With the mediator's assistance, the Parties agreed to address
20 this issue at the mediation, and Plaintiff since filed a First Amended Complaint adding claims for
21 alleged WARN Act violations.

22 **THE PROPOSED SETTLEMENT TERMS**

23 11. Under the settlement, Defendants will pay \$120,00.00 (\$90,000 by Accelerate360
24 and \$30,000 by 4052342 West DE) into a common fund, the Gross Settlement Amount.
25 Reasonable attorney's fees of up to \$40,000 (1/3 of the GSA), litigation costs of up to \$15,000, an
26 enhancement award to Plaintiff of up to \$10,000, settlement administration costs of no more than
27 \$4,000, and \$2,000 for civil penalties under PAGA (of which 75%, or \$1,500, will go to the
28 Labor & Workforce Development Agency, and 25%, or \$500 will go to the Aggrieved

Employees) all will be paid from the Gross Settlement Amount. The remainder of approximately \$49,000 will be allocated among the Participating Class Members based on their total workweeks worked during the Class Period. No portion of the Gross Settlement Amount will revert to Defendants.

12. **CMO, ¶ G(3)(a)(i):** The settlement provides for conditional certification of a settlement class including all current and former non-exempt and/or hourly-paid delivery drivers who worked for the Defendants in the State of California at any time during the Class Period of September 6, 2018 through the date of Preliminary Approval. The Settlement Class consists of approximately 138 individuals. The “Aggrieved Employees” for purposes of PAGA include all current and former non-exempt and/or hourly-paid delivery drivers who worked for the Defendants in the State of California at any time during the PAGA Period of September 6, 2018 through the date of Preliminary Approval.

13. **CMO, ¶¶ G(3)(i)-(j):** This is a cash settlement that does not require Participating Class Members to submit a claim form to receive their settlement share. Participating Class Members will receive their settlement checks automatically via First Class U.S. Mail. Eighty percent of each settlement share will be allocated to wages and the remaining twenty percent will be allocated to penalties and interest. Defendants will pay any and all applicable employer-side payroll taxes separately and in addition to the Gross Settlement Amount.

14. **CMO, ¶ G(3)(c)(i):** Subject to the Court’s approval, any amounts not claimed (because a class member does not cash his or her settlement check) will be forwarded to the State Controller’s Unclaimed Property Fund.

15. Each Participating Class Member will receive a share of the Net Settlement Amount based on his or her total weeks worked for Defendants during the Class Period while employed in a non-exempt position. Thus, each Class Member’s Individual Settlement Payment will be calculated using criteria typically used in determining appropriate amounts of unpaid wages, unpaid premium wages for missed meal and rest breaks, and potential statutory penalties under applicable law. These methods are intended to ensure each Class Member receives a portion of the available settlement funds corresponding to the relative value of his or her potential

claims. The proposed allocation provides a reasonable way to compensate Class Members based on the amount of time they worked for Defendants and the number of instances they missed a meal break and/or rest break, were not provided compensation in lieu of such missed breaks, or lost pay due to the work during meal periods.

16. **CMO, ¶¶ G(3)(a)(iv)-(v) and G(9)(c):** I estimate the average class award will be approximately \$355, and the awards will range from about \$12.70 on the low end to about \$1,270 on the high end. The average PAGA award will be about \$3.60, and PAGA awards will range from about \$0.25 to about \$13.

17. **CMO, ¶ G(3)(d)(i):** Subject to the Court's approval, and after obtaining multiple bids, the Parties agreed on Phoenix Settlement Administrators("Phoenix") as the Settlement Administrator. Phoenix is qualified and has significant experience administering class action settlements, including numerous wage and hour matters. Phoenix has agreed to cap its fees and costs at \$6,250. If the Court approves less than the above amount, the difference will remain in the Net Settlement Amount for distribution to the Participating Class Members.

18. **CMO, ¶ G(3)(k):** The proposed Notice (Exhibit 2 to the Brouillette Declaration) sets out information about this case and explains the basic settlement terms in plain language, and meets all requirements under California Rules of Court 3.769(f) and 3.766(d). The Notice also sets forth the individualized information used to calculate Individual Settlement Payments and each Class Member's estimated settlement award. The Notice likewise details the procedures for Class Members to dispute their individual information, for submitting an objection to the Settlement, and to request exclusion. Further, each notice packet will include a Request for Exclusion form and Objection Form (Exhibits 3 and 4 to the Brouillette Declaration). In sum, the Notice provides the Class Members with the information necessary to evaluate the Settlement and provides fair opportunity to participate in, opt out of, or object to the proposed Settlement. The Notice will be translated into Spanish as well as English. Coupled with the notice procedure, the proposed Notice provides the Class with the best notice practicable.

19. Class Members will have sixty (60) days to dispute the information in their Notice used to calculate their settlement award, and also have 60 days to submit any objections to the

1 settlement or to request exclusion. In the event a Class Member disputes their individual
2 information, the Settlement Administrator will review the Class Member's records as well as any
3 additional information submitted, and make a final determination.

4 20. **CMO, ¶¶ G(3)(e) and (G)(9)(d):** All Participating Class Members will release
5 Defendants from all claims alleged in the operative complaint, or that could have been brought
6 based on the factual allegations in the FAC during the Class Period. Plaintiff and the LWDA will
7 release those PAGA claims alleged in the PAGA notice to the extent alleged in the FAC. The
8 Class and PAGA releases are limited to the claims that were actually pleaded or could have been
9 pleaded based on the alleged facts in the FAC, and PAGA notice for the PAGA claims. Only
10 Plaintiff is entering into a full general release of all claims and waiver of Civil Code section 1542.

11 21. The settlement provides Defendants will not oppose a request for attorney's fees
12 not to exceed 1/3 of the Gross Settlement Amount, or \$40,000, nor will they oppose a request for
13 reimbursement of litigation costs and expenses of up to \$15,000.00. Defendants also will not
14 oppose a request for an enhancement award to Plaintiff of not more than \$10,000.00 in
15 recognition of her time spent on this matter, the risks she undertook on behalf of the class, and the
16 benefit conferred to the class. Plaintiff's counsel and Plaintiff will provide the Court with
17 appropriate declarations in anticipation of the Final Approval Hearing. If the Court approves less
18 than the above amounts, the difference will remain in the Net Settlement Amount for distribution
19 to the Participating Class Members.

20 22. As noted above, the Parties allocated \$2,000 from the GSA to civil penalties under
21 PAGA, and submit that amount is fair, reasonable and adequate, and consistent with PAGA's
22 underlying purposes. Per Labor Code section 2699(l)(2), my office gave notice of the settlement
23 and the approval hearing to the LWDA via its online portal.

24 **The Proposed Settlement Class Should Be Conditionally Certified**

25 23. In the present matter, conditional certification is proper since this matter satisfies
26 all requirements for class certification under Code of Civil Procedure section 382. First, the class
27 is both sufficiently numerous, consisting of approximately 138 individuals, and ascertainable by
28 reference to Defendants' personnel and payroll records.

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

5 25. Next, common questions of law and fact predominate – particularly for purposes
6 of a settlement class – as the Class Members all were subject to the same meal and rest break
7 policy, and likewise were subject to the same regular rate calculation policies. Since the focus of
8 the claims against Defendants concerns the legality of common policies applied uniformly to the
9 entire class, common issues predominate over individualized inquiries concerning liability. For
10 instance, Defendants' policy required class members to monitor their phones and remain on duty
11 during meal and rest breaks or it did not, and this policy is either compliant with California law or
12 it is not. Regardless of that determination, it will decide liability for all class members one way
13 or another. Similarly, whether Defendant complied with the WARN Act raises a question
14 common to all class members.

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

23 **The Proposed Settlement Meets the Kullar Factors and is within the Range of**

24 **Reasonableness -- CMO, ¶¶ G(3)(a)(ii)-(iii) and G(9)(b)-(c)**

25 27. CMO, ¶ G(3)(a)(vi): Prior to mediation, the parties engaged in both formal and
26 informal discovery to facilitate settlement discussions. As a result, Plaintiff reviewed documents
27 and information regarding Defendants' payroll practices, a representative sampling of class
28 member pay stubs and time records, applicable compensation plans, meal and rest break policies,

1 etc., and information from Defendants regarding class size and breakdown, number of work
2 weeks/pay periods, average rates of pay, and other information used to formulate a damages
3 model with the assistance of a consulting expert. Plaintiff's counsel are confident they obtained
4 sufficient information to understand the law and facts of this case and make an informed decision
5 regarding the proposed settlement and whether it is fair and reasonable.

6 28. First, on the unpaid wage claims, Plaintiff alleges Defendants failed to pay for all
7 hours worked by requiring employees to work during meal breaks as they had to keep radios
8 and/or cellphones on at all times while working and Defendants' payroll personnel required that
9 employees deduct 30 minute meals after the fact for meal periods that were in effect "on duty."
10 Accordingly, Plaintiff alleged Defendants failed to relieve employees of all duty and employer
11 control during their meal breaks. We estimated this resulted in the loss of some **\$94,950** in pay
12 over the Class Period (3,847 work weeks * 2.05 hours/week * \$12.04/hour avg. min. wage) On
13 the other hand, Defendants argued their timekeeping and payroll policies accurately tracked and
14 paid for all employee time at the correct hourly rate, and that is policies strictly prohibited "off
15 the clock" work or working through meal periods, to include monitoring radios or cell phones
16 while on a break. Further, Defendants contended that if any class members monitored
17 communications during a lunch break or otherwise, it was in violation of company policy and
18 done voluntarily by employees and without the company's knowledge or consent.

19 29. Plaintiff next contends Defendants' committed meal and rest break violations for
20 the same reasons, and claims class members were "tethered" to communications devices even
21 when purportedly on a meal or rest break and consequently were not relieved of all job duties
22 while on a meal period. Here, we estimated the potential exposure at about **\$245,660** in meal
23 period premiums (15,402 eligible shifts * \$15.98/hour avg. wage), and about **\$248,920** (15,577
24 eligible shifts * \$15.08/hour avg. wage). In response, Defendants argued their break policies were
25 fully compliant with California law, and that class members received all required meal periods
26 and breaks on a fully compliant basis. Further, Defendants argued to the extent employees missed
27 a break or took a non-compliant break, any such discrepancies were aberrational and against
28 company policy and a myriad of individual issues would be required to determine whether the

1 potential violation resulted from employee choice or some other reason. Consequently, per the
2 Defendants, individualized inquiries would dominate on this issue and render class certification
3 inappropriate.

4 30. On the expense reimbursement issue, Plaintiff alleged employees had to use their
5 personal phones while driving their delivery routes in order to communicate with dispatchers and
6 supervisors on a regular basis, and they received no reimbursement for this. Based on \$5 per
7 week in cell phone reimbursement, Plaintiff estimated the exposure at about **\$19,235**. In response,
8 Defendants argued they provided employees with electronics needed to perform the job,
9 including communicating with dispatch and supervisors, and accordingly any use of personal
10 phones was purely for personal convenience rather than business necessity. Thus, per Defendants,
11 no reimbursement was owed under Labor Code § 2802.

12 31. Plaintiff also alleged derivative claims under Labor Code § 226 (alleged inaccurate
13 wage statement violations) and §§ 201-203 (waiting time penalties). These claims are based on
14 the unpaid wage claims and will rise or fall along with those primary claims, in addition to being
15 subject to “good faith” and other defenses available to Defendants. E.g., Amaral v. Cintas Corp.
16 No. 2 (2008) 163 Cal.App.4th 1157, 1203-04 (holding employer did not willfully fail to pay
17 wages under Labor Code § 203 even though the class prevailed on the merits on the underlying
18 claim for failing to pay living wages). Defendants argued further that the wage statements
19 accurately contained all required information, and that acted in good faith all times with respect
20 to payment of wages. Although Plaintiff’s experts estimated the exposure on these claims at about
21 **\$190,300** on the wage statement claims (82 initial violations * \$50 + 1,862 subsequent violations
22 * \$100/violation), and about **\$314,485** (82 former employees * (240 hours * \$15.98/hour)) on the
23 waiting time penalties claim, Plaintiff also discounted the derivative claims significantly in light
24 of these multiple potential defenses.

25 32. Finally, on the WARN Act claims, Plaintiff alleges Defendants failed to comply
26 with the requirements of both the federal and California WARN Acts, and in particular failed to
27 provide sufficient notice of the impending mass layoff that occurred on August 5, 2020 by
28 informing the class members of the layoff only 58 days beforehand. Plaintiff accordingly alleges

1 Defendants owe up to \$500 in statutory penalties for each day of non-compliance, for potential
2 liability of about **\$59,000** (59 employees * 2 days * \$500/day). On the other hand, Defendant
3 argued they fully complied with all state and federal WARN Act requirements, including
4 providing sufficient notice to the affected employees. Defendants further argued any potential
5 WARN Act claims would be time-barred since Plaintiff did not raise them at all within three
6 years of the mass layoff and did not amend his complaint until even later.

7 33. **CMO, ¶ G(9)(b):** As far as potential PAGA liability, the alleged aggrieved
8 employees theoretically are entitled to penalties totaling about **\$980,200** should Plaintiff prevail
9 on all claims, establish violations of the multiple Labor Code sections for every single pay period
10 at issue, and secure the maximum allowable civil penalties. This amount includes \$194,400 in
11 penalties on the unpaid wage claims (1,944 pay periods * 100% violation rate * \$100/violation);
12 \$194,400 in penalties on the meal break claims (1,944 pay periods * 100% violation rate *
13 \$100/violation); \$194,500 in penalties on the rest break claims ((1,944 pay periods * 100%
14 violation rate * \$100/violation); \$194,400 in penalties on the unreimbursed expense claims (1,944
15 pay periods * 100% violation rate * \$100/violation); \$194,400 in penalties on the wage statement
16 claims (1,944 pay periods * 100% violation rate * \$100/violation); and \$8,200 on the untimely
17 final wage claim (82 former employees * \$100/violation). As with the class claims, Plaintiff
18 discounted the potential PAGA penalties based on Defendants' various defenses on the merits.
19 We also accounted for the argument that any trial under PAGA would be unmanageable due to
20 individualized issues, and further accounted for the Court's wide discretion to reduce any
21 penalties awarded, or to decline to award penalties at all. In this regard, there was no evidence
22 suggesting any of the alleged Labor Code violations were intentional in Defendants' part, and we
23 also noted that imposition of a large penalty award likely would be deemed unjust and
24 oppressive. Accordingly, the Parties negotiated a \$2,000 allocation to PAGA penalties. Plaintiff
25 submits this amount is reasonable under the circumstances and in line with comparable
26 settlements in other wage and hour class actions in California. Additionally, the LWDA has been
27 informed of the terms of the PAGA portion of the settlement, and will be able to weigh in as
28 necessary.

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

35. Taking into account all of the above-discussed risk factors, we estimated Defendants' exposure on the class claims at around **\$234,510** on a risk-discounted basis (an 80% discount across the board, or $\$1,172,550 * .2$) and, accordingly, the settlement represents about 52% of the estimated recovery after trial after accounting for the multiple risks of continued litigation as addressed above. Given Defendants' multi-layered defenses and all other potential risks of continued litigation, a total recovery for the class of \$120,000, which will result in average award of some \$597 per class member, is a significant result well within the range of reasonableness considering all potential outcomes, and will provide monetary awards to the Class without further delay.

CROSNER LEGAL'S QUALIFICATIONS

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

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

38. Since being admitted to the California State Bar in 2010, my entire legal career has been dedicated to protecting employee and consumer rights through the prosecution of class action and representative actions filed on behalf of plaintiffs in class actions and statewide

1 representative actions. Throughout my career I have managed or co-managed more than 100 class
2 action and PAGA representative cases, from initial filing of the complaint through final
3 resolution.

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

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

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

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

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

17 40. The following is a representative sample of settlements in wage and hour class
18 action and PAGA representative cases in which I was listed as an attorney of record and either
19 managed, or co-managed with attorneys at my firm and other co-counsel:

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

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

26 g. *Gross v. Sodexo*, Kern County Super Ct., Case No. BCV-18-101746 Capstone
27 (\$4.75 million class and PAGA settlement on behalf of class of non-hourly employees
28 for Labor Code violations.)

- 1 h. *Campbell v. AEG* (\$1.8M class and PAGA settlement on behalf of group of hourly
2 employees who worked at concert venues in California for alleged Labor Code
3 violations)
- 4 i. *Fiebelkorn v. AEG, et al.* Los Angeles Superior Court Case No. BC717337
5 (\$1.75M class settlement on behalf of group of hourly employees who worked at
6 Oakland Coliseum for alleged Labor Code violations)
- 7 j. *Amaro v. Anaheim Arena Management*, Orange County Superior Court Case No.
8 30-2017-00917542 (\$2,212,500 class and PAGA settlement on behalf of group of
9 hourly employees who worked at Honda center in Anaheim California for alleged
10 Labor Code violations)
- 11 k. *Espindola v. Panda Express*, San Bernardino Superior Court Case No.
12 CIVDS1931455 (\$3.125M class and PAGA settlement on behalf of hourly employees
13 statewide for alleged Labor Code violations)
- 14 l. *Gold v. Benihana*, San Diego Court Superior Court Case No. 37-2016-00022320-
15 CU-OE-NC (\$2.25M class and PAGA settlement on behalf of hourly employees
16 statewide for alleged Labor Code violations)
- 17 m. *Party City Wage and Hour Cases*, JCCP4781 (\$6.5M class and PAGA settlement
18 on behalf of hourly employees statewide for alleged Labor Code violations)
- 19 n. *Lewis v. Express Messenger Systems*, Los Angeles County Super Court Case No.
20 BC501521 (\$10.5M class and PAGA settlement on behalf of a statewide group of
21 independent contractor last-mile delivery drivers alleged to be misclassified)
- 22 o. *Flores v. Tesla*, Alameda County Superior Court Case No. RG18907072 (\$4M
23 class and PAGA settlement on behalf of statewide group of hourly employees for
24 alleged Labor Code violations)
- 25 p. *Ruiz v. Disney Stores*, San Bernardino Superior Court Case No. CIVDS2016983
26 (\$2M class and PAGA settlement on behalf of statewide group of hourly employees
27 who worked at retail stores in California for alleged Labor Code violations)
- 28 q. *Ramirez v. Yin Management*, Sacramento County Superior Court Case No. 34-

2021-00301530 (\$1.8M class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's McDonald's franchises in California for alleged Labor Code violations).

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

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

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

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

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

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

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

43. Zach Crosner is a 2010 graduate of University San Diego School of Law and he

1 has approximately thirteen years of experience as a practicing attorney. For nearly his entire
2 career, his practice has focused on litigation of wage & hour, consumer, and privacy class
3 action and representative action claims. Following graduation he immediately began working
4 for a nationally recognized plaintiff's complex litigation firm, CaseyGerry, where he worked
5 directly with past presidents of the consumer attorneys and recipients of trial attorneys of the
6 year awards. He also worked for other firms that included former CAALA and CLAY trial
7 attorney of the year recipients. While with these firms, he advocated for the rights of consumers
8 and employees in class action litigation, civil rights and employment litigation, catastrophic
9 injuries, insurance bad faith and appellate litigation.

10 44. In 2013, he founded the law firm of Crosner Legal, P.C. which since its inception
11 has focused almost exclusively on plaintiff-side class actions lawsuits representing employees,
12 consumers and other victims. Currently, over ninety percent (95%) of his practice is dedicated
13 exclusively to the prosecution of class actions and representative action lawsuits, and his law
14 firm is currently responsible as lead counsel or co-lead counsel for prosecuting over one
15 hundred (100) active wage and hour class actions and/or PAGA representative actions, as well
16 as a multitude of consumer and privacy class actions, in both federal and state courts throughout
17 California. He has been a direct participant in over one hundred (100) class action and/or
18 representative action settlements where he has been approved as adequate lead counsel.

19 45. Mr. Crosner has been selected by Super Lawyers as a "Southern California
20 Rising Star" for employment and labor law consecutively from 2018 through 2023. Super
21 Lawyers has also named me on their "Up-and-Coming 100" Southern California Rising Stars
22 List for consecutive years from 2021 through 2023. Only 2.5% of lawyers within California are
23 named a Super Lawyer Rising Star and even less are added to their Top Lists. Additionally, he
24 has been selected as a Top 40 Under 40 Civil Plaintiff Attorney by the National Trial Lawyers,
25 invitation-only organization composed of the premier trial lawyers, from 2019 through 2023.
26 He is an active participant in advocacy groups, including as an executive board member of the
27 Wage and Hour Committee and the Legislative Committee for the California Employment
28 Lawyers Association; a member of the Grassroots Advocacy Team for the National

1 Employment Lawyers Association; Wage and Hour Committee member and Class Action
2 Committee member for the National Trial Lawyers; a member of the American Association for
3 Justice; and a member of the Pound Civil Justice Institute.

4 46. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
5 action settlements while serving as lead class counsel in recent years, including but not limited to
6 a \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
7 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
8 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
9 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
10 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a
11 \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc.*
12 *dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and
13 hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160
14 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v.*
15 *Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.)), a
16 \$1.15 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*,
17 Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action
18 settlement in 2020 in *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case No. 18CV323753
19 (Santa Clara Cty. Super Ct.); a \$2.2 million wage and hour class action settlement in 2021
20 (*Ghorchian, et al. v. West Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty. Super.
21 Ct.)); a \$2.85 million dollar wage and hour settlement in 2021 (*Valencia v. The Original*
22 *Mowbray's Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1
23 million wage and hour class action settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No.
24 21CV382467 (Santa Clara Cty. Super. Ct.)), a \$1.4 million wage and hour class action settlement
25 in 2023 in *Correa, et al. v. FedEx Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino
26 Cty. Super. Ct.), a \$2.38 million wage and hour class action settlement in 2023 in *Michel, et al. v.*
27 *Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million
28 wage and hour class action settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No.

1 CIVDS1931464 (San Bernardino Cty. Super. Ct.); \$1.015 million wage and hour class action
2 settlement in 2023 in *Gotishan v. Kyo Autism Therapy*, Case No. CGC-21-596378 (San Francisco
3 Cty. Super. Ct.); and a \$1.15 million wage and hour PAGA settlement in 2023 in *Vaughn v.*
4 *Public Health Foundation Enters., Inc.*, Case No. 21STCV18512 (Los Angeles Cty. Super. Ct.); a
5 \$1.5 million wage and hour class action settlement in *McKinnie v. Iron Mountain*, Case No.
6 21STCV05707 (Los Angeles Cty. Super. Court); a \$1.3 million wage and hour class action
7 settlement in *Ellsworth, et al. v. Hallcon*, Case No. 20STCV06618 (Los Angeles Cty. Super.
8 Court); a \$1.925 million wage and hour class settlement in 224 in *Lo v. Cyberpower, Inc.*, Case
9 No. 21STCV31479 (Los Angeles Cty. Super. Ct.); a \$1.19 million dollar wage and hour class
10 action settlement in 2024 in *Herrera v. Signature Flight Support LLC*, Case No. 22STCV18367
11 (Los Angeles Cty. Super. Ct.); a \$2.65 million wage and hour class action settlement in 2024 in
12 *Shilevinatz v. Airport Terminal Services*, Case No. CIVSB2229072 (San Bernardino Cty. Super
13 Ct.); a \$1 million wage and hour class action settlement in 2025 in *Hernandez v YZER, LLC*, Case
14 No. 23CV025345 (Alameda Cty. Superior Ct); a \$3.9 million wage and hour class action
15 settlement in 2025 in *Bolanos et al. v. Newport Fab*, Case No. 30-2022-01280696-CU-OE-CXC
16 (Orange Cty. Super. Ct.); and a \$5,093,537.50 wage and hour class action settlement in 2025 in
17 *Deaver, et al. v Blue Diamond Growers*, Case No. 34-2022-00316490-CU-OE-GDS (Sacramento
18 Cty. Super. Ct.). a \$5,600,000 wage and hour class action settlement in 2025 in *Goodwin et al. v*
19 *Save Mart*, Case No. STK-CV-UOE-2023-0002062 (San Joaquin Cty. Super. Ct.); a \$1,300,000
20 wage and hour class action settlement in 2025 in *Perez v Qantas Airways Ltd*, Case No.
21 23STCV18974 (Los Angeles Cty. Super. Ct.); and a \$1,650,000 wage and hour class action
22 settlement in 2025 in *Williams et al v. Bluetriton Brands* Case No. CIVSB2325920 (San
23 Bernardino Cty. Super. Ct.).

24 47. For all the foregoing reasons, I respectfully request that the Court preliminarily
25 approve the settlement in all particulars.

26 //

27 //

28 //

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct. Executed this 12th day of December 2025, at Los Angeles,
3 California.

A handwritten signature in blue ink, appearing to be 'D. R. Smith', written over a horizontal line.

Declarant

Exhibit 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

MICHAEL SIANO, as an individual on behalf of
himself and on behalf of all
others similarly situated,

Plaintiff,

v.

AMERICAN NEWS COMPANY LLC, a
Delaware limited liability company; et
al.,

Defendants.

Case No. CVRI2301109

**JOINT STIPULATION OF CLASS AND
REPRESENTATIVE PAGA ACTION
SETTLEMENT**

ASSIGNED FOR ALL PURPOSES TO
JUDGE HAROLD W. HOPP, DEPT 1

Trial Date: None Set
Complaint Filed: March 3, 2023

1 This Class and Representative PAGA Action Settlement Agreement ("Agreement") is made
2 by and between Plaintiff Michael Siano ("Plaintiff") and Defendants Accelerate360 Distribution,
3 LLC (erroneously sued as American News Company, LLC) ("Accelerate360" or "A360") and
4 4052342 West DE, LLC (erroneously sued as Prologix Distribution Services West, LLC)
5 ("Prologix"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or
6 individually as a "Party."

7 ARTICLE I

8 Section 1.01: DEFINITIONS

9 Unless otherwise defined herein, the following terms used in this Agreement shall have the
10 meanings ascribed to them as set forth below:

- 11 a. **"Action"** means Plaintiff's lawsuit alleging wage and hour violations against
12 Defendants captioned *Michael Siano v. American News Company LLC, et al.*, filed
13 on September 6, 2022 and pending in Superior Court of the State of California, County
of Riverside, Case No. CVRI2301109.
- 14 b. **"Aggrieved Employee(s)"** means all current and former non-exempt and/or hourly-
15 paid delivery drivers who worked for the Defendants in the State of California at any
time during the PAGA Period, regardless of whether they participate in the settlement.
- 16 c. **"Agreement"** means the Stipulation and Settlement of Class Action Claims, including
17 any attached Exhibit(s).
- 18 d. **"Attorneys' Fees and Costs"** means reasonable attorneys' fees for Class Counsel's
19 litigation and resolution of this Action (not to exceed one-third of the Gross Settlement
Amount), and Class Counsel's expenses and costs reasonably incurred in connection
20 with this Action.
- 21 e. **"Check-Cashing Period"** means the period 180 days after the date each of the
Individual Settlement Payment checks are issued.
- 22 f. **"Class"** means all current and former non-exempt and/or hourly-paid delivery drivers
23 who worked for the Defendants in the State of California at any time during the Class
Period.
- 24 g. **"Class Counsel"** means Zachary M. Crosner, Brandon Brouillette, and Jamie Serb of
25 Crosner Legal, PC, the attorneys representing Plaintiff and the Class in the Action.
- 26 h. **"Class Counsel Fees Payment"** means the amount allocated to Class Counsel for
27 reimbursement of reasonable attorneys' fees incurred to prosecute the Action, in an
amount not to exceed 33.3% of the Gross Settlement Amount (\$40,000.00).
- 28 i. **"Class Counsel Litigation Expenses Payment"** means the amount allocated to Class

Counsel for reimbursement of actual expenses incurred to prosecute the Action, in an amount not to exceed \$15,000.00.

- j. **"Class List"** means Class Member identifying information in Defendants' possession including the Class Member's name, last-known mailing address, Social Security number, e-mail addresses (if known), and number of Workweeks in the Class Period.
- k. **"Class Members"** or **"Settlement Class Members"** means a member of the Class, as either a Participating Class Member or Non-Participating Class Member.
- l. **"Class Member Address Search"** means the Administrator's investigation and search for current Class Member and Aggrieved Employee 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.
- m. **"Class Notice"** means the Court approved notice of the proposed settlement, to be mailed to Class Members without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- n. **"Class Period"** means the period of time from September 6, 2018 through the date of Preliminary Approval.
- o. **"Class Representative"** means the named Plaintiff, Michael Siano, in the operative complaint in the Action who is seeking Court approval to serve as a Class Representative.
- p. **"Class Representative Service Payment"** or **"Enhancement Payment"** means the payment to the Class Representative for initiating the Action and providing services in support of the Action, in an amount not to exceed \$10,000.00.
- q. **"Court"** means the Superior Court of California, County of Riverside.
- r. **"Defendants"** means Accelerate360 Distribution, LLC (erroneously sued as American News Company, LLC) and 4052342 West DE, LLC (erroneously sued as Prologix Distribution Services West, LLC).
- s. **"Defense Counsel"** means Fermin H. Llaguno, Esq. and Nolan McCreedy, Esq. of Littler Mendelson P.C. for Accelerate360 Distribution, LLC and E. Sean McLoughlin of Hill, Farrer & Burrill LLP for 4052342 West DE, LLC.
- t. **"Effective Date"** means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

- 1 u. **"Employer's Share of Payroll Taxes"** means Defendants' portion of payroll taxes,
2 including, but not limited to FICA and FUTA, on the portion of the Individual
3 Settlement Payments that constitute wages. The Employer's Share of Payroll Taxes
4 shall be submitted by Defendant to the Settlement Administrator in addition to the
5 Gross Settlement Amount.
- 6 v. **"Final Order"** means the Court's order granting final approval of the Settlement.
- 7 w. **"Final Fairness and Approval Hearing"** means the Court's hearing on the Motion
8 for Final Approval of the Settlement.
- 9 x. **"Gross Settlement Amount"** means \$120,000.00, which is the total amount
10 Defendants agree to pay under the Settlement (\$90,000.00 from Accelerate360
11 Distribution, LLC and \$30,000.00 from 4052342 West DE, LLC) in addition to each
12 Employer's Share of Payroll Taxes. The Gross Settlement Amount will be used to pay
13 Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment,
14 the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the
15 Class Representative Service Payment and the Administrator's Expenses.
- 16 y. **"Individual Class Settlement Payment"** means the Participating Class Member's pro
17 rata share of the Net Settlement Amount calculated according to the number of
18 Workweeks worked during the Class Period, allocated as 20% wages, 40% interest,
19 and 40% penalties.
- 20 z. **"Individual PAGA Settlement Payment"** means the Aggrieved Employee's pro rata
21 share of 25% of the PAGA Penalties (\$500.00), pursuant to Labor Code section 2699,
22 subd. (m), calculated according to the number of PAGA Pay Periods worked during
23 the PAGA Period.
- 24 aa. **"Judgment"** means the judgment entered by the Court based upon the Final Approval.
- 25 bb. **"LWDA"** means the California Labor and Workforce Development Agency.
- 26 cc. **"LWDA Payment"** means the 75% share of the PAGA Penalties (\$1,500.00) paid to
27 the LWDA under Labor Code section 2699, subd. (m).
- 28 dd. **"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.
- ee. **"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.
- ff. **"Operative Complaint"** means the First Amended Complaint filed in the Action on
August 13, 2025.
- gg. **"PAGA"** means the Private Attorneys General Act of 2004 (California Labor Code

§§ 2698, *et seq.*).

- hh. **"PAGA Notice"** means Plaintiff's letter, submitted December 6, 2024 to Defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd. (a).
- ii. **"PAGA Pay Period"** means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- jj. **"PAGA Penalties"** means the total amount of PAGA civil penalties (\$2,000.00) to be paid from the Gross Settlement Amount, of which 25% (\$500.00) is allocated to the Aggrieved Employees and 75% (\$1,500.00) is allocated to the LWDA in settlement of PAGA claims.
- kk. **"PAGA Period"** means the time period from September 6, 2018 to the date of preliminary approval.
- ll. **"Participating Class Member"** means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- mm. **"Plaintiff"** means Michael Siano, the named plaintiff in the Action.
- nn. **"Preliminary Approval Date"** means the date of the Court's Order Granting Preliminary Approval of the Settlement.
- oo. **"Preliminary Approval Order"** means the order the Court enters approving and authorizing the mailing of the Notice Packet by the Settlement Administrator, setting the date of the Final Fairness and Approval Hearing and granting preliminary approval of the Settlement set forth in this Agreement.
- pp. **"Qualifying Pay Periods"** means any pay period during which an Aggrieved Employee primarily worked for Defendant in California during the PAGA period.
- qq. **"Qualifying Workweeks"** means any week during which a Class member primarily worked for Defendant in California during the Class Period.
- rr. **"Released Class Claims"** means the claims being released as described in Section 4.1 below.
- ss. **"Released PAGA Claims"** means the claims being released as described in Section 4.2 below.
- tt. **"Released Parties"** means: Defendants Accelerate360 Distribution, LLC (erroneously sued as American News Company, LLC), 4052342 West DE, LLC (erroneously sued as Prologix Distribution Services West, LLC), and each of their former and present officers, directors, employees, and agents..
- uu. **"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.
- vv. **"Response Deadline"** means 60 days after the Administrator mails Notice to Class Members, and shall be the last date on which Class Members may: (a) fax, email, or

mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

ww. **"Settlement"** means the disposition of the Action effected by this Agreement and the Judgment.

xx. **"Settlement Administration Costs"** means all costs (not to exceed \$6,250.00) incurred by the Settlement Administrator in administering the Settlement.

yy. **"Workweek"** means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

ARTICLE II

CONTINGENT NATURE OF THE AGREEMENT

Section 2.01: Stipulation to Class Certification for Settlement Purposes

The Parties agree that the Action will be stayed until the requests for preliminary and final approval of the Settlement are either granted or denied, except to proceed with those motions. Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Operative Complaint for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Defendants do not consent to certification of the Class for any purpose other than to effectuate the Settlement of the Action. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court.

Section 2.02: Continued Best Efforts to Obtain Court Approval of Settlement

The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of the Settlement in accordance with the terms of this Agreement and shall use their respective best efforts to obtain Court approval and to implement this Agreement. If the Court does not grant the Motion for Preliminary Approval and/or the Motion for Final Approval and instead addresses issues/concerns with the filed motion, the Parties agree to meet and confer to address the Court's concerns. If the Parties are unable to reach a resolution, the Parties agree to seek the assistance of mediator Mike Young to resolve the dispute.

1 **Section 2.03: Effect of Non-Occurrence of Effective Date**

2 If the Effective Date does not occur, the Parties agree as follows:

- 3 (a) Any conditional certification of the Class will be vacated and Plaintiff,
4 Defendants, and the Class will be returned to their positions with respect to
5 the Action as if this Agreement had not been entered into. Any Settlement
6 Administration costs incurred to that point will be split by the Parties.
7 However, if Defendants exercise their option to terminate this Settlement (as
8 addressed in Section 3.04(c)), Defendants shall be responsible for the full
9 amount of Settlement Administration Costs incurred up to the date of
10 termination.
- 11 (b) Any orders of the Court preliminarily or finally approving certification of any
12 class contemplated by this Agreement shall be null, void, and vacated, and
13 shall not be used or cited thereafter by any person or entity.
- 14 (c) The fact that the Parties were willing to stipulate to certification for the
15 purposes of this Agreement shall have no bearing on, nor be admissible in
16 connection with, the issue of certification of the Class with respect to any
17 cause of action alleged in the Action.
- 18 (d) The fact of the settlement terms reflected in this Agreement and the fact that
19 Defendants did not oppose the certification of a Class under this Agreement
20 or that the Court preliminarily approved the certification of the Class shall not
21 be used or cited thereafter by any person or entity in any manner whatsoever,
22 including without limitation any contested proceeding relating to the
23 certification of any class.
- 24 (e) This Agreement shall be deemed null and void, shall be of no force or effect
25 whatsoever, and shall not be referred to or used for any purpose whatsoever
26 (except as addressed in this Section regarding costs and agreements).
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ARTICLE III

PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT

The procedure for obtaining Court approval of and implementing this Agreement shall be as follows:

Section 3.01: Preliminary Approval and Conditional Class Certification

Plaintiff will submit his Motion for Preliminary Approval (“Motion”) along with this Agreement to the Court for preliminary approval pursuant to Rule 3.769 of the California Rules of Court. Plaintiff’s Motion for Preliminary Approval will request an order conditionally certifying the Class. The Motion for Preliminary Approval will request a hearing date for the Final Fairness and Approval Hearing to be included in the Preliminary Approval Order. Defendants will not oppose the Motion for Preliminary Approval. At least three (3) business days prior to submission of Plaintiff’s Motion for Preliminary Approval, Plaintiff’s counsel will prepare and deliver to Defense Counsel a draft of the Motion for Preliminary Approval papers for counsel’s review, including a draft of the notice, memorandum in support, and any supporting declarations. Any proposed changes or revisions shall be incorporated by Class Counsel to the extent Class Counsel deems them reasonable. However, if Class Counsel chooses not to incorporate Defendants’ requested changes or revisions, Defendants reserve the right to file an objection and/or opposition to Plaintiff’s Motion for Preliminary Approval of the parties’ Settlement.

Section 3.02: The Settlement Administrator

The Parties have chosen Phoenix Class Action Administrators to administer the Settlement pursuant to this Agreement and to act as the Settlement Administrator. The Settlement Administrator shall perform all functions required under this Agreement and take necessary steps to effectuate the Settlement, including, but not limited to, the following: distributing and responding to inquiries about the Class Notice; determining the validity of any Requests for Exclusion and/or notice of Objection; calculating the Net Settlement Amount and the Individual Settlement Payments; issuing the Individual Settlement Payment checks and distributing them to Participating Class Members and Aggrieved Employees; issuing the PAGA Payment to the LWDA; and issuing payment to Class Counsel for Attorneys’ Fees and Costs, to Plaintiff for his Enhancement Award, and to the

appropriate taxing authorities for the Employer's Share of Payroll Taxes, which will be paid by Defendants, separately and in addition to the Gross Settlement Amount. The Settlement Administrator shall provide Class Counsel with estimated average of the recovery for the Class Members, and the high and low ranges. To protect Class Members' privacy rights, the Settlement Administrator shall maintain any and all Class Member identifying information provided to it by Defendants ("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 effectuate the terms of this Agreement. The Settlement Administrator has a continuing duty to immediately notify Defense Counsel if it discovers the confidentiality of the Class Data has been breached.

Section 3.03: Notice to Class Members

No later than fourteen (14) calendar days after the Preliminary Approval Date, A360 will provide the Settlement Administrator the Class List.

No later than twenty-one (21) calendar days of receiving the Class List from Defendants, the Settlement Administrator will send Class Members, by first-class mail, at their last known addresses, the Court approved Class Notice. The Class Notice will include a calculation of each Class Member's estimated share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of mailing of the Class Notice to postmark objections or Requests for Exclusion. Prior to the initial mailing, the Settlement Administrator will check all Class Member addresses against the National Change of Address database and shall update any addresses before mailing. Class Members shall not be required to submit claim forms in order to receive their share of the Net Settlement Amount.

If a Class Notice is returned with a forwarding address, the Settlement Administrator shall re-mail the Class Notice to the forwarding address. With respect to each Class Member whose Notice is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or mass search on a database such as LexisNexis based on set criteria and, if another address is identified, shall mail the Notice Packet to the newly identified address. It is the intent of the Parties that reasonable means be

1 used to locate Class Members and that the Settlement Administrator be given discretion to take steps
2 in order to facilitate notice of the Settlement and delivery of the Individual Settlement Payments to
3 the Participating Class Members.

4 If a Class Member's Notice is re-mailed, the Class Member shall have forty-five (45) days
5 from the date of the initial mailing, to postmark objections or requests for exclusion. If the Class
6 Notice is re-mailed, the Settlement Administrator will note for its own records and notify Class
7 Counsel and Defense Counsel as part of a weekly status report provided to the Parties.

8 In the event a Class Notice remains undeliverable forty-five (45) days after its initial mailing,
9 the Settlement Administrator will not mail the Class Member's Individual Settlement Payment. The
10 Settlement Administrator will hold the Class Member's Individual Settlement Payment during the
11 Check-Cashing Period on behalf of the Class Member. If, at the conclusion of the Check-Cashing
12 Period, the Class Member's Notice and Individual Settlement Payment remain undeliverable, the
13 Settlement Administrator will send the funds from those checks to the State of California's State
14 Controller Unclaimed Property Fund with an identification of the amount of unclaimed funds
15 attributable to each such Class Member. The Settlement Administrator shall comply with the timing
16 and procedural requirements of the State Controller's office with respect to the handling of uncashed
17 checks attributed to Class Members.

18 No later than twenty-one (21) court days prior to the Final Fairness and Approval Hearing,
19 the Settlement Administrator shall provide Class Counsel and Defense Counsel with a declaration
20 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
21 for and re-sending of any returned Notice Packets, as well as the number of requests for exclusion
22 and objections that the Settlement Administrator received.

23 **Section 3.04: Responses to Notice**

24 **a. Settlement Terms Bind All Class Members Who Do Not Submit a Timely** 25 **Request for Exclusion**

26 Any Class Member who does not affirmatively opt out of the Settlement by submitting a
27 timely Request for Exclusion will be bound by all of its terms including those pertaining to the
28 Released Class Claims and Released PAGA Claims, as well as any Final Order that may be entered

1 by the Court if it grants final approval of the Settlement. However, any Aggrieved Employee who
2 opts out of the Settlement will still be releasing the PAGA Released Claims.

3 **b. Class Member Disputes**

4 If a Class Member/Aggrieved Employee disputes the Individual Settlement Payment Amount
5 or basis thereof, the Class Member/Aggrieved Employee may produce evidence to the Settlement
6 Administrator for the Class/PAGA Period. In order for the dispute to be considered, s/he must follow
7 the directions on the Notice of Class Action Settlement.

8 Written notice of the dispute must be received by the Settlement Administrator within 60
9 calendar days of the mailing or any remailing of the Notice. The date of mailing of the Notice by the
10 Settlement Administrator to the Class Member, and the date the notice of dispute was postmarked,
11 shall be conclusively determined according to the records of the Settlement Administrator. Upon the
12 timely receipt of any dispute, the Settlement Administrator will notify Defense Counsel in writing
13 (email constitutes a writing for this purpose) of the dispute within three (3) business days of receipt
14 and let Class Counsel know generally that an individual has disputed the Individual Settlement
15 Amount, or basis thereof, without providing full details of the dispute. Defendants' records will be
16 presumed determinative, absent evidence to rebut Defendants' records, but the Settlement
17 Administrator will evaluate the evidence submitted by the Class Member and make the final decision
18 as to the validity of such evidence.

19 **c. Requests for Exclusion from Class Members**

20 By entering into this Agreement, Plaintiff agrees that he will not request exclusion from the
21 Class. Class Members who wish to exclude themselves (opt-out of) from the Class Settlement must
22 send the Administrator by mail, a Request for Exclusion that must be signed by the Class Member
23 or his or her authorized representative, include the last four digits of his/ Social Security Number (to
24 verify his/her identity) and identify the case as Siano v. American News Company, LLC, postmarked
25 by no later than sixty (60) days after the date the Settlement Administrator initially mails or re-mails
26 (if necessary) the Notice Packet to the Class Members. The Class Notice shall contain instructions
27 on how to validly exclude oneself from the Class and this Settlement, but the Request for Exclusion
28 must just state that they request exclusion from the class and do not wish to participate in the

1 settlement, or words to that effect. The date of the initial mailing of the Class Notice, and the date
2 the signed Request for Exclusion was postmarked, shall be conclusively determined according to the
3 records of the Settlement Administrator. Any Class Member who timely and validly submits a
4 Request for Exclusion will not be entitled to any Individual Settlement Payment from the Net
5 Settlement Amount, will not be bound by the terms and conditions of this Agreement, and will not
6 have any right to object, appeal, or comment thereon. However, even if Class Members validly opt
7 out of the Settlement, they will still be entitled to a portion of the employees' share of the PAGA
8 Payment if the Class Member also qualifies as an Aggrieved Employee. The Parties agree that the
9 Court's approval of the Settlement Payment, inclusive of the settlement and release pertaining to the
10 PAGA claim, shall be entitled to res judicata, issue preclusion, and claim preclusion effect to the
11 fullest extent of the law.

12 Any Class Member who fails to timely submit a Request for Exclusion shall automatically
13 be deemed a Class Member whose rights and claims with respect to the issues raised in the Action
14 are determined by the Court's Final Order, and by the other rulings in the Action. Thus, said Class
15 Member's rights to pursue any claims covered by the Action and/or released in this Agreement will
16 be extinguished.

17 Defendants have the unilateral right to void this Agreement in the event more than ten percent
18 (10%) of Class Members opt out of the Settlement. Defendants must notify Class Counsel and the
19 Court whether it is exercising this right to void no later than fourteen (14) days after the end of the
20 class notice period and the Settlement Administrator notifies the Parties of the total number of valid
21 Request for Exclusion Forms it has received. If Defendants exercise this option, they must pay for
22 any costs incurred by the Settlement Administrator.

23 **d. Objections to Settlement**

24 Class Members may object to the Settlement by submitting to the Settlement Administrator
25 his or her notice of Objection or by appearing at the Final Fairness and Approval Hearing to explain
26 their objection(s). In order for a Class Member to object to this Agreement, or any term of it, the
27 Class Member must not submit a Request for Exclusion notice (*i.e.*, must not opt out). The Objection
28 notice must include the Class Member's full name, address and telephone number, and a written

1 statement of the grounds of objection, and be signed by the objecting Class Member or his or her
2 attorney, along with all supporting papers for the objection as applicable (such as documents showing
3 that the number of workweeks calculated is incorrect). Settlement Class Members who fail to make
4 objections in the manner specified above shall be deemed to have waived any objections and shall
5 be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

6 The notice of Objection and supporting papers must be sent to the Settlement Administrator
7 by mail/fax no later than sixty (60) days after the Class Notice was initially mailed to the Class
8 Members (or ten (10) days after the Settlement Administrator re-mails the Notice to the Class
9 Member, whichever is later). The date of the initial mailing of the Class Notice, and the date the
10 signed notice of Objection was postmarked, shall be conclusively determined according to the
11 records of the Settlement Administrator. The Settlement Administrator shall send any notice of
12 Objection it receives to Defense Counsel and Class Counsel within three (3) business days of receipt.

13 The Court retains final authority with respect to the consideration and admissibility of any
14 Class Member objections.

15 **e. Encouragement of Class Members**

16 The Parties, Class Counsel, and Defense Counsel shall not, directly or indirectly, through any
17 person, encourage or solicit any Class Member to exclude himself or herself from this Settlement
18 (opt out) or to object to the Settlement. However, nothing in this Agreement shall bar or prohibit
19 any Party, Class Counsel, or Defense Counsel from responding to questions from Class Members
20 concerning this Settlement.

21 **Section 3.05: Final Fairness and Approval Hearing**

22 The Final Fairness and Approval Hearing shall be held before the Court in order to (1) review
23 this Agreement and determine whether the Court should grant final approval pursuant to the Motion
24 for Final Approval, and (2) consider any timely objections made pursuant to Section 3.04(d), above,
25 and any responses from the Parties to such objections. At the Final Fairness and Approval Hearing,
26 the Parties shall ask the Court to grant final approval of this Agreement and shall submit to the Court
27 a proposed Final Order and Judgment.

1 **Section 3.06: Settlement Payment Procedures**

2 **a. Funding the Settlement Amount**

3 In exchange for the releases set forth in this Agreement and subject to the terms and
4 conditions set forth herein, the total value of the Settlement is One Hundred and Twenty Thousand
5 Dollars and Zero Cents (\$120,000.00) (the “Gross Settlement Amount”). The Gross Settlement
6 Amount shall be funded as follows: (1) A360 will pay Ninety Thousand Dollars and Zero Cents
7 (\$90,000.00), and (2) Prologix will pay Thirty Thousand Dollars and Zero Cents (\$30,000.00). The
8 Gross Settlement Amount is non-reversionary, and includes all: (1) payments to the Class, (2) Class
9 Counsel’s fees, (3) Class Counsel’s costs, (4) Settlement Administration Costs, (5) Incentive
10 Payment to Plaintiff, and (6) all employee-side employment taxes arising from the payments made
11 under this Settlement. Each Defendant’s contribution to the Gross Settlement Amount shall be the
12 maximum amount each Defendant is required to pay under the Settlement. Notwithstanding the
13 foregoing sentence, each Defendant will separately pay any employer payroll taxes owed on any
14 wage portion of the Settlement. Each Defendant’s share of employer payroll taxes shall be distributed
15 equivalent to its percentage of the Gross Settlement Amount paid. The GSA will be payable by
16 Defendants fifteen (15) calendar days after the Effective Date of the Settlement.

17 In no event shall Defendants be required to pay more than the GSA, other than as provided
18 in this Section (employer’s share of payroll taxes).

19 **b. Payment of Attorneys’ Fees and Costs**

20 Class Counsel shall apply for an award of attorneys’ fees of up to one-third (33 and 1/3%) of
21 the Gross Settlement Amount, which is Forty-Thousand Dollars (\$40,000.00). In addition, subject to
22 Court approval, Class Counsel shall be entitled to an award of reasonable costs associated with Class
23 Counsel’s prosecution of the Action not to exceed Fifteen Thousand Dollars (\$15,000.00). Such
24 application for attorneys’ fees and costs shall be heard by the Court at the Final Fairness and Approval
25 Hearing. Defendants will not object to or oppose Plaintiff’s application for these amounts. Class
26 Counsel shall be paid any Court-awarded attorneys’ fees and costs as provided in this Section. The
27 Court’s approval of attorneys’ fees and/or costs in an amount less than that requested by Class
28 Counsel shall not invalidate this Agreement.

1 The Attorneys' Fees and Costs approved by the Court shall encompass all work performed
2 and all costs and expenses related to the investigation, prosecution, and settlement of the Action
3 incurred through the Effective Date. To the extent that the Court approves less than the amounts of
4 attorneys' fees and/or costs that Class Counsel requests, the difference between the requested and
5 awarded amounts will be reallocated to the Net Settlement Amount.

6 **c. Payment of Settlement Administration Costs**

7 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
8 shall not constitute payment to any Participating Class Member. Class Counsel will submit an
9 application for Court approval for an allocation of Settlement Administration Costs no greater than
10 Six Thousand Two Hundred and Fifty Dollars (\$6,250.00). Defendants will not object to or oppose
11 Plaintiff's application for this amount. To the extent there are unused funds of this cost allocation,
12 such funds will be reallocated to the Net Settlement Amount. The Settlement Administration costs
13 shall be paid in accordance with this Section.

14 **d. Payment of Enhancement Payments to Plaintiff**

15 Subject to Court approval, Plaintiff shall receive an Enhancement Payment of up to Ten
16 Thousand Dollars and Zero Cents (\$10,000.00) for his services as class representative and in
17 exchange for a general release of Plaintiff's claims. Defendants will not oppose this request. The
18 Enhancement Payment will be paid from the Gross Settlement Amount and is not allocated as
19 payment to any Participating Class Member. Plaintiff shall be paid the Court-awarded Enhancement
20 Payment in accordance with this Section. To the extent that the Court approves less than the amount
21 of the Enhancement Payment that Plaintiff has requested, the difference between the requested and
22 awarded amount will be reallocated to the Net Settlement Amount.

23 Because it is the intent of the Parties that the Enhancement Payment represents payment to
24 Plaintiff for services performed on behalf of the Class Members and not to be considered wages, the
25 Settlement Administrator will not withhold any taxes from the Enhancement Payment. The
26 Enhancement Payment will be reported on an IRS Form 1099, which the Settlement Administrator
27 will provide to each Plaintiff and to the pertinent taxing authorities as required by law.

28 **e. LWDA Payment**

1 In consideration of claims alleged under PAGA, Class Counsel will request that the Court
2 approve allocation of Two Thousand Dollars (\$2,000.00) of the Gross Settlement Amount as PAGA
3 penalties. Seventy-five percent (75%), or One Thousand Five Hundred Dollars (\$1,500.00), of this
4 amount will be paid to the LWDA, and twenty-five percent (25%), or Five Hundred Dollars
5 (\$500.00) will be allocated to the Net Settlement Amount for distribution to Aggrieved Employees.
6 Defendants will not oppose this request for allocation and distribution of payments under this
7 Section, 3.06(e). The Court's adjustment, if any, of the amount allocated as PAGA penalties will not
8 invalidate this Agreement, as long as the Gross Settlement Amount does not exceed \$120,000.00
9 (excluding Defendants' share of the payroll taxes applicable to the Net Settlement Amount allocated
10 to wages) and final approval of the Settlement is granted.

11 **f. PAGA Payments to Aggrieved Employees**

12 If a Class Member requests exclusion from the Settlement, the Class Member will still receive
13 his or her share of the employees' portion of the PAGA Payment if he/she is an Aggrieved Employee.
14 The share of the PAGA Payment will be determined on a pro rata basis based upon the number of
15 pay periods that the Aggrieved Employee worked during the PAGA Period. The Parties agree that
16 the Court's approval of the Settlement Payment, inclusive of the settlement and release pertaining to
17 the PAGA claim, shall be entitled to res judicata, issue preclusion, and claim preclusion effect to the
18 fullest extent of the law.

19 **g. Individual Settlement Payments to Participating Class Members**

20 The Parties agree that the Net Settlement Amount shall be used to fund Individual Class
21 Settlement Payments and Individual PAGA Settlement Payments (collectively, "Individual
22 Settlement Payments"). The Parties agree that the Net Settlement Amount shall be divided between
23 all Participating Class Members in proportion to the number of Qualifying Workweeks for each Class
24 Member. To calculate the amount each Participating Class Member will receive, the Net Settlement
25 Amount will be divided by the total number of Qualifying Workweeks worked by all Participating
26 Class Members during the Class Period to determine the base dollar amount per Qualifying
27 Workweek. The Settlement Administrator shall then multiply the number of Qualifying Workweeks
28 for each Participating Class Member by the base dollar amount. In addition, all Aggrieved Employees

1 shall receive a pro rata share of the portion of the PAGA Payment allocated to Aggrieved Employees
2 based on their Qualifying Pay Periods during the PAGA Period. The Settlement Administrator shall
3 disperse Individual Settlement Payments to Participating Class Members in compliance with Section
4 3.06 (a) above.

5 Each Individual Settlement Payment will represent wages, penalties, expenses and interest
6 allocated using the following formula: twenty-five (25%) allocated to wages (with legally required
7 tax withholding) and seventy-five percent (75%) allocated to penalties, expenses and interest.

8 Based on the information contained in the Class List, the Settlement Administrator shall
9 calculate: (a) the Net Settlement Amount, (b) the Individual Settlement Payment for each
10 Participating Class Member based on the formula specified above, (c) the amount of the Individual
11 Settlement Payments to be allocated to wages and interest and penalties based on the formula
12 specified above, (d) Defendants' share of the payroll taxes applicable to the Net Settlement Amount
13 allocated to wages; and (e) the employee tax withholding amount based on the allocation of each
14 Individual Settlement Payment to wages.

15 Individual Settlement Payments allocated to wages will be reduced by applicable employee
16 withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the
17 Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 for the
18 interest, expenses and penalty portions of the Individual Settlement Payments.

19 Participating Class Members shall have 180 days from the date their Individual Settlement
20 Payment checks are dated to cash their settlement checks.

21 **h. Distribution of the Gross Settlement Amount**

22 The Settlement Administrator will distribute the Individual Settlement Payments to
23 Participating Class Members in accordance with Section 3.06(a) above. If Individual Settlement
24 Payments are returned to the Settlement Administrator as undeliverable, the Settlement
25 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
26 a mass search on a database such as LexisNexis based on set criteria and, if another address is
27 identified, shall mail the check to the newly identified address. If the Settlement Administrator is
28 unable to obtain a valid mailing address or if any funds representing Individual Settlement Payments

1 remain uncashed upon the expiration of the Check-Cashing Period, the Settlement Administrator will
2 deliver the monies represented by the check to the State of California's State Controller Unclaimed
3 Property Fund with an identification of the amount of unclaimed funds attributable to each Class
4 Member.

5 **i. No Credit Toward Benefit Plans**

6 The Individual Settlement Payments made to Participating Class Members under this
7 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
8 calculate any additional benefits under any benefit plans to which any Class Members may be
9 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
10 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
11 intent that this Agreement will not affect any rights, contributions, or amounts to which any Class
12 Members may be entitled under any benefit plans.

13 **ARTICLE IV**

14 **RELEASES**

15 **Section 4.01: Releases by Participating Class Members and Plaintiff**

16 Upon the Effective Date, all Participating Class Members will fully and finally release and
17 discharge the Released Parties from all claims, rights, demands, liabilities and causes of action that
18 are alleged, or reasonably could have been alleged based on the facts and claims asserted in the
19 Operative Complaint in this action, as described herein, including all claims for recovery of unpaid
20 wages, unreimbursed expenses, penalties, interest, attorneys' fees, and costs based on alleged
21 violations of Labor Code secs 201-204, 226, 226.3, 226.7, 510, 512, 1194, 1197, 1199, 1400-1408,
22 2802, IWC Wage Order No. 9 §§ 3, 4, 11, 12, 20, and 29 USC §§2101-2109 arising from the Class
23 Members' employment with Defendants and/or the cessation of such employment.

24 **Section 4.02: Release by Aggrieved Employees, Including Plaintiff**

25 Upon the Effective Date, Plaintiff and the State of California hereby do and shall be deemed
26 to have fully, finally, and forever released, settled, compromised, relinquished and discharged any
27 and all of the Released Parties of and from the claims for civil penalties that could have been sought
28 by the Labor Commissioner for the violations of the California Private Attorneys General Act of

2004 identified in the LWDA Letter and alleged in the Operative Complaint, as set forth in Paragraph 3 herein. However, to the extent the LWDA has released the PAGA claims in connection with this Settlement, no Aggrieved Employee may pursue these same PAGA claims released here in another action. The Aggrieved Employees are collaterally estopped from pursuing the PAGA claims released and compromised by the LWDA. Plaintiff does not release any Aggrieved Employees' claim for wages and damages. This does not preclude the release of wages and damages by the Class Members as set forth in Section 4.01 of this Settlement. The Aggrieved Employees will be issued a check for their individual PAGA Payment and will not have the opportunity to opt out of, or object to, the PAGA Penalties and release of the PAGA claims set forth in this Paragraph. The Aggrieved Employees are bound by the release of the PAGA Claims regardless of whether they cash or deposit their individual PAGA Payment or opt out of being a Settlement Class Member in accordance with Section 3.04(c).

Section 4.03: General Release by Plaintiff

Plaintiff and Plaintiff's 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 or ascertained during the Action and released under 6.2, below ("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.

1. **Plaintiff's Waiver of Rights Under California 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 California Civil Code, which reads:

1 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
2 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
3 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
4 **THE RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD**
5 **HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH**
6 **THE DEBTOR OR RELEASED PARTY.**

7 **Section 4.04: No Additional Attorneys' Fees or Costs**

8 Except for the allocation of attorneys' fees and costs from the Gross Settlement Amount set
9 forth herein, the Parties agree to bear their own attorneys' fees and costs related to this Action.

10 **ARTICLE V**

11 **LIMITATIONS ON USE OF THIS SETTLEMENT**

12 **Section 5.01: No Admission**

13 Defendants dispute the allegations in the Action and contend that, but for this Settlement, a
14 Class should not have been certified in the Action. This Agreement is entered into solely for the
15 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be
16 construed as an admission of liability or wrongdoing by Defendants. The Parties enter into this
17 Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and
18 risk of continued litigation. In entering into this Agreement, Defendants do not admit—and in fact
19 specifically deny—that they violated any federal, state, or local law; violated any regulations or
20 guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal
21 requirements; breached any contract; violated or breached any duty; engaged in any
22 misrepresentation or deception; or engaged in any other unlawful conduct with respect to any and all
23 employees at Defendants. Neither this Agreement, nor any of its terms or provisions, nor any of the
24 negotiations connected with it, will be construed as an admission or concession by Defendants of any
25 such violations or failures to comply with any applicable law. Except as necessary in a proceeding
26 to enforce the terms of this Agreement, this Agreement and its terms and provisions will not be
27 offered or received as evidence in any action or proceeding to establish any liability or admission on
28 the part of Defendants or the Released Parties or to establish the existence of any condition

1 constituting a violation of, or non-compliance with, federal, state, local, or other applicable law.

2 **Section 5.02: Non-Evidentiary Use**

3 Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the
4 Settlement itself will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed
5 to be evidence for any purpose adverse to Defendants or any other of the Released Parties, including
6 but not limited to, evidence of a presumption, concession, indication, or admission by any of the
7 Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or
8 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
9 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
10 Agreement or for Defendants to establish that a Class Member has resolved any of his or her claims
11 released through this Agreement.

12 **Section 5.03: Nullification**

13 The Parties have agreed to the certification of the Class encompassing all claims alleged in
14 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason
15 make a final determination that it will not certify this Class for settlement, or (b) the Court should
16 for any reason make a final determination that it will not approve this Settlement, or (c) the Court
17 should for any reason make a final determination that it will not enter the Final Order, or (d) the Final
18 Order is reversed, or declared or rendered void, or (e) the Court should for any reason make a final
19 determination that it will not dispose of the Action in its entirety, then (i) this Agreement shall be
20 considered null and void; (ii) neither this Agreement nor any of the related negotiations or
21 proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall stand in the same
22 position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court;
23 and (iv) the fact that the Parties were willing to stipulate to class certification of all causes of action
24 pled in the Action as part of the Settlement will have no bearing on, and will not be admissible in
25 connection with, the issue of whether the Class should be certified by the Court in a non-settlement
26 context in this Action or any other action, and in any of those events, Defendants expressly reserve
27 the right to oppose certification of the Class.

1 **ARTICLE VI**

2 **MISCELLANEOUS PROVISIONS**

3 **Section 6.01: Amendments or Modification**

4 The terms and provisions of this Agreement may be amended or modified only by an express
5 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

6 **Section 6.02: Assignment**

7 None of the rights, commitments, or obligations recognized under this Agreement may be
8 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
9 consent of all other Parties and their respective counsel. The representations, warranties, covenants,
10 and agreements contained in this Agreement are for the sole benefit of the Parties under this
11 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

12 **Section 6.03: Governing Law**

13 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
14 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
15 of laws.

16 **Section 6.04: Entire Agreement**

17 This Agreement, including the Exhibit A (Class Notice) referred to herein, which forms an
18 integral part hereof, contains the entire understanding of the Parties with respect to the subject matter
19 contained herein. In case of any conflict between text contained in Articles I through VI of this
20 Agreement and text contained in the Exhibit to this Agreement, the former (*i.e.*, Articles I through
21 VI) shall be controlling, unless the Exhibit is changed by or in response to a Court order. There are
22 no restrictions, promises, representations, warranties, covenants, or undertakings governing the
23 subject matter of this Agreement other than those expressly set forth or referred to herein. This
24 Agreement supersedes all prior agreements and understandings among the Parties with respect to the
25 Settlement of the Action, including correspondence between Class Counsel and Defense Counsel
26 and drafts of prior agreements or proposals.

27 **Section 6.05: Waiver of Compliance**

28 Any failure of any Party, Class Counsel, or Defense Counsel to comply with any obligation,

1 covenant, agreement, or condition set forth in this Agreement may be expressly waived in writing,
2 to the extent permitted under applicable law, by the Party or Parties and their respective counsel
3 entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to
4 insist upon strict compliance with any representation, warranty, covenant, agreement, or condition
5 shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

6 **Section 6.06: Counterparts and Electronic Signatures**

7 This Agreement, and any amendments hereto, may be executed in any number of
8 counterparts, and any Party and/or their respective counsel may execute any such counterpart, each
9 of which when executed and delivered shall be deemed to be an original. All counterparts taken
10 together shall constitute one instrument. A fax, PDF, or electronic signature on this Agreement shall
11 be as valid as an original signature.

12 **Section 6.07: Meet and Confer Regarding Disputes**

13 Should any dispute arise among the Parties or their respective counsel regarding the
14 implementation or interpretation of this Agreement, Class Counsel and Defense Counsel shall meet
15 and confer in an attempt to resolve such disputes prior to submitting such disputes to the Court.

16 **Section 6.08: Agreement Binding on Successors**

17 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
18 of each of the Parties.

19 **Section 6.09: Cooperation in Drafting**

20 The Parties have cooperated in the negotiation and preparation of this Agreement. This
21 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
22 was the drafter or participated in the drafting of this Agreement.

23 **Section 6.10: Fair and Reasonable Settlement**

24 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
25 the Action and have arrived at this Agreement through arm's-length negotiation and in the context
26 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
27 further believe that the Settlement is consistent with public policy, and fully complies with applicable
28 law. The Parties further acknowledge that they are each represented by competent counsel and have

1 had an opportunity to consult with their counsel regarding the fairness and reasonableness of this
2 Settlement.

3 **Section 6.11: Headings**

4 The descriptive heading of any section or paragraph of this Agreement is inserted for
5 convenience of reference only and does not constitute a part of this Agreement and shall not be
6 considered in interpreting this Agreement.

7 **Section 6.12: Notice**

8 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
9 communications under this Agreement must be in writing and addressed as follows:

10 *To Plaintiff and the Class:*

11 Zachary M. Crosner
12 Brandon Brouillette
13 CROSNER LEGAL, P.C.
14 9440 Santa Monica Blvd. Suite 301
15 Beverly Hills, CA 90210
16 T: (310) 496-5818
17 E: zach@crosnerlegal.com
18 bbrouillette@crosnerlegal.com

16 And

17 *To Defendants:*

18 E. Sean McLoughlin
19 Jenner C. Tseng
20 HILL, FARRER & BURRILL
21 One California Plaza
22 300 So. Grand Ave., 37th Floor
23 Los Angeles, CA 90071
24 T: 213.620.0460
25 E: smcloughlin@hfbllp.com
26 jtseng@hillfarrer.com

23 Fermin H. Llaguno
24 Nolan McCready
25 LITTLER MENDELSON, P.C.
26 18565 Jamboree Road, Suite 800
27 Irvine, CA 92612
28 T: 949.705.3000
E: fllaguno@littler.com
NMcCready@littler.com

1 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

2 To the extent consistent with class action procedure, this Agreement shall be enforceable by
3 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
4 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
5 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
6 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
7 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
8 extent to enforce and effectuate the terms and intent of this Agreement.

9 **Section 6.14: Mutual Full Cooperation**

10 The Parties agree fully to cooperate with each other to accomplish the terms of this
11 Agreement, including but not limited to execution of such documents, and taking such other action
12 as may reasonably be necessary to implement the terms of this Agreement. The Parties to this
13 Agreement shall use their best efforts, including all efforts contemplated by this Agreement, to
14 effectuate this Agreement and its terms. In the event the Parties are unable to reach agreement on the
15 form or content of any document needed to implement the Settlement (after execution of this
16 agreement), or on any supplemental provisions that may become necessary to effectuate the terms of
17 the Settlement, the Parties agree to seek the assistance of the Court.

18 **Section 6.15: Authorization to Act**

19 Class Counsel represent and warrant that they are authorized by Plaintiff, and Defense
20 Counsel warrants that they are authorized by Defendants, to take all appropriate action required to
21 effectuate the terms of this Agreement, except for signing documents, including but not limited to
22 this Agreement, that are required to be signed by the Parties. Defendants represent and warrant that
23 the individual executing this Agreement on its behalf has the full right, power, and authority to enter
24 into this Agreement and to carry out the transactions contemplated herein.

25 **Section 6.16: No Reliance on Representations**

26 The Parties have made such investigation of the facts and the law pertaining to the matters
27 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
28 on any statement, promise, or representation of fact or law, made by any of the other Parties, or any

1 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
2 rights, or with regard to the advisability of making and executing this Agreement, or with respect to
3 any other matters. No representations, warranties, or inducements, except as expressly set forth
4 herein, have been made to any party concerning this Agreement.

5 APPROVED AS TO CONTENT AND FORM:

6 Dated: 11 / 26 / 2025

Michael Siano

Michael Siano
Plaintiff

8 Dated: 12/2/25

Chad Verkouille Muilenburg

Name: Chad Verkouille Muilenburg
Title: General Counsel
On Behalf of Defendant Accelerate360 Distribution,
LLC

12 Dated: _____

Name: _____
Title: _____
On Behalf of Defendant 4052342 West DE, LLC

15 Dated: 12/01/2025

CROSNER LEGAL, PC

[Signature]
Zachary M. Crosner, Esq.
Brandon Brouillette, Esq.
Attorneys for Plaintiff and the Class

19 Dated: 12/01/2025

LITTLER MENDELSON P.C.

[Signature]
Fermin H. Llaguno, Esq.
Attorneys for Defendant Accelerate360 Distribution,
LLC

23 Dated: _____

HILL, FARRER & BURRILL LLP

E. Sean McLoughlin, Esq.
Attorneys for Defendant 4052342 West DE, Inc.

of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements, except as expressly set forth herein, have been made to any party concerning this Agreement.

APPROVED AS TO CONTENT AND FORM:

Dated: 11 / 26 / 2025

Michael Siano

Michael Siano
Plaintiff

Dated: _____

Name:
Title:
On Behalf of Defendant Accelerate360 Distribution, LLC

Dated: 12/10/2025

Signed by:

25ED87AC7B5E4G3...

Name: Steven Pang
Title: CFO
On Behalf of Defendant 4052342 West DE, LLC

Dated: 12/01/2025

CROSNER LEGAL, PC


Zachary M. Crosner, Esq.
Brandon Brouillette, Esq.
Attorneys for Plaintiff and the Class

Dated: _____

LITTLER MENDELSON P.C.

Fermin H. Llaguno, Esq.
Attorneys for Defendant Accelerate360 Distribution, LLC

Dated: 12/10/2025

HILL, FARRER & BURRILL LLP


E. Sean McLoughlin, Esq.
Jenner C. Tseng, Esq.
Attorneys for Defendant 4052342 West DE, Inc.

Exhibit 2

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

Siano v. Accelerate360 Distribution, LLC, et al., Case No. CVRI2301109

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 Defendants Accelerate360 Distribution, LLC (erroneously sued as American News Company, LLC) ("Accelerate360" or "A360") and 4052342 West DE, LLC (erroneously sued as Prologix Distribution Services West, LLC) ("Prologix") (Collectively, "Defendants") for alleged wage and hour violations. The Action was filed by Michael Siano ("Plaintiff"), a former employee of Defendants, and seeks payment of back wages and other relief for a class of employees ("Class Members") who were employed by Defendants as non-exempt and/or hourly-paid delivery drivers during the Class Period (September 6, 2018 through the date of preliminary approval); and (2) penalties under the California Private Attorney General Act ("PAGA") for all Class Members who worked for Defendants during the PAGA Period (also from September 6, 2018 through the date of preliminary approval) regardless of whether they participate in the settlement ("Aggrieved Employees").

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

Based on Defendants' records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. 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 Defendants' records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendants' records showing that you worked [REDACTED] workweeks during the Class Period and you worked [REDACTED] 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 may be affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants 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-related claims and PAGA Period penalty claims against Defendants.

(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 the claims alleged in the lawsuit against Defendants. If you are an Aggrieved Employee, you will remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

You Can Opt-out of the Class Settlement but not the PAGA Settlement by submitting a fully-completed, signed, and dated Request for Exclusion Form, included with this Notice, to the Administrator before the Opt-out deadline.

The Opt-out Deadline is [60 days]. If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Settlement Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement.

Written Objections Must be Submitted by_____.

All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the Class 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 can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the Final Approval Hearing. The Court's Final Approval Hearing is scheduled to take place on [DATE]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods.

Written Challenges Must be Submitted by [DATE]. The amount of your Individual 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 Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [DATE]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failing to comply with WARN Act provisions, failing to pay, among other things, overtime wages, minimum wages, wages due upon termination, failing to provide rest meal periods, and other derivative claims. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Zachary Crosner and Brandon Brouillette of Crosner Legal, PC, 9440 Santa Monica Blvd., Suite 301, Beverly Hills, CA 90210 ("Class Counsel.")

Defendants strongly deny 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 Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do 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) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement

is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

- Defendants will pay \$120,000.00 as the Gross Settlement Amount (Gross Settlement) which will be deposited into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Settlement Payments, Individual PAGA Settlement Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than fifteen (15) days after the Judgment entered by the Court become final. The Judgment will be final on the date the time to file any appeal from the Judgment has passed or any and all appeals are disposed of.
- Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - Up to \$40,000.00 (1/3 of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$15,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - Up to \$10,000.00 to Plaintiff as a Class Representative Award 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 Settlement Payment and any Individual PAGA Settlement Payment. Plaintiff will be providing a broad general release of claims.
 - Up to \$6,250.00 to the Administrator for services administering the Settlement.
 - Up to \$2,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

- Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement Amount") by making Individual Class Settlement Payments to Participating Class Members based on their Class Period Workweeks.
- Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages ("Wage Portion") and 75% to non-taxable remedies [e.g., interest and penalties, etc.] ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2

Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Settlement 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 Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

- **Need to Promptly Cash Payment Checks.** The front of every check issued for Individual Class Settlement Payments and Individual PAGA Settlement 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, you should consult the rules of the Fund for instructions on how to retrieve your money.
- **Requests for Exclusion from the Class Settlement (Opt-Outs).** You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [DEADLINE], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [DEADLINE] Response Deadline. The Request for Exclusion should be a signed letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Settlement Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

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 Settlement Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

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

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

All Participating Class Members will fully and finally release and discharge the Released Parties from all claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Operative Complaint in this action, as described herein, including all claims for recovery of unpaid wages, unreimbursed expenses, penalties, interest, attorneys’ fees, and costs based on alleged violations of Labor Code secs 201-204, 226, 226.3, 226.7, 510, 512, 1194, 1197, 1199, 1400-1408, 2802, IWC Wage Order No. 9 §§ 3, 4, 11, 12, 20, and 29 USC §§2101-2109 arising from the Class Members’ employment with Defendants and/or the cessation of such employment.

- **Aggrieved Employees and the LWDA** will fully, finally, and forever release, settle, compromise, relinquish and discharge any and all of the Released Parties of and from the claims for civil penalties that could have been sought by the Labor Commissioner for the violations of the California Private Attorneys General Act of 2004 identified in the LWDA Letter and alleged in the Operative Complaint

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

- **Individual Class Settlement Payments.** The Administrator will calculate Individual Class Settlement Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
- **Individual PAGA Settlement Payments.** The Administrator will calculate Individual PAGA Settlement Payments by (a) dividing \$500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

- **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 Defendants' records, are stated in the first page of this Notice. You have until [DEADLINE] 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 Defendants' calculation of Workweeks and/or Pay Periods based on Defendants' 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 Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

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

The easiest way to opt-out is to submit a fully-completed, signed and dated Request for Exclusion Form, included with this Notice, to the Administrator before the [60 days] Opt-out deadline. You can also submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as "*Siano v. Accelerate360 Distribution, LLC, et al.*, Case No. CVRI2301109" 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 _____, 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 Defendants are asking the Court to approve. At least _____ days before the _____ 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 _____ (url) or the Court's website (url) _____.

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 _____. To object send a fully-completed, signed and dated Objection Form, included with Notice, along with other documents supporting your objection, if any, to the Administrator. 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 "*Siano v. Accelerate360 Distribution, LLC, et al.*, Case No. CVRI2301109" and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ (time) in Department ____ of the Riverside Superior Court, located at _____. 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 Video Appearance (url) _____. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the 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 Defendants 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 (specify entity) _____'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 (url) _____ and entering the Case Number for the Action, Case No. CVRI2301109.

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

Class Counsel:

Name of Attorney: Zachary Crosner and Brandon Brouillette
Email Address: zcrosner@crosnerlegal.com; bbrouillette@crosnerlegal.com
Name of Firm: Crosner Legal, PC
Mailing Address: 9440 Santa Monica Blvd., Suite 301, Beverly Hills, CA 90210
Telephone: (866) 276-6429

Settlement Administrator: Name of Company:

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 / you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit 3

OBJECTION FORM

Siano v. Accelerate360 Distribution, LLC, et al., Case No. CVRI2301109

**USE THIS FORM ONLY IF YOU WANT TO OBJECT TO THE CLASS PORTION OF THE
PROPOSED CLASS/REPRESENTATIVE ACTION SETTLEMENT DESCRIBED IN THE
ACCOMPANYING NOTICE**

To object to the class portion of the proposed Class/Representative Action Settlement you may complete this form and return it to the address below, postmarked no later than [response deadline]:

Siano v. Accelerate360 Distribution Settlement Administration
c/o Settlement Administrator
[Settlement Administrator address]

The Court will consider your objection at the Final Approval Hearing described in the accompanying Notice. You may also appear at the Final Approval Hearing, either by yourself or with your own attorney, and make an oral objection to the class portion of the proposed Class/Representative Action Settlement whether you submit this Form or not.

NOTE: you may not object to the PAGA portion of the Class/Representative Action Settlement

I OBJECT to the *Siano v. Accelerate360 Distribution* Class Action Settlement for the following reasons:

[You may attach additional pages or materials as necessary]

Your Name: _____

Your Address: _____

Your Phone Number: _____

Date: _____

(signature)

Exhibit 4

REQUEST FOR EXCLUSION FORM

Siano v. Accelerate360 Distribution, LLC, et al., Case No. CVRI2301109

AS EXPLAINED IN MORE DETAIL IN THE NOTICE ACCOMPANYING THIS FORM, YOU HAVE THE RIGHT TO EXCLUDE YOURSELF FROM THE CLASS PORTION OF THE PROPOSED CLASS/REPRESENTATIVE ACTION SETTLEMENT DESCRIBED IN THE NOTICE.

If you do **not** want to be included in the class portion of the Settlement, and do **not** want to receive a settlement payment as part of the class portion of the Settlement, you must complete this form and return it to the address below, postmarked no later than **[response deadline]**:

Siano v. Accelerate360 Distribution **Settlement Administration**
c/o Settlement Administrator
[Settlement Administrator address]

I wish to be excluded from the class portion of the settlement and I do **not** want to participate in the proposed class action settlement. I understand this means that I will **not** be bound by the class action settlement and will **not** receive any payment from the settlement, but I will retain whatever rights I may have, if any, with respect to the class claims raised in the lawsuit referenced above.

NOTE: If you request exclusion from the Settlement and are also an Aggrieved Employee, you will still receive your proportionate payment of the PAGA Settlement.

Your Name: _____

Your Address: _____

Your Phone Number: _____

Date: _____

(signature)

Exhibit 5



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

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

December 6, 2024

VIA PAGA ONLINE FILING ONLY:

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

VIA U.S. CERTIFIED MAIL:

C T Corporation System
Agent for Service of Process for:
**Accelerate360 Distribution, LLC and
4052342 West DE, LLC**
Attn: CA Registered Agent Authorized
Employees:
Amanda Garcia, Gabriela Sanchez, Daisy
Montenegro, Beatrice Casarez-Barrientez,
Jessie Gastelum, John Montijo, Diana Ruiz,
Sarai Marin, Emanuel Jacobo, Gladys
Aguilera, Vivian Imperial, Carlos Paz,
Alberto Damonte, Peter Cayetano, Elsa
Montanez, Xenia Perez, and Yesenia
Carpenter
330 N Brand Blvd #700
Glendale, CA 91203

Accelerate360 Distribution, LLC
Attn: Human Resources / Legal Department
1000 American Media Way
Boca Raton, FL 33464

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Accelerate360
Distribution, LLC; and 4052342 West DE, LLC;
Date: December 6, 2024
Subject: *Michael Siano v. Accelerate360 Distribution, LLC, et al.*

Introduction

This office represents PLAINTIFF, Michael Siano (hereinafter “PLAINTIFF”) in connection with PLAINTIFF’s claims under the California Labor Code. PLAINTIFF was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Accelerate360 Distribution, LLC (“A360”) and/or 4052342 West DE, LLC (“Prologix”) (hereinafter, these entities and their managing agents are collectively referred to as “DEFENDANTS”). DEFENDANTS may be contacted directly at the addresses listed above.

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

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

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

Based on the following summary of facts and theories upon which PLAINTIFF will base PLAINTIFF's claims, PLAINTIFF requests that the LWDA regard this NOTICE as written notice of PLAINTIFF's intent to seek civil penalties against DEFENDANTS.

PLAINTIFF, on behalf of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES alleges that the specific provisions of California law that DEFENDANTS have violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-204, 226, 226.3, 226.7, 510, 512, 1194, 1197, 1199, 1400-1408, 2802, IWC Wage Order No. 9 §§ 3, 4, 11, 12, 20, and 29 USC §§2101-2109, and all applicable Wage Orders.

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

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

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

PLAINTIFF believes and hereon asserts that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFF for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFF to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFF at all relevant times herein, so as to be considered the joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

By reason of their status as joint employers of PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

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

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

General Information

DEFENDANTS own, operate, or otherwise manage a printing, publishing, print distribution business and/or logistics company. DEFENDANTS own, operate or manage warehouses, yards, locations, and/or facilities in California including but not limited to, DEFENDANTS' offices, yards, locations and/or facilities located in Ontario, California, at which DEFENDANTS regularly assigned PLAINTIFF to work during the relevant period. Although DEFENDANTS may operate successful companies or have a noble mission, DEFENDANTS do not comply with California's labor laws.

PLAINTIFF was employed by DEFENDANTS as a non-exempt employee. PLAINTIFF worked for DEFENDANTS as a magazine delivery driver, truck driver and/or similar title(s) from in or around July 2014 through on or about August 5, 2020. PLAINTIFF reported to DEFENDANTS' office(s), warehouse(s), yard(s) and/or locations in Mira Loma, California and completed routes in various cities, including but not limited to, Ontario, California. PLAINTIFF regularly worked over twelve (12) hours per day, at least four (4) days per week.

At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time counted by DEFENDANTS as hours.

Labor Code Violations

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

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

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

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

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

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

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

DEFENDANTS’ failure to keep “accurate and complete” payroll records for PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.¹

¹ See Lab. Code §2699(f).

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, PLAINTIFF did not sign a valid meal period waiver throughout PLAINTIFF's employment by DEFENDANTS.

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

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

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

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

For example, based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to skip their owed meal periods completely, take late meal periods and/or were interrupted during purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS' premises and/or were otherwise required to remain on-duty during unpaid meal periods due to the need to continue assigned job duties.

For example, NON-EXEMPT AGGRIEVED EMPLOYEES were required to remain inside and/or in immediate physical proximity to their assigned vehicles during unpaid meal periods and/or were required to monitor work communication devices during unpaid meal periods and therefore remained under DEFENDANTS' control during unpaid meal periods, resulting in unpaid minimum wages and straight time wages to NON-EXEMPT AGGRIEVED EMPLOYEES. For instance, PLAINTIFF was required to monitor a dispatch radio and/or cellphone for work communications during unpaid meal periods. Also, PLAINTIFF was consistently required to cut his meal periods short and/or work through his meal periods completely due to the need to respond to work communications, complete deliveries and/or complete other work tasks. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were also at times required to work through part and/or all of their unpaid meal periods (including first and/or second meal periods) due to the need to respond to work-related communications, complete deliveries, and/or complete other work tasks. Due to the pressure to complete assigned worked duties, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take uninterrupted meal periods and would often be forced to eat their meals and/or take purported meal periods while driving between delivery locations/job sites and/or completing other work tasks.

Based on information and belief, DEFENDANTS performed an automatic meal period deduction of at least thirty minutes per shift for each Aggrieved Employee even though DEFENDANTS were aware those NON-EXEMPT AGGRIEVED EMPLOYEES were working through their meal periods and/or were not receiving full thirty-minute off duty meal periods. For example, based on information and belief, PLAINTIFF's supervisor would input/report to payroll that PLAINTIFF had taken a thirty-minute off-duty meal period, e.g., from precisely 7:00 a.m. to precisely 7:30 a.m., each shift worked even though PLAINTIFF was consistently required to work through his meal periods due to the need to respond to work communications, complete deliveries and/or complete other work tasks. Based on information and belief, DEFENDANTS also performed an automatic meal period deduction of at least thirty minutes per shift for other NON-EXEMPT AGGRIEVED EMPLOYEES who were also required to suffer interrupted, shortened and/or on-duty meal periods and/or work through their unpaid meal periods completely, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

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

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

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

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

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

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

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

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

PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and

practices resulted in the denial of lawful meal periods owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

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

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.² DEFENDANTS' failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

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

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

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

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

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

For example, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were frequently, if not always, unable to take compliant rest periods due to their need to complete assigned job duties and/or was unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to DEFENDANTS’ premises/their assigned work locations/workstations.

Based on information and belief, DEFENDANTS did not pay NON-EXEMPT AGGRIEVED EMPLOYEES any rest period premiums during their respective employments and/or did not pay NON-EXEMPT AGGRIEVED EMPLOYEES a proper rest period premium for each missed and/or otherwise legally non-compliant rest period.

Also, based on information and belief, DEFENDANTS had no policy and/or practice as to the proper timing and/or duty-free nature of rest periods. For example, based on information and belief, DEFENDANTS failed to allow PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES to take off-duty rest periods that were insofar as practicable in the middle of the work period, as required by law.

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

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

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

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

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

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to

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

each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” *See* §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...” *Cal. Lab. Code* § 1194.2.

DEFENDANTS failed to compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked, resulting in the underpayment of minimum and straight time wages. DEFENDANTS failed to compensate PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of, DEFENDANTS’ automatic deduction policies, payment according to scheduled hours rather than actual hours worked, and/or time rounding policies, and failure to relieve employees of all duties/employer control and/or suffering, permitting and/or requiring NON-EXEMPT AGGRIEVED EMPLOYEES to perform work during unpaid meal periods, as explained below.

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to DEFENDANTS’ control during purported meal periods and/or were otherwise required to work through unpaid meal periods, depriving PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

For example, NON-EXEMPT AGGRIEVED EMPLOYEES were required to remain inside and/or in immediate physical proximity to their assigned vehicles during unpaid meal periods and/or were required to monitor work communication devices during unpaid meal periods and therefore remained under DEFENDANTS’ control during unpaid meal periods, resulting in unpaid minimum wages and straight time wages to NON-EXEMPT AGGRIEVED EMPLOYEES. For instance, PLAINTIFF was required to monitor a dispatch radio and/or cellphone for work communications during unpaid meal periods. Also, PLAINTIFF was consistently required to cut his meal periods short and/or work through his meal periods completely due to the need to respond to work communications, complete deliveries and/or complete other work tasks. Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were also at times required to work through part and/or all of their unpaid meal periods (including first and/or second meal periods) due to the need to respond to work-related communications, complete deliveries, and/or complete other work tasks. Due to the pressure to complete assigned worked duties, PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take uninterrupted meal periods and would often be forced to eat their meals and/or take purported

meal periods while driving between delivery locations/job sites and/or completing other work tasks.

Based on information and belief, DEFENDANTS performed an automatic meal period deduction of at least thirty minutes per shift for each Class Member even though DEFENDANTS were aware those NON-EXEMPT AGGRIEVED EMPLOYEES were working through their meal periods and/or were not receiving full thirty-minute off duty meal periods. For example, based on information and belief, PLAINTIFF's supervisor would input/report to payroll that PLAINTIFF had taken a thirty-minute off-duty meal period, e.g., from precisely 7:00 a.m. to precisely 7:30 a.m., each shift worked even though PLAINTIFF was consistently required to work through his meal periods due to the need to respond to work communications, complete deliveries and/or complete other work tasks. Based on information and belief, DEFENDANTS also performed an automatic meal period deduction of at least thirty minutes per shift for other NON-EXEMPT AGGRIEVED EMPLOYEES who were also required to suffer interrupted, shortened and/or on-duty meal periods and/or work through their unpaid meal periods completely, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

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

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

Moreover, based on information and belief, at times, DEFENDANTS' electronic employee time-keeping system / app malfunctioned such that NON-EXEMPT AGGRIEVED EMPLOYEES were required to either reinitiate and/or otherwise troubleshoot the system / app prior to being able to clock in and/or were unable to clock in at all for the start of their shifts, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES experienced the same issues when clocking out for shifts. This time spent under DEFENDANTS' control was not recorded and not compensated and resulted in unpaid minimum wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

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

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also not compensated for off-the-clock work tasks, such as, but not limited to, all time spent performing pre-trip and/or post-trip vehicle and/or equipment inspections, time spent performing vehicle maintenance tasks, time spent completing paperwork and/or waiting/standby time at pick-up/delivery locations, time spent donning and/or doffing uniforms/safety gear/protective equipment, and/or all time spent completing deliveries, which resulted in the underpayment of minimum wages and straight time wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and was not compensated. For example, based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to review and sign various types of policies and documents, including but not limited to, safety guidelines/safety awareness certifications, employee time-keeping policies, among other documents, but they were not paid for all time spent reviewing and/or completing certification as directed by DEFENDANTS.

Based on further information and belief, DEFENDANTS implemented a time-rounding system that as applied systematically deprived PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by DEFENDANTS would almost always, if not always, result in understating actual compensable work time. For example, based on information and belief, DEFENDANTS rounded to at least the nearest quarter, half and/or whole hour, PLAINTIFF's and other NON-EXEMPT AGGRIEVED EMPLOYEES' total hours worked during most if not all pay periods, resulting in the consistent underpayment of minimum wages and straight time wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES.

DEFENDANTS' failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages and/or straight time wages owed to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices and/or other off-the-clock work resulted in the underpayment of minimum and straight time wages owed to PLAINTIFF and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of, including but not limited to, California's minimum wage laws.

These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED

EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

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

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

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

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

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

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

⁴ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

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

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

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

As DEFENDANTS failed to provide PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

DEFENDANTS' issued wage statements to PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES that also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by

⁵ See Lab. Code §2699(f); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

PLAINTIFF and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a).

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

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

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

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

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

Moreover, based on information and belief, DEFENDANTS issued wage statements to PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code

section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

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

These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁶

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

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

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

Based on further information and belief, DEFENDANTS failed to timely provide all owed wages immediately upon discharge of employment. Based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES experienced breaks in employment caused by DEFENDANTS whereby NON-EXEMPT AGGRIEVED EMPLOYEES would not be called in

⁶ See Lab. Code §226.3 (establishing that the civil penalty is “per employee per violation”).

for work for longer than a single pay period due to including but not limited to DEFENDANTS' lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.⁷

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

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145

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

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

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

Based on information and belief, DEFENDANTS shifted the costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for their business expenses including but not limited to, uniforms and/or protective/safety equipment, and/or the use of

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AGGRIEVED EMPLOYEES' personal mobile phone and data usage for work-related purposes, including but not limited to, to receive and respond to work related messages and/or phone calls. For example, based on information and belief, AGGRIEVED EMPLOYEES were required to use their personal cell phones for work but did not receive any and/or full reimbursement from DEFENDANTS for these business expenses.

Based on information and belief, AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms and/or protective/safety equipment.

Based on information and belief, AGGRIEVED EMPLOYEES were improperly required to pay for additional business expenses that are supposed to be the responsibility of DEFENDANTS. For example, based on information and belief, AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are the responsibility of DEFENDANTS, including but not limited to, hand tools/equipment and/or cost of gas, costs of repairs, tolls/fines and/or other work-related fees/fines, incurred as a direct consequence of the discharge of their assigned job duties without receiving any and/or full reimbursement from DEFENDANTS for these expenses.

On information and belief, at times, AGGRIEVED EMPLOYEES were required to use their personal vehicles for DEFENDANTS' business purposes, including but not limited to, for driving between and/or around DEFENDANTS' job sites/locations and/or for other work purposes without receiving any and/or full reimbursement from DEFENDANTS for the business use of their personal vehicles.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of DEFENDANTS.

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

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

Violation of the California Worker Adjustment and Retraining Notification Act ("WARN Act") - Labor Code Sections 1400-1408.

Mass layoffs, relocations and terminations in California are regulated by the California WARN Act (Labor Code sections 1400-1408). Under the California WARN Act ("Cal-WARN Act"),

employers must provide 60 days' notice to affected employees before ordering a "mass layoff." Labor Code section 1400, et seq.

Section 1401(a) provides as follows:

(a) An employer may not order a mass layoff, relocation, or termination at a covered establishment unless, 60 days before the order takes effect, the employer gives written notice of the order to the following:

(1) The employees of the covered establishment affected by the order.

(2) The Employment Development Department, the local workforce investment board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs.

Section 1401(b) provides that "[a]n employer required to give notice of any mass layoff...under this chapter shall include in its notice the elements required by the federal [WARN] Act. (29 U.S.C. Sec. 2101 et seq.).

Section 1400 defines the terms used to impose the above-described notice duty. A "[c]overed establishment" means any industrial or commercial facility or part thereof that employs, or has employed within the preceding 12 month, 75 or more persons." Lab. Code section 1400(a). "Employer" means any person...who directly or indirectly owns and operates a covered establishment." Labor Code section 1400(b). "Mass layoff" means a layoff during any 30-day period of 50 or more employees at a covered establishment." Labor Code section 1400(d). "Layoff" means a separation from a position for lack of funds or lack of work." Labor Code section 1400(c). "Termination" means the cessation or substantial cessation of industrial or commercial operations in a covered establishment." Labor Code section 1400(f).

At all relevant times, DEFENDANTS directly or indirectly owned, operated and/or otherwise managed a covered establishment at which DEFENDANTS ordered a mass layoff of NON-EXEMPT AGGRIEVED EMPLOYEES without providing legally compliant written notice at least sixty days in advance to NON-EXEMPT AGGRIEVED EMPLOYEES as required under the Cal-WARN Act, thereby denying NON-EXEMPT AGGRIEVED EMPLOYEES of the notice and mandated waiting-time period under the Cal-WARN Act prior to the mass layoff, in violation of the Cal WARN Act, section 1401(a).

Based on information and belief, DEFENDANTS has a policy and practice of failing to give compliant written notice to NON-EXEMPT AGGRIEVED EMPLOYEES within the timing requirements set forth in Labor Code section 1401(a) before ordering a mass layoff, relocation or termination, in violation of, including but not limited to, Labor Code section 1401(a).

These violations subject DEFENDANTS to civil penalties including but not limited to penalties pursuant to Labor Code 1403 of up to \$500 dollars for each day of DEFENDANTS's violation of Labor Code section 1401 for each NON-EXEMPT AGGRIEVED EMPLOYEE. Moreover, PLAINTIFF and NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover reasonable attorney's fees and costs under Labor Code section 1404.

Conclusion

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

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

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

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

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

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

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in cursive script that reads "Kiara Bramasco".

Kiara Bramasco, Esq.
CROSNER LEGAL, PC

Thank you for submission of your PAGA Case.

1 message

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "prelit@crosnerlegal.com" <prelit@crosnerlegal.com>

Fri, Dec 6, 2024 at 4:03 PM

12/6/2024

LWDA Case No. LWDA-CM-1065684-24
Law Firm : Crosner Legal
Plaintiff Name : Michael Siano
Employer: Accelerate360 Distribution, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 6



Vardui Sarkisian <vardui@crosnerlegal.com>

Thank you for your Court Complaint Submission.

1 message

DIR PAGA Unit <no-reply@formassembly.com>
To: vardui@crosnerlegal.com

Wed, Aug 13, 2025 at 2:50 PM

08/13/2025 02:50:32 PM

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

Item submitted: Court Complaint

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 7