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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

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| FIDEL ANTONIO MUNOZ, DOUGLASS OLMSTED, and ANDREW DAT, on behalf of themselves and all others similarly situated and in their capacities as private attorneys general,<br><br>Plaintiffs,<br><br>v.<br><br>MERCURY INSURANCE SERVICES, LLC, a California limited liability company; and DOES 1 through 50, Inclusive,<br><br>Defendant. | Case No.: 24STCV08298<br><br>Assigned for All Purposes to:<br>Hon. Carolyn B. Kuhl, Dept. 12<br><br>**DECLARATION OF JAMES R. HAWKINS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**<br><br>Date: February 5, 2025<br>Time: 10:30 a.m.<br>Dept.: 12<br><br>Complaint Filed: March 29, 2024<br>Trial Date: None Set |

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I, James R. Hawkins, declare as follows:

1. I am an individual over the age of eighteen. I am the Founding Partner of the Law Firm of James Hawkins, APLC, counsel for Plaintiff Fidel Antonio Munoz. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. I submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement Agreement, Approval of the Class Notice, and Conditional Certification of Settlement Class (the "Preliminary Approval Motion").

3. Attached hereto as **Exhibit 1** is a true and correct copy of the Class Action and PAGA Settlement Agreement and Release ("Settlement" or "Settlement Agreement").

**SUMMARY OF THE MUNOZ LITIGATION**

4. On April 4, 2024, Plaintiff Fidel Antonio Munoz filed a putative class action in the Superior Court for the State of California, County of Los Angeles, Case No. 24STCV08298, alleging that Defendant (1) failed to pay minimum wages; 2) failed to pay overtime owed; (3) failed to provide lawful meal periods; (4) failed to authorize and permit rest periods; (5) failed to pay timely wages during employment; (6) failed to timely pay wages owed upon separation from employment; (7) unlawful deductions; (8) knowingly and intentionally failed to comply with itemized wage statement provisions; and (9) violated the unfair competition law. Plaintiff Munoz also provided notice to the LWDA and Defendant of his intent to seek civil penalties against Defendant for the same violations.

5. On May 2, 2024 Plaintiff Munoz filed a First Amended Complaint adding a cause of action for failure to reimburse necessary expenses.

6. On June 7, 2024, Plaintiff Munoz filed a Second Amended Complaint adding a cause of action for civil penalties pursuant to PAGA.

7. Pursuant to the Settlement Agreement, Plaintiff Munoz filed a Third Amended Complaint to add Plaintiffs Douglass Olmsted and Andrew Dat as named plaintiffs, and to encompass all the causes of action from the complaints filed in the Olmsted and Dat matters. The Third Amended Complaint is the operative complaint for purposes of the Settlement.

## INVESTIGATION AND MEDIATION

8. Plaintiff Munoz and Defendant agreed to pursue mediation in an attempt to resolve the matter and engaged in significant informal discovery and information exchange prior to mediation. Plaintiff Munoz requested and was provided with a statistically significant sampling of time and wage records for the Class Members during the Class Period, all time records and wage statements for Plaintiff Munoz, his personnel file, and applicable policy documents. Plaintiff Munoz was also provided with data including the total number of Class Members and Aggrieved Employees, the total number of current Class Members and Aggrieved Employees, and the number of workweeks and pay periods in the Class and PAGA Periods. Plaintiff Munoz was also provided with Defendant's employee handbooks used during the Class Period, policies and training materials related to meal periods, rest periods, timekeeping, timing of earning and payment of overtime wages, and the calculation of the regular rate for payment of overtime wages, record keeping, payment of wages during employment and at the time of separation, deductions from wages, reimbursements (including any applicable forms or procedures), scheduling and staffing, payment of sick leave and accrual, and reporting time wages.

9. Plaintiff Munoz and Defendant also conducted significant investigation of the facts and law, including, numerous conferences between counsel for the Parties, substantial document production, and review of data necessary to calculate damages. Plaintiff Munoz and Defendant researched the law as applied to the facts regarding Plaintiffs' claims and potential defenses thereto, and the damages and penalties claimed. From the documentation provided, the Parties conducted their own evaluations of the potential recoveries based on the alleged claims.

10. On May 14, 2024, Plaintiff Munoz and Defendant attended mediation with Lynn Frank, a highly experienced mediator in complex class action matters. Plaintiff Munoz and Defendant did not reach an agreement for the resolution of the action at mediation, but with the aid of a mediators' proposal, the Parties were ultimately able to reach an agreement to resolve the Action.

11. The material terms of the settlement were memorialized between Plaintiff Munoz and Defendant in a Memorandum of Agreement on June 7, 2024. The remaining terms of the

Class Action and PAGA Settlement Agreement and Release were negotiated over the following months and finalized in October 2024 between Plaintiffs Munoz, Olmsted, and Dat and Defendant. Accordingly, the Settlement was the product of arm's length bargaining by the Parties with the assistance of Ms. Frank. The information exchanged between the Parties allowed them to assess the merits of the claims and defenses, and to reach reasonable compromise on the issues.

12. At all times, the negotiations leading to the mediator's evaluation and proposal, and eventually to the long-form Settlement Agreement, have been adversarial, non-collusive, conducted at arm's length, and supported by a knowledgeable, neutral mediator.

13. Plaintiffs and Class Counsel recognized the expense and length of proceedings necessary to continue the litigation against Defendant through trial and through any appeals. Plaintiffs and Class Counsel also have considered the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel have conducted extensive settlement negotiations, including the above-mentioned mediation and through the long-form Settlement Agreement. Based on the foregoing, Plaintiffs and Class Counsel believe the Settlement set forth in this Settlement is a fair, adequate, and reasonable settlement, and it is in the best interests of the Class Members.

14. Although a settlement has been reached, Defendant denies any and all liability or wrongdoing of any sort with regard to the claims and Defendant maintains that for any purpose other than settlement, this Action is not appropriate for class action treatment. Defendant denies all allegations asserted in the operative complaint, and all claims made by Plaintiffs. Defendant asserts that it has no liability for any of Plaintiffs' or any Class Member's claims under any statute, wage order, regulation, common law, or equitable theory.

15. While Plaintiffs believe in the strength of their allegations and that their claims are appropriate for class certification, Plaintiffs and Class Counsel have balanced our evaluation of the validity and merit of the asserted claims against potential problems of proof, the legal standards governing litigation of the class claims against potential problems of proof, the uncertainty of obtaining and maintaining class certification through trial and any appeals, the expense and burden associated with prolonged litigation, and the various defenses asserted by

Defendant.

16. Based on my evaluation, I believe that the terms set forth in the Settlement are fair, adequate, and reasonable and in the best interest of the Class, including Plaintiffs.

17. As set forth more extensively above, the Parties conducted a thorough investigation into the allegations in this Action. Prior to filing the Complaint, we engaged in a significant amount of research and investigation. In lieu of engaging in formal discovery, the Parties agreed to attend mediation, and thereafter directed their efforts towards preparing for fruitful mediation through informal discovery. The Parties engaged in a significant amount of research, investigation, and information exchange prior to mediation. Defendant produced hundreds of pages of documents containing voluminous data, including multiple spreadsheets containing payroll and timekeeping data for a random and statistically significant sampling of the putative class. I believe that the substantial exchange of information is sufficient to permit the parties to realistically assess the strengths and weaknesses of their claims and defenses and to conduct an informed mediation and reasonable settlement negotiations in good faith.

18. Class Counsel engaged in numerous discussions with the Class Representatives regarding the claims set forth in the complaints.

19. Class Counsel is knowledgeable about and has conducted extensive research with respect to the applicable law and potential defenses to the claims in this Class Action and with regard to the impact of the prior settlement. Class Counsel believes Defendant produced sufficient documents and information that allowed the parties to engage in well-informed mediation based upon good faith negotiations. Information was also exchanged during the course of the mediation, which informed subsequent negotiations between the parties and the eventual agreement upon the terms of Settlement.

20. As Class Counsel, we have used this extensive informal discovery and investigation to create a comprehensive damages and potential liability model for each of the asserted claims, described below, with the assistant of an expert. This damages analysis created from the records produced was used to determine Defendant's potential liability for Plaintiffs' claims.

21. The negotiated Settlement thus resulted from the damages and potential liability model developed from Defendant's pay and time records and the remaining production documents and produced information. To this end, the parties and their counsel exchanged substantial information through informal discovery, information exchange, and correspondence. Counsel for the parties believe that they have conducted sufficient discovery, investigation and research to evaluate the strengths and weaknesses of their respective claims and defenses. After this assessment, Plaintiffs and Class Counsel believe this Settlement is fair and reasonable.

**SUMMARY OF SETTLEMENT TERMS**

22. Under the Settlement Agreement, Defendant has agreed to pay the Gross Settlement Amount of $2,800,000 to resolve the Action, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. (Settlement §4.1). The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administration Expenses Payment. (Id. ¶¶ 1.22, 4.2).

23. Subject to Court-approval, and after deductions for the PAGA Penalties (LWDA PAGA Payment plus Individual PAGA Payments), Class Representative Service Payments, the Class Counsel Fees Payment, and Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment, the remaining amount will be distributed to Class Members who did not opt-out of the Settlement as follows:

| | |
|---|---:|
| Gross Settlement Amount | $2,800,000 |
| PAGA Penalties | $140,000 |
| Administration Expenses Payment | $23,000 |
| Class Representative Service Payments | $30,000 |
| Class Counsel Fees Payment | $980,000 |
| Class Counsel Litigation Expenses Payment | $47,000 |
| Net Settlement Amount | $1,580,000 |

24. The proposed Class is defined as all persons employed by Defendant in California in a non-exempt position who worked for Defendant during the Class Period (August 4, 2018 and continuing through September 13, 2024) (Settlement Agreement, §§ 1.5, 1.13). It is estimated

there were approximately 585,405 workweeks during the Class Period and 248,585 PAGA Pay Periods during the PAGA period. (Id. § 5.1).

25. Each Participating Class Member will receive an Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. (Id. § 4.2.4). Individual Class Payments shall be allocated as 20% wages (to be reported on an IRS Form W2) and 80% interest and penalties (to be reported on an IRS Form 1099). (Id. § 4.2.4.1).

26. Each Aggrieved Employees will receive an Individual PAGA Payment calculated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($35,000.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. (Id. § 4.2.5.1).

27. The proposed Notice of Class Action Settlement ("Class Notice") provides information regarding the nature of the Action, a summary of the Settlement's terms, the Class and Class Period definitions, the Class Member's Workweeks worked during the Class Period, the estimated Individual Class Payment and formula for calculating the payment, instructions to submit Requests for Exclusion or Objections and the deadlines, and released claims. (Attached to the Settlement Agreement as **Exhibit A**).

28. Within 14 days after receiving the Class Data, the Administrator will mail the Class Notice to all Class Members via First-Class USPS. (Id. §8.4.2.). Before mailing the Class Notice, the Administrator will search the National Change of Address Database for updated contact information. (Id.). Any Class Notices returned as non-deliverable on or before the Response Deadline will be sent via First-Class USPS to the forwarding address, and the Administrator will indicate the date of re-mailing on the Notice. (Id.). If no address is provided, the Administrator will attempt to determine the correct address using a skip-trace, or other search, and will perform a single re-mailing (Id.). The "Response Deadline" is sixty (60) calendar days from the initial mailing. (Id. § 1.43). Class Members to whom a Class Notice is re-

mailed shall have fourteen (14) additional calendar days beyond the Response Deadline to submit a Request for Exclusion, an Objection, or a dispute. (Id.).

29. Any Class Member who disputes the accuracy of the number of Workweeks set forth in the Class Notice must provide written notice by the Response Deadline and submit all evidence relating to the dispute to the Administrator. (Id. §8.6).

30. Class Members who wish to opt-out from the Settlement must mail a written request for exclusion to the Administrator by the Response Deadline. (Id. §8.8.2). If more than five percent (5%) of the Class Members opt out, Defendant may, at its election, rescind the Settlement. (Id. § 10).

31. To object to the Settlement, a Class Member must not submit a Request for Exclusion and must mail a written objection containing all the required information to the Administrator before the Response Deadline. (Id. §8.7).

32. Within 21 days of Defendant's funding of the Gross Settlement Amount, the Administrator will issue payments as provided for in the Settlement. (Id. § 5.5). For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Inclusion Matters by Shane's Inspiration (the "Cy Pres Recipient"), a nonprofit disabled children's advocacy and support organization, which qualifies for a cy pres distribution under Civil Procedure Code section 384(b); provided, however, that in the event the total amount of uncashed checks exceeds $50,000, the amount that exceeds $50,000 shall be equally divided and paid to those Class Members who cashed their initial checks, with any uncashed second checks being distributed to the Cy Pres Recipient, and further, if the Cy Pres Recipient is not approved by the Court, the uncashed checks shall be distributed to the California Controller's Unclaimed Property Fund in the name of the Class Member (Id. § 5.5.3). Class Counsel and the Plaintiffs have no financial or other interest in the proposed Cy Pres recipient.

33. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator. (*Id.* § 1.2). The Administration Expenses are estimated to be $23,000 (*Id.* §

4.2.3).

34. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and all employer payroll taxes owed on the wage portion of the Individual Class Payments, Plaintiffs, Class Members, Aggrieved Employees and Class Counsel will release claims against all Released Parties as follows:

> Released Class Claims by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Complaint and ascertained in the course of the Action, including claims for (i) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for non-compliant meal and/or rest periods; (iii) failure to correctly calculate the regular rate for overtime pay, payments for non-compliant meal and/or rest periods, and/or paid sick leave; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) unauthorized and unlawful deductions from wages; (vi) failure to reimburse reasonable and necessary work-related expenses; (vii) failure to provide accurate itemized wage statements; (viii) violation of the California Unfair Competition Law; and (ix) all civil and statutory penalties, including PAGA penalties, arising during the period starting on August 4, 2018, and continuing through the date of preliminary court approval of the Settlement ("Class Release Period"). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Release Period. (*Id.* §6.2).
>
> Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Complaint, the PAGA Notice, and ascertained in the course of the Action, including PAGA penalties for (i) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for non-compliant meal and/or rest periods; (iii) failure to correctly calculate the regular rate for overtime pay, payments for non-compliant meal and/or rest periods, and/or paid sick leave; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) unauthorized and unlawful deductions from wages; (vi) failure to reimburse reasonable and necessary work-related

> expenses; (vii) failure to provide accurate itemized wage statements, arising during the period starting on May 29, 2019, and continuing through the date of preliminary court approval of the Settlement ("PAGA Release Period"). (Id. §6.3).

35. In addition to the Released Class Claims and Released PAGA Claims, Plaintiffs agreed to a general release, including a waiver of rights under California Code of Civil Procedure Section 1542. (Id. §§ 6.1, 6.1.1).

**THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

36. We are experienced wage and hour class action attorneys. We have represented, mediated, tried, and settled other wage and hour class actions and have knowledge of the strengths and weaknesses of their respective positions that are sufficient to evaluate the fairness of the proposed settlement herein.

37. Class Counsel and Plaintiffs understand the uncertain and risky nature of the class certification process as well as the potential merits of both legal and factual defenses expected to be raised by the Defendant. Based upon the uncertainty associated with Defendant's asserted defenses, the risk in certifying a class and maintaining certification through trial and any appeals, the possibility of Defendant prevailing on potentially dispositive motions, and the risk of a potential trial, Class Counsel and the Plaintiffs believe the Gross Settlement Amount to settle the Released Class Claims and Released PAGA Claims in the Action is fair, reasonable, and adequate under the circumstances and will provide Participating Class Members, Aggrieved Employees, and the State of California meaningful compensatory relief without any reversion to Defendant. The Settlement affords the Class Members prompt and substantial relief, while avoiding significant legal and factual obstacles that otherwise may have prevented the Class Members from obtaining any recovery at all. Indeed, the outcome of class certification, trial and any attendant appeals, is inherently uncertain. Throughout this litigation and the settlement process, Defendant has denied and continues to deny any liability or wrongdoing of any kind associated with Plaintiffs' claims alleged in the Actions. Defendant has also produced substantial evidence to support its defenses, such that recovery is uncertain. Defendant has also denied that, for any purpose other than settling the Action, it is appropriate for class certification.

38. The Parties have concluded that the risks, future costs and expenses involved in continuing the Action will be substantial and have chosen to eliminate any further expenses, attorneys' fees, and uncertainty in connection with the Action. In particular, given the heavily disputed nature of the case—both factual and legal grounds—it is expected that substantial expenses would be incurred in determining issues concerning formal discovery, litigating any class certification or decertification motion and appeals, bringing dispositive motions, and in connection with any trial or appeals after trial. Without admitting or conceding any liability or damages, Defendant has entered into the Settlement to fully, finally, and forever resolve this litigation and bar further litigation on the terms and conditions set forth in the Settlement, and in order to avoid the burden, expense, and uncertainty associated with litigation.

39. Plaintiffs allege that Defendant 1) failed to pay minimum wages; 2) failed to pay overtime wages; 3) failed to provide lawful meal periods; 4) failed to provide lawful rest periods; 5) failed to pay timely wages during employment; 6) failed to timely pay wages upon separation from employment; 8) made unlawful deductions; 9) knowingly and intentionally failed to comply with itemized wage statement provisions; and 10) violated the unfair competition law; Plaintiffs also allege that Defendant owes penalties pursuant to Labor Code section 2698 et seq. as a result of these alleged violations. By way of example, Plaintiffs alleged that Defendant failed to provide meal breaks or authorize and permit rest breaks as required as a matter of pattern and practice, rounded Class Members' time against their interests, failed to pay meal or rest period premiums, and failed to pay timely wages during employment and at time of separation. Defendant contended that its policies were facially compliant, that meal and rest periods were provided as required by law, that it's rounding policy was neutral, and that it timely paid all earned wages. It contended that any individual decision not to take a meal or rest period was not indicative of a common policy, but an individualized issue which could not be certified, and that any rounding policy was neutral.

40. Based upon initial review of the documents and information provided, and accounting for the risks of achieving and maintaining class status through trial and any appeals, issues of proof, and the likelihood that any PAGA penalties awarded may be significantly

reduced by the Court, Plaintiffs and Class Counsel determined that Defendant's maximum realistic liability was approximately $19,650,177 under the circumstances. The Gross Settlement Amount of $2,800,000 is approximately 14.2% of the total liability. This estimate was based on the following figures provided prior to mediation: 3,750 class members, 585,405 workweeks in the Class Period, $28.13 average hourly wage, and 214,069 PAGA pay periods. These figures do not account for interest, fees, and costs available under applicable statutes.

a. Unpaid Wages (Including Overtime): Approximately 15 minutes per shift of off-the-clock work for COVID testing, computer boot-up time, rounding, etc., totaling 683,624 hours of off-the-clock work, at $39.91 weighted average overtime pay rate per hour = $27,276,597.60. A 90% discount was applied to account for the risks inherent to maintaining class certification throughout trial given Defendant's strong individualized issues argument regarding off-the-clock work, and any appeals and to account for issues with proving this claim, bringing the total realistic value of this claim to $2,727,659.76.

b. Regular Rate Underpayments: Approximately $497,159.33 of unpaid overtime wages resulting from failure to incorporate all non-discretionary bonuses, incentives, etc. into the regular rate of pay for purposes of calculating overtime.

c. Unpaid Meal Period Premiums: 244,088 unique meal period violations x $28.55 average hourly rate = $6,968,712. A 50% discount was applied to account for the fact that Defendant paid significant premiums during the Class Period and argued that any violations would require an individual inquiry as to "why" the meal period was non-compliant, risks inherent to maintaining class certification throughout trial and any appeals and to account for issues with proving this claim, bringing the total realistic value of this claim to $3,351,510.09.

d. Unpaid Rest Period Premiums: 2,734,496 rest break violations assuming a 100% violation rate x $28.55 weighted average hourly rate = $78,079,217.45.

A 90% discount was applied to account for Defendant's argument that any violations would require an individual inquiry as to "why" a rest period was not taken given the wide autonomy Class Members had over their own schedules, the risks inherent to maintaining class certification throughout trial and any appeals and to account for issues with proving this claim, bringing the total realistic value of this claim to $7,807,921.75.

e. Unreimbursed Expenses: Plaintiffs estimated $10,963,986.82 in unreimbursed expenses related to uniforms and office supplies. A 90% discount was applied to account for the fact that Defendant paid a Work From Home ("WFH") stipend in response to the COVID-19 pandemic of $30 each pay period with the option to request additional reimbursement as well as an option to order or seek reimbursement for an office chair and desk, the risks inherent to maintaining class certification throughout trial and any appeals and to account for issues with proving this claim, bringing the total realistic value of this claim to $1,096,398.68.

f. Waiting Time Penalties: 1,447 former employees x $234.58 average daily pay x 30 days = $10,183,025.48. A 90% discount was applied to account for the disputed claims giving rise to waiting time penalties, the risks inherent to maintaining class certification throughout trial and any appeals, to account for issues with proving this claim, and to account for the fact that this claim is largely derivative of Plaintiffs' other claims, bringing the total realistic value of this claim to $1,018,302.55.

g. Failure to Comply with Itemized Wage Statement Provisions: 129,950 wage statements in the wage statement period at $50 per initial violations at and $100 per subsequent violation and $4,000 maximum penalty per employee = $10,105.350.00. A 90% discount was applied to account for the disputed claims giving rise to the wage statement violations, the risks inherent to maintaining class certification throughout trial and any appeals, to account for issues with proving this claim, obstacles in proving the violations were knowing and willful, and to account for the fact that this claim is largely derivative of Plaintiffs' other claims, bringing the total realistic value of this claim to $1,010,535.00.

h. PAGA Penalties: 224,900 PAGA Pay Periods with an estimated realistic penalty of $10 per PAGA Pay Period, which accounts for the likelihood that a Court will reduce any PAGA penalties, and difficulties in proving Defendant acted knowingly, willfully, or maliciously. The realistic maximum liability faced by Defendant for PAGA penalties is $2,140,690.00.

41. Class certification was far from certain given Defendant's defenses and the current state of the law regarding certification and establishing common questions of fact, including the decision by the California Supreme Court in *Brinker Restaurant Corp. v. Superior Court,* 53 Cal. 4th 1004 (2012). As a result, the considerable risk that Defendant could defeat certification, defeat the representative claims, and prevail on its defenses, thus defeating any and all recovery to the class, warranted a compromise of the class claims and resulted in the parties arriving at the terms of their proposed Settlement.

42. Defendant argued that its timekeeping, meal, and rest period policies were compliant, that it permitted its employees lawful meal and rest periods, and that Plaintiffs' waiting time claim was derivative of their other claims. Defendant has denied and continues to deny all of Plaintiffs' allegations and any liability.

43. The negotiated settlement of and the negotiated settlement of $2,800,000 is approximately 14.2% of the realistic maximum liability. Accordingly, I respectfully submit that this settlement is well within the ballpark of reasonableness, and that the settlement is fair, reasonable, and adequate.

44. This case also has the potential to impose significant litigation costs on all of the parties, as Defendant is expected to continue challenging Plaintiffs' allegations and to increase the pace of their investigation and opposition. Although it is difficult to foresee the ultimate result of a trial, we anticipate an expensive, complex and time-consuming process. We foresee

the possibility of a lengthy and costly appeal regardless of the outcome of trial given the unsettled legal landscape governing this case. In order to succeed on the merits, Class Members would also need to prevail on several hotly disputed legal and factual issues. Some of these issues include the ability of the proposed Class Representatives to advance the interests of all Class Members and assert claims which are representative of the entire class. Plaintiffs would need to continue to tenaciously litigate this case through intense discovery, investigation, and law and motion pertaining to manageability, class certification and possible summary judgment issues, based on Defendant's aggressive posturing and vigorous dispute of liability and damages. Given these realities, it is highly likely that the future expense of this litigation, and its likely duration if the settlement is not approved, would be significant and weigh heavily in favor of approval of this Settlement.

45. Commonality: Class Certification, as requested by the parties for the purposes of the Settlement only, should be granted because Plaintiffs allege that the proposed Class Members' claims all stem from the same alleged conduct, e.g., that Defendant failed to pay minimum and overtime wages, failed to provide lawful meal periods, failed to authorize and permit rest periods, failed to pay meal or rest period premiums, failed to timely pay wages earned during employment, failed to timely pay wages upon separation from employment, failed to provide accurate wage statements, and failed to reimburse necessary business expenses.

46. The nature and types of claims available to the Class Members are identical and arise out of application of uniform policies. For purposes of the Settlement, the main individualized differences between Class Members relate to the amount of compensation each Class Member would be entitled to receive based upon workweeks worked. This Action seeks recovery of unpaid wages and penalties pursuant to the California Labor Code, California Industrial Welfare Commission ("IWC") Wage Orders, and Section 17200 of the Business and Profession Code on behalf of Plaintiffs and the rest of the Class Members, who all share claims arising out of the same policies and practices. In addition, Defendant's primary defense that its policies were facially lawful and lawful as applied are common to all members of the Class. Under these circumstances, the commonality requirement for certification for settlement

purposes is satisfied.

47. Typicality: The typicality requirement is met, as the proposed Class Representatives and the Class Members have claimed that Defendant violated California law by the above-specified conduct. Under these specific circumstances, the typicality requirement for class certification for settlement purposes is satisfied because the Class Representatives and the proposed Class Members all claim that Defendant committed similar violations based upon similar conduct, policies and practice and they seek the same remedies. Plaintiffs contend, and Defendant does not dispute for settlement purposes, that their claims are typical of the claims of the Class Members because they arise from the same factual basis and are based upon the same legal theories as those applicable to the Class Members.

48. Adequacy and Numerosity: The adequacy requirement is also satisfied. The Class Representatives will receive reasonable awards for their time and effort assisting counsel with factual issues surrounding the case. Other than this specific payment, all Class Members will receive a proportionate share of the Net Settlement Amount based on the number of workweeks worked during the Class Period divided by the total number of workweeks worked by the Class during the Class Period. As a result, there is no conflict of interest between the Class Representatives and the Class Members. Additionally, the Class Representative and our firm have prosecuted this action vigorously on behalf of the Class Members and have represented the proposed Class's interests in obtaining documents and information related to the claims in litigation, in settlement negotiations, and at mediation. The Class Representatives and Class Counsel have vigorously prosecuted this case. Our firm is well-versed in handling complex wage and hour class action litigations such as this one and submits that the class size of approximately 3,750 Class Members is sufficiently numerous to warrant conditional class certification. Class Counsel has kept in regular touch with Plaintiffs, and believes this settlement is fair to both Plaintiffs and Class Members. I am unaware of any interests of the Class Representatives which are adverse or antagonistic to the interests of the Class.

49. Superiority: The named Class Representatives and our firm, as Class Counsel, believe that common questions of law and fact predominate over individual questions, and class-

wide treatment of this dispute is superior to individual litigation. Plaintiffs allege that the Class in this case is sufficiently cohesive, since all Class Members share a common nucleus of facts and potential legal remedies, and because all of the Class Members and the Class Representatives seek unpaid wages, unreimbursed expenses, penalties, and interest from Defendant for the allegations described herein. Plaintiffs allege that common questions predominate over individual questions, and the Class Members' potential legal remedies are identical. The alternative method of resolution is individual claims for lesser amounts of damages; however, individual cases would be uneconomical for potential plaintiffs because the cost of litigation dwarfs their potential recovery. While there are many Class Members, many of the Class Members' claims would be too small to justify individual litigation. Further, more than 3,750 separate lawsuits would be an unnecessary drain on judicial resources and could result in conflicting obligations being imposed upon Defendant. Therefore, class treatment is the preferred method of resolution.

50. Ascertainability: The proposed Class is ascertainable because all of the Class Members have worked for Defendant as employees and can be identified through Defendant's employee and personnel files and payroll records. Indeed, Defendant has already identified from its records approximately 3,750 current and former hourly non-exempt employees comprising the potential Class, which the Parties respectfully request the Court preliminarily certify for settlement purposes. Finally, for the purpose of settlement only, Plaintiffs and Defendant have stipulated to class certification.

51. The Parties' proposed Class Notice is attached to the Settlement as **Exhibit A**. The plan for providing class notice will entail the Settlement Administrator mailing the Class Notice to all known and reasonably ascertainable Class Members based on Defendant's business records by USPS first class mail. The Class Notice is consistent with notices approved by numerous state and federal courts, and is believed to be the best notice practicable under the circumstances of this case.

52. The Class Notice also fulfills the neutrality requirement. It summarizes the proceedings to date along with the terms and conditions of the Settlement in an informative and

coherent manner, and is accurate, objective, and understandable to Class Members, as is required under prevailing precedent. The Class Notice clearly states the Settlement does not constitute an admission of liability by Defendant and recognizes the Court has not ruled on the merits. It also states the final settlement approval decision has yet to be made. Accordingly, the Class Notice complies with the standards of fairness, completeness and neutrality required of a settlement class notice.

53. I have a great deal of experience in wage and hour class action litigation. I have been certified and approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others before this Court and others. Although not an all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this Action:

a. ***Mojica v. Compass Group, Inc., et. al.*** USDC Central District, Case No. 8:13-cv-01754. Wage and Hour Class Action case seeking past wages for meal and rest break violations for production workers in the State of California. Plaintiff's Counsel preliminarily appointed as Class Counsel. Case settled. Final approval granted, and funds fully disbursed.

b. ***Dao v. 3M Company, et al.*** USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock," overtime and meal and rest break violations for production workers in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. ***Ortiz v. Kmart*****,** USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. ***Morgan v. Aramark Campus, LLC,*** USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. ***West v Iron Mountain Information Management, Inc, et. al.;*** Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Stipulation for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff's counsel lead trial counsel and class counsel.

f. ***Gonzalez v. Superior Industries International, Inc.*****, et al.,** Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

g. ***Acosta v. Fleetwood Travel Trailers of California, Inc.,*** **et al.,** Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. ***Walker v. Sharkeez*****, et al.,** Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled. Final Approval granted and funds fully distributed.

i. ***Padron v. Universal Protection Service, et al*****,** Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final

Approval granted, no objections and funds fully distributed.

j. ***Martinez v. Securitas Security Services USA, et al.***, Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by Defendants in the State of California. Plaintiff's counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

k. ***Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.***, Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by Defendants in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

l. ***Ruiz, et al. v. Unisourse Worldwide, Inc., et al.***, USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by Defendants in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead Counsel.

m. ***Herrador v. Culligan International Company, et al.***, USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of Defendants in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled and awaiting Final Approval.

n. ***Defries v. Domain Restaurants, et al.***, Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of Defendants in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

o. ***Denton v. BLB Enterprises, Inc., et al.***, Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by Defendants in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. ***Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.,*** Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by Defendants in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. ***McMurray v. Dave and Busters, Inc., et al.***, Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by Defendants in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. ***Osuna v. DFG Restaurants, Inc., et al.***, Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for misclassification of managers employed by Defendants, DBA Carl's Jrs. in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. ***Burns v. Gymboree Operations, Inc.,*** **et al.,** San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by Defendants in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. ***Willems v. Diedrich Coffee, Inc., et al.,*** Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for misclassification of managers employed by Defendants in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. ***Davila, et al. v. Beckman Coulter, Inc., et al.,*** Orange County Superior Court, Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by Defendants in the State of California. Plaintiff's counsel appointed lead counsel. Cased settled, Final Approval granted, no objections and funds fully distributed.

v. ***Perez v. Naked Juice Company of Glendora, Inc.,*** Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by Defendants in the State of California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

w. ***Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour Cases***, Los Angeles Superior Court, Case No. JCCP 4545. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for security guards employed by Defendants in the State of California. Certification granted. Plaintiff's counsel appointed as co-lead counsel. Writ taken. Court stays action pending Appellate Court ruling. Court lifts stay.

x. ***Placencia v. Amcor Packaging Distribution, Inc.,*** Orange County Superior Court, Case No. 30-2013-00694012-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt production, maintenance, shipping, and receiving employees employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

y. ***Trani v. Lisi Aerospace, et al.,*** Los Angeles Superior Court, Case No. BC495527. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt manufacturing employees employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

**z.** ***Galvan v. Goodwin Co.,*** Orange County Superior Court, Case No. 30-2013-

00637062-CU-OE-CXC, Wage and Hour Class Action seeking past wages for meal period violations, and non-compliant wage statements on behalf of non-exempt production employees employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

**aa.** ***Reyes v. Bristol Fiberlite,*** Orange County Superior Court, Case No. 30-2013-00653425-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, inaccurate wage statements, and penalties on behalf of non-exempt employees employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and distribution of funds pending.

**bb.** ***Gutierrez v. HMT Tank,*** **USDC Central Dist.,** Case No. CV14-1967-CAS(MANx). Wage and Hour Class Action seeking past wages for meal and rest period violations, failure to indemnify necessary expenses, inaccurate wage statements, and penalties on behalf of non-exempt employees working in positions related to servicing, refabricating and repairing storage tanks employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

***cc.*** ***Williams v. Il Fornaio America Corp.,*** Sacramento County, Case No. 34-2011-0009616. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt restaurant employees employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, and funds fully distributed.

***dd.*** ***Aguilar v. 7-Eleven, Inc.*****,** Orange County, Case No. 30-2009-002687141-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, and penalties on behalf of non-exempt retail clerks employed by Defendants in California. Plaintiff counsel appointed as lead counsel.

Case settled. Final Approval granted, no objections and funds fully distributed.

*ee.* ***Madrigal v. Huntington Beach Market Broiler, Inc.***, Orange County, Case No. 30-2012-00611260. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt employees employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

*ff.* ***Vang v. Jazz Semiconductor, Inc.***, Orange County, Case no. 30-2011-00460278. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt production workers employed by Defendants in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

54. The Parties' Settlement asks the Court to approve an award of attorneys' fees to Class Counsel of 35% of the Gross Settlement Amount, estimated to be $980,000. (*Id.* ¶ 4.2.2). Given the extensive efforts of counsel, 35% of the Gross Settlement Amount is respectfully believed to be a reasonable award. Our firm has borne the entire risk and cost of this litigation on a pure contingency basis. The legal issues raised in this case were complex and drew significantly upon the experience of Class Counsel. The proposed attorneys' fees accurately reflect the legal marketplace and are within the range of customarily approved fees by California courts.

55. Despite the complexity of the case, Class Counsel has, through our investment of substantial effort and resources, secured an outstanding settlement on behalf of the Class Members. The issues and arguments Class Counsel has encountered and overcome in arriving at the parties' negotiated settlement terms were also many and complex and required skillful advocacy that can arise only out of experience, professional perspective, and success. Plaintiffs would have faced substantial legal and factual obstacles in demonstrating that Class certification was appropriate and that they would prevail on the merits in light of Defendant's asserted defenses. Still, Class Counsel has negotiated a substantial settlement on behalf of the Class for

such claims. Plaintiffs would have also been required to establish a significant amount of witness testimony, pattern and practice evidence, statistical evidence, sampling evidence, expert testimony, and other evidence in order to evaluate and present arguments at both class certification and trial. Defendant has vigorously challenged the claims pled in the operative complaint, contested liability, the amount of claimed damages, the propriety of Class Certification, and would have continued to do so through trial. Accordingly, Class Counsel believes the Settlement to be fair, reasonable, and adequate and that it is in the best interest of the Class Members. The fairness and adequacy of the Settlement is confirmed by all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, the various defenses asserted by Defendant, and numerous potential appellate issues. Defendant and Defendant's Counsel also agree that the settlement is fair, reasonable and adequate.

56. Plaintiffs and Class Counsel respectfully submit the fees and costs provision of the Settlement is fair and reasonable both when cross-checked under the lodestar and common fund method. The total billable hours that counsel have invested and will invest in prosecuting this action, should this honorable Court approve the settlement, is substantial. I respectfully submit that our fees and costs request is fair and reasonable because we have personally expended substantial time and effort in achieving the proposed Settlement, including the following tasks: investigating the factual and legal basis of the action; analyzing documents provided by Plaintiffs, including time and payroll documents and policy documents; investigating Defendant's organization and structure from publicly available information; preparing the Complaint and the First Amended Complaint; preparing and reviewing informal document and data discovery requests; engaging in meet and confer efforts regarding informal discovery; reviewing and analyzing hundreds of pages of document, including a significant volume of time and payroll data; conversations with defense counsel regarding the claims alleged in this action, and the information needed for analysis, preparing complex damages analysis and extrapolation of damages to the entire Class; preparing for and attending a full day of mediation; negotiating and finalizing a Settlement with Defendant's Counsel in the months following mediation; soliciting proposals from settlement administrators; and drafting the preliminary approval motion and

supporting papers. As such, I respectfully submit that a lodestar cross-check will support the reasonableness of the requested fees, and a low multiplier, if any, need be applied to reach the requested fee allocation.

57. I submit that the requested attorneys' fees are fair and reasonable, as are the hourly rates at which our attorneys bill. The fee request (at final approval) will be supported by a detailed explanation of the qualifications of each timekeeper, and their corresponding hourly rate, along with an explanation of the amount of time performed on the various tasks performed on behalf of Plaintiffs and the Class Members.

58. The Settlement that Class Counsel has negotiated on behalf of the Class confronts exceedingly difficult and individualized issues which make certification and proof of merits challenging and work intensive. I and our firm's attorneys and paralegals have secured this Settlement through persistent advocacy of the class claims, which has applied legal nuances and negotiation techniques to achieve a very favorable result for the Class Members. Other attorneys without our experience and comprehensive knowledge and perspective in connection with complex employment litigation would not have been able to achieve such superior settlement terms on behalf of the Class and would not have been able to do so in the time in which we accomplished settlement. I believe the Class Counsel Fees Payment under the Settlement is a reasonable allocation given the excellent result we have secured for the Class Members. I, therefore, respectfully request the Court approve the allocated attorneys' fees under the parties' Settlement. Defendant and its counsel do not oppose the requested fee allocation.

59. In serving as Plaintiffs' counsel and Class Counsel in this matter, Class Counsel will also seek reimbursement for the out-of-pocket costs up to $47,000. (*Id.* ¶ 4.2.2). Any sums not awarded will be available for distribution to the Class as part of the Net Settlement Amount. I will provide the Court with a detailed summary of the total costs at the time of the Final Approval Motion. These fees and costs are reasonable and necessarily incurred in litigating this matter and in pursuit of the settlement.

60. The Settlement also provides for Class Representative Service Payments of $10,000 to be paid to each of the Plaintiffs, for a total of $30,000. (*Id.* ¶ 4.2.1). Plaintiffs

provided extensive supporting documents and knowledge in assisting counsel in developing information necessary to litigate and settle this case. Plaintiffs also conducted extensive record review and consultation with counsel to assist in evaluating and proving the claims and provided information and documents that were vital to Class Counsel's prosecution of this matter, and dedicated invaluable effort required to advance this matter to resolution. They also assisted counsel in preparing for mediation and made themselves available during mediation to answer any questions that arose, and have been actively involved in this matter since its inception. The primary consideration for this payment is to compensate the Plaintiffs for their services and efforts to prosecute this class action, and the risk and potential consequences they assumed by virtue of serving as Class Representatives and Plaintiffs. The proposed Class Representative Service Payments are a small portion of the Gross Settlement Amount, and little in comparison to the Net Settlement Amount guaranteed to be paid to the Settlement Class. The payment is fair and justified as part of the Settlement. Per Defendant's request, Plaintiffs have also individually executed a general release of all known and unknown claims, as opposed to the limited release by participating Class Members. (*Id.* ¶ 6.1). Plaintiffs are not receiving preferential treatment, and all participating Class Members will receive compensation consistent with their proportional share through the efforts of Plaintiffs in the context of this suit. Plaintiffs will provide declarations regarding their efforts at the time of final approval.

**NOTICE TO LWDA**

61. On November 13, 2024 a copy of the proposed Settlement Agreement was submitted to the Labor Workforce and Development Agency. A true and correct copy of the submission confirmation is attached hereto as **Exhibit 2**.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 21, 2024 in Irvine, California.

James R. Hawkins

Exhibit 1

**CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND RELEASE**

This Class Action and PAGA Settlement Agreement and Release ("Agreement") is made by and between plaintiffs Douglass Olmsted, Andrew Dat, and Fidel Antonio Munoz ("Plaintiffs") and defendant Mercury Insurance Services, LLC ("Defendant"). The Agreement refers to Plaintiffs and Defendant collectively as the "Parties," or individually as a "Party."

## 1. DEFINITIONS

As used in this Agreement, and capitalized terms shall have the following meanings:

1.1. "Actions" mean the respective Plaintiffs' lawsuits as follows:

1.1.1. *Douglass Olmsted v. Mercury Insurance Services, LLC, et al.*, pending in the Superior Court of the State of California for the County of Santa Clara, Case No. 21CV276878 ("Olmsted Action")

1.1.2. *Andrew Dat v. Mercury Insurance Services, LLC, et al.*, pending in the Superior Court of the State of California for the County of Orange, Case No. 30-2022-01273495-CU-OE-CXC ("Dat Action")

1.1.3. *Fidel Antonio Munoz v. Mercury Insurance Services, LLC, et al.*, pending in the Superior Court of the State of California for the County of Los Angeles, Case No. 24STCV08298 ("Munoz Action")

1.2. "Administrator" means Phoenix Settlement Administrators ("Phoenix"), the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. "Aggrieved Employee" means an individual who was employed by and worked for Defendant in the State of California in a non-exempt position during the PAGA Period.

1.5. "Class" means all persons employed by Defendant in California in a non-exempt position who worked for Defendant during the Class Period.

1.6. "Class Counsel" means James R. Hawkins, Christina M. Lucio, Mitchell J. Murray and the law firm of James Hawkins APLC; Graham S.P. Hollis, Nathan Reese and the law firm of GrahamHollis APC; and Zachary Crosner, Sepideh Ardestani, and the law firm of Crosner Legal, PC.

1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and legally recoverable costs and expenses, respectively, incurred to prosecute the Action.

1.8. "Class Data" means Class Member identifying information in Defendant's possession, including the Class Member's name, last-known mailing address, Social Security number, and number of Class Workweeks and PAGA Pay Periods.

1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee). Participating Class Members also are Aggrieved Employees.

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using reasonably available sources, methods and means including, the National Change of Address database.

1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, in the form, without material variation, attached hereto as Exhibit A and as approved by the Court, which shall be mailed to Class Members in English.

1.12. "Class Workweeks" means any week during which a Class Member worked for Defendant on at least one workday during the Class Period and received a wage statement.

1.13. "Class Period" means the period starting on August 4, 2018, and continuing through September 13, 2024, and is for identifying Class Members only, and not for defining the periods of the releases applicable to the Released Class Claims.

1.14. "Class Representative" means the named Plaintiffs in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative (*i.e.*, Douglass Olmsted, Andrew Dat, and Fidel Antonio Munoz).

1.15. "Class Representative Service Payments" means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.

1.16. "Court" means the Superior Court of California, County of Los Angeles, and the department of the Court in which the Munoz Action is pending.

1.17. "Defendant" means Mercury Insurance Services, LLC, the named defendant in the Action.

1.18. "Defense Counsel" means Blake R. Bertagna, and the law firm Paul Hastings LLP.

1.19. "Effective Date" means the date by when both of the following have occurred:

(1) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (2) the Judgment is final. The Judgment is "final" as of the latest of the following occurrences: if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; 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 if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.20. "Final Approval" means the Court's order granting final approval of the Settlement.

1.21. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.22. "Gross Settlement Amount" means two million eight hundred thousand dollars ($2,800,000), which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraphs 4.2 and 9, below. The Gross Settlement Amount will be used to pay the Individual Class Payments, the Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payments and the Administrator's Expenses.

1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Class Workweeks by the Class Member during the applicable Class Period as compared to the total number of Class Workweeks by all Class Members.

1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of wage statements received by the Aggrieved Employee during the PAGA Period compared to the total number of wage statements received by all Aggrieved Employees.

1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.26. "LWDA" means the California Labor and Workforce Development Agency.

1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties, which shall be paid to the LWDA pursuant to California Labor Code section 2699(i).

1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the Individual PAGA Payments, the LWDA PAGA Payment, the Class Representative Service Payment, the Class Counsel Fees Payments, the Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. "PAGA Pay Period" means any bi-weekly pay period during which an Aggrieved Employee worked for Defendant on at least one workday during the PAGA Period and received a wage statement.

1.31. "PAGA Period" means the period starting on May 29, 2019, and continuing through September 13, 2024, and is for identifying Aggrieved Employees only, and not for defining the period of the releases applicable to the Released PAGA Claims.

1.32. "PAGA" means the Private Attorneys General Act, California Labor Code sections 2698, *et seq*.

1.33. "PAGA Notice" means Plaintiff Munoz's November 29, 2023, and May 2, 2024, letters, Plaintiff Olmsted's May 5, 2020, letter, and Plaintiff Dat's July 18, 2022, letter to Defendant and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.34. "PAGA Penalties" means the total amount of one hundred and forty thousand dollars ($140,000) to be paid from the Gross Settlement Amount for PAGA civil penalties, allocated 25% to the Aggrieved Employees ($35,000) and the 75% for the LWDA PAGA Payment ($105,000) in settlement of all PAGA claims.

1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. "Plaintiffs" mean Douglass Olmsted, Andrew Dat, and Fidel Antonio Munoz, the named plaintiffs in the Action.

1.37. "Preliminary Approval" means the Court's preliminary approval of the Settlement.

1.38. "Preliminary Approval Order" means the Court's order granting Preliminary Approval of the Settlement.

1.39. "Released Class Claims" means the claims being released for the period of time as described in Paragraph 6.2 below.

1.40. "Released PAGA Claims" means the claims being released for the period of time as described in Paragraph 6.3 below.

1.41. "Released Parties" means: Defendant and each of its former and present parents, subsidiaries, and affiliates, and their directors, officers, employees, shareholders, owners, and agents, and the current and former predecessors, successors, assigns, attorneys, and insurers of all such entities and individuals.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Settlement of the Class Claims in the Action signed by the Class Member. A Class Member may not request to be excluded from the Settlement of the PAGA Claims in the Action.

1.43. "Response Deadline" means 60 days after the Administrator mails the Court approved Class Notice to the Class Members and shall be the last date on which a Class Member may mail a Request for Exclusion from, or Objection to, the Settlement. The Request for Exclusion or Objection must be postmarked by the Response Deadline. If a Class Notice is re-sent after having been returned undeliverable to the Administrator, the Response Deadline shall be extended by 14 calendar days.

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

## 2. RECITALS

2.1. On January 29, 2021, Plaintiff Olmsted filed a Representative Action under PAGA against Defendant seeking civil penalties.

2.2. On August 4, 2022, Plaintiff Dat filed a class action complaint alleging various wage and hour causes of action against Defendant for: (1) recovery of unpaid minimum wages and liquidated damages; (2) recovery of unpaid overtime wages; (3) failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof; (5) failure to furnish accurate itemized wage statements; (6) failure to pay all wages due upon separation of employment; (7) failure to reimburse business expenses; and (8) unfair competition. On September 22, 2022, Plaintiff Dat filed a First Amended Class Action Complaint, adding a cause of action for violation of PAGA.

2.3. On April 4, 2024, Plaintiff Munoz filed a class action complaint alleging various wage and hour causes of action against Defendant for: (1) failure to pay minimum wages; (2) failure to pay overtime owed; (3) failure to provide lawful meal periods: (4) failure to authorize and permit rest periods; (5) failure to timely pay wages during employment; (6) failure to timely pay wages owed upon separation of employment; (7) unlawful deductions; (8) knowing and intentional failure to comply with itemized wage statement provisions; and (9) violation of Unfair Competition Law. On May 3, 2024, Plaintiff filed a First Amended Complaint adding a cause of action for failure to reimburse necessary business expenses. On June 10, 2024, Plaintiff filed a Second Amended Complaint adding a cause of action for civil penalties pursuant to PAGA.

2.4. As part of the Settlement, and as further discussed in Paragraph 3.1 below, Plaintiff Munoz agrees to file a Third Amended Complaint, adding Plaintiff Olmsted and Plaintiff Dat as plaintiffs, and consolidating the claims of all the

Plaintiffs and reflecting the scope of the claims settled and released herein (the "Operative Complaint").

2.5. Defendant denies the allegations in each of the complaints in the Action, including the to-be-filed Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for any of the causes of action alleged.

2.6. Pursuant to Labor Code section 2699.3(a), Plaintiffs mailed the PAGA Notice.

2.7. On May 16, 2024, the Parties participated in an all-day mediation presided over by mediator Lynn Frank, which was successful in reaching the material terms memorialized in this Agreement to settle the Action.

2.8. Prior to mediation, Plaintiff Munoz obtained, through informal discovery, documents, and information, including class size and wage statement data. Plaintiff Olmsted was provided similar information in connection with an earlier mediation in his case. Class Counsel's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) ("*Dunk/Kullar*").

2.9. The Court has not granted class certification.

## 3. AMENDMENT OF COMPLAINT

3.1. The Parties agree as part of this Settlement to enter a stipulation for a third amendment of the Complaint in the Munoz Action to add Douglass Olmsted and Andrew Dat as additional plaintiffs and to incorporate the class and PAGA claims and allegations by Plaintiffs in the Olmsted Action and Dat Action. The parties will file a stipulation for this amendment within five (5) court days of full execution of this Agreement. The Parties agree to this amendment for settlement purposes only, and without prejudice to any arguments any of the Parties might make should the settlement not be approved, in which case the Third Amended Complaint would be withdrawn by Plaintiffs. Upon the Court entering an order on the stipulation allowing the filing of the Third Amended Complaint, the Olmsted Action and the Dat Action shall be stayed pending Final Approval of the Settlement in the Munoz Action. Within 5 court days of the Court entering Judgment in the Munoz Action, Plaintiff Olmsted and Plaintiff Dat will take all necessary action to effect the dismissal of their complaints with prejudice as to Plaintiff Olmsted and Plaintiff Dat's individual claims, and as moot as to the claims of the individuals who Olmsted and Dat sought to represent in their respective actions

## 4. MONETARY TERMS

4.1. Gross Settlement Amount. Defendant promises to pay two million eight hundred thousand dollars ($2,800,000), and no more as the Gross Settlement Amount (and to separately pay the employer payroll taxes owed on the wage portions of the Individual Class Payments). Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

4.2.1. To Plaintiff: A Class Representative Service Payment to the Class Representatives of $10,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as Participating Class Members), subject to Court approval. Defendant will not oppose Plaintiffs' request for a Class Representative Service Payments that does not exceed this amount. As part of the motion for the Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for the Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payments that are less than the amount requested, the Administrator will add the difference to the Net Settlement Amount. The Administrator will issue the Class Representatives an IRS Form 1099 for the Class Representative Service Payment. Plaintiffs assume full responsibility and liability for any taxes owed on the Class Representative Service Payments.

4.2.2. To Class Counsel: A Class Counsel Fees Payment of 35% of the Gross Settlement Amount, *i.e.*, $980,000, and a Class Counsel Litigation Expenses Payment of not more than $47,000, both subject to Court Approval. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for the Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment in amounts less than requested, the Administrator will add the difference to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other attorney arising from any claim of entitlement to all or some portion the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will issue Class Counsel an IRS Form 1099 for the Class Counsel Fees Payment and Class Counsel Expenses Payment. Class Counsel assume full responsibility and liability for any taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment, and agree to hold Defendant harmless, and indemnify Defendant, from any dispute or controversy regarding any division or sharing of any of these payments between or among Class Counsel and/or any other person or entity.

4.2.3. To the Administrator: An Administrator Expenses Payment not to exceed $23,000 subject to approval of the Court. If the Court approves an Administration Expenses Payment that is less than the amount requested, the Administrator will add the difference to the Net Settlement Amount.

4.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Class Workweeks for all Participating Class Members and (b) multiplying the result by each Participating Class Member's Class Workweeks, provided, however, that the distribution formula may be modified so that no participating Class Member receives a payment of less than $10.00.

4.2.4.1 Tax Allocation of Individual Class Payments. Twenty percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portion is subject to tax withholding and will be reported on an IRS Form W-2. The remaining eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties, with 40% being allocated to penalties and 40% being allocated to interest (the "Non-Wage Portion"). The Non-Wage Portion is not subject to tax withholdings and will be reported on an IRS Form 1099. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

4.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will remove the Class Workweeks of Non-Participating Class Members and recalculate the Individual Class Payments of the Participating Class Members based on their share of the remaining Class Workweeks.

4.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of one hundred forty-thousand dollars ($140,000) will be paid from the Gross Settlement Amount, with 75% ($105,000) allocated to the LWDA PAGA Payment and 25% ($35,000) allocated to the Individual PAGA Payments.

4.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the Aggrieved Employees' 25% share of the PAGA Penalties (*i.e.*, $35,000) by the total number of PAGA Pay Periods for all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each Aggrieved Employee. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

4.2.5.2 If the Court approves PAGA Penalties of less than the amount allocated by Parties for PAGA Penalties, the Administrator will add the difference to the Net Settlement Amount. The Administrator will issue each Aggrieved Employee an IRS Form 1099 for their Individual PAGA Payment.

## 5. SETTLEMENT FUNDING AND PAYMENT

5.1. Class Workweeks and PAGA Pay Periods. Based on a review of its records, Defendant estimates that Class Members worked a total of 585,405 Class Workweeks from August 4, 2018, through May 1, 2024, and that Aggrieved Employees worked a total of 248,585 PAGA Pay Periods from May 29, 2019, through May 1, 2024.

5.2. Escalator Provision. If the total Class Workweeks and total PAGA Pay Periods exceed the totals represented in Paragraph 5.1 by more than 10% (*i.e.*, more than 643,946 Class Workweeks or 273,444 PAGA Pay Periods) as of September 13, 2024, the Gross Settlement Amount shall be increased proportionally. For example, if the total Class Workweeks is determined to be 649,799, the Gross Settlement Amount shall increase 1% or $28,000. If this escalator provision is triggered, Defendant shall have the option to have the Class Period and PAGA Period expire as of the last date the Class Workweeks and PAGA Pay Periods were below the escalator trigger and not incur any additional amounts.

5.3. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Parties shall instruct the Administrator to maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to the Administrator's employees who need access to the Class Data to effect and perform under this

Agreement. Defendant has a continuing duty to immediately notify Class Counsel if they discover that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

5.4. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes, by transmitting the funds to the Administrator no later than 30 calendar days after the Effective Date.

5.5. Payments from the Gross Settlement Amount. Within 21 calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks or otherwise issue payments for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

5.5.2. The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without a USPS forwarding address. Within 10 calendar days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced if requested by the Class Member prior to the void date.

5.5.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Inclusion Matters by Shane's Inspiration, a nonprofit disabled children's advocacy and support organization, which qualifies for a cy pres distribution under Civil Procedure Code section 384(b) (the "Cy Pres Recipient"); provided, however, that in the event the total amount of uncashed checks exceeds $50,000, the amount that exceeds $50,000 shall be equally divided and paid to those Class Members who cashed their initial checks, with any uncashed second checks being distributed to the Cy Pres Recipient, and further, if the Cy Pres Recipient is not approved by the Court, the uncashed checks shall be distributed to the California State Controller's Unclaimed Property Fund. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

5.5.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

## 6. RELEASES OF CLAIMS

Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1. Plaintiffs' General Release of All Claims. Plaintiffs, on behalf of themselves and their respective former and present spouse (if any), representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and forever discharge the Released Parties from any and all known and unknown claims, transactions, or occurrences under any statute, common law or contract, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Complaint, and specifically, claims for (i) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for non-compliant meal and/or rest periods; (iii) failure to correctly calculate the regular rate for overtime pay, payments for non-compliant meal and/or rest periods, and/or paid sick leave; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) unauthorized and unlawful deductions from wages; (vi) failure to reimburse reasonable and necessary work-related expenses; (vii) failure to provide accurate itemized wage statements; (viii) violation of the California Unfair Competition Law; and (ix) all civil and statutory penalties, other than PAGA penalties; and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Complaint, Plaintiffs' PAGA Notices, or ascertained during the Action and released under 6.2, below, including those premised upon the same alleged above-described claims ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

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

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

6.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Complaint and ascertained in the course of the Action, including claims for (i) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for non-compliant meal and/or rest periods; (iii) failure to correctly calculate the regular rate for overtime pay, payments for non-compliant meal and/or rest periods, and/or paid sick leave; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) unauthorized and unlawful deductions from wages; (vi) failure to reimburse reasonable and necessary work-related expenses; (vii) failure to provide accurate itemized wage statements; (viii) violation of the California Unfair Competition Law; and (ix) all civil and statutory penalties, including PAGA penalties, arising during the period starting on August 4, 2018, and continuing through the date of preliminary court approval of the Settlement ("Class Release Period"). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Release Period.

6.3. Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Complaint, the PAGA Notice, and ascertained in the course of the Action, including PAGA penalties for (i) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for non-compliant meal and/or rest periods; (iii) failure to correctly calculate the regular rate for overtime pay, payments for non-compliant meal and/or rest periods, and/or paid sick leave; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) unauthorized and unlawful deductions from wages; (vi) failure to reimburse reasonable and necessary work-related expenses; (vii) failure to provide accurate itemized wage statements, arising during the period starting on May 29, 2019, and continuing through the date of preliminary court approval of the Settlement ("PAGA Release Period").

## 7. MOTION FOR PRELIMINARY APPROVAL

Plaintiffs shall prepare, provide to Defense Counsel for review and input, and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for preliminary approvals.

7.1. Defendant's Declaration in Support of Preliminary Approval. Within 30 calendar days of the full execution of this Agreement, Defense Counsel will deliver to Class Counsel a signed declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient, or that there are no such conflicts.

7.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class

Members and/or the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator, and/or the proposed Cy Pres; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the Parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient.

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

7.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

## 8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected Phoenix to serve as the Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

8.4. Notice to Class Members.

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

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

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

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

8.4.5. If the Administrator, Defendant, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone in a good faith effort to agree on whether to include them as Class

Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5. Requests for Exclusion (Opt-Outs).

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

8.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 5.2, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

8.6. Challenges to Calculation of Class Workweeks and PAGA Pay Periods. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Class Workweeks and PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Class Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Class Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel, as well as the Administrator's preliminary determination of the challenge. Defense Counsel and Class Counsel will meet and confer over the Administrator's preliminary determination of a challenge and if they do not agree, the dispute will be submitted to the Court whose decision will be final and binding.

8.7. Objections to Settlement.

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

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

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

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

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

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

8.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Class Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

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

**9. CLASS SIZE ESTIMATES.** Based on a review of its records as of April 15, 2024, Defendant estimates that there are 3,750 Class Members, 3,476 of whom also are Aggrieved Employees.

**10. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 10 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

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

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

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

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

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

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

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

**13. ADDITIONAL PROVISIONS**

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

13.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit another person to disclose, disseminate, or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect.

13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this Paragraph 12.3 shall be construed to restrict Class Counsel's ability to communicate with Class

Members in accordance with Class Counsel's ethical obligations owed to Class Members.

13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

13.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

13.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to California Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiffs:

James R. Hawkins, Esq.
Christina M. Lucio, Esq.
Mitchell J. Murray, Esq.
JAMES HAWKINS APLC
9880 Research Drive
Irvine, CA 92618

Graham S.P. Hollis, Esq.
Nathan Reese, Esq.
GRAHAM**HOLLIS** APC

3555 Fifth Avenue Suite 200
San Diego, California 92103

Zachary Crosner, Esq.
Sepideh Ardestani, Esq.
CROSNER LEGAL, PC
9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210

To Defendant:

Blake R. Bertagna, Esq.
Paul Hastings LLP
695 Town Center Drive, 17th Floor
Costa Mesa, California 92626

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

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

**PLAINTIFF AND CLASS REPRESENTATIVE:**

Dated: 10/24/24

By: Fidel Munoz
Fidel Munoz (Oct 24, 2024 16:26 PDT)
FIDEL ANTONIO MUNOZ

Dated:

By: ______________________
DOUGLASS OLMSTED

Dated:

By: ______________________
ANDREW DAT

**CLASS COUNSEL:**

Dated: 10/24/24

JAMES HAWKINS APLC

By: ______________________
JAMES HAWKINS

GRAHAM**HOLLIS** APC

By: ______________________
GRAHAM HOLLIS

CROSNER LEGAL, PC

By: ______________________
SEPIDEH ARDESTANI

Dated:

**DEFENDANT:**

MERCURY INSURANCE SERVICES, LLC

By: ______________________

**PLAINTIFF AND CLASS REPRESENTATIVE:**

Dated: By: ______________________________
FIDEL ANTONIO MUNOZ

Dated: 11/4/2024 By: DocuSigned by: Douglass Olmsted 87E3E6F1A8FB47E...
DOUGLASS OLMSTED

Dated: By: ______________________________
ANDREW DAT

**CLASS COUNSEL:**

Dated: JAMES HAWKINS APLC

By: ______________________________
JAMES HAWKINS

GRAHAM**HOLLIS** APC

11/04/2024 By: ______________________________
GRAHAM HOLLIS

CROSNER LEGAL, PC

By: ______________________________
SEPIDEH ARDESTANI

Dated: **DEFENDANT:**

MERCURY INSURANCE SERVICES, LLC

By: ______________________________

**PLAINTIFF AND CLASS REPRESENTATIVE:**

Dated: By: ______________________________
FIDEL ANTONIO MUNOZ

Dated: By: ______________________________
DOUGLASS OLMSTED

Dated: 10 / 26 / 2024 By: ______________________________
ANDREW DAT

**CLASS COUNSEL:**

Dated: JAMES HAWKINS APLC

By: ______________________________
JAMES HAWKINS

GRAHAM**HOLLIS** APC

By: ______________________________
GRAHAM HOLLIS

10/28/2024 CROSNER LEGAL, PC

By: ______________________________
SEPIDEH ARDESTANI

Dated: **DEFENDANT:**

MERCURY INSURANCE SERVICES, LLC

By: ______________________________

**PLAINTIFF AND CLASS REPRESENTATIVE:**

Dated: By: ______________________________
FIDEL ANTONIO MUNOZ

Dated: By: ______________________________
DOUGLASS OLMSTED

Dated: By: ______________________________
ANDREW DAT

**CLASS COUNSEL:**

Dated: JAMES HAWKINS APLC

By: ______________________________
JAMES HAWKINS

GRAHAM**HOLLIS** APC

By: ______________________________
GRAHAM HOLLIS

CROSNER LEGAL, PC

By: ______________________________
SEPIDEH ARDESTANI

Dated: **DEFENDANT:**

MERCURY INSURANCE SERVICES, LLC

October 30, 2024 By: ______________________________

**DEFENSE COUNSEL:**

Dated: PAUL HASTINGS LLP

By: Blake Bertagna
BLAKE R. BERTAGNA

Exhibit A

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

*Fidel Antonio Munoz v. Mercury Insurance Services, LLC, et al.*
(Los Angeles Superior Court Case No. 24STCV08298)

***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 defendant Mercury Insurance Services, LLC ("Defendant") for alleged wage and hour violations as well as claims for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). The Action consolidates three separate actions that were initially filed by former and/or current employees of Defendant, Douglass Olmsted, Andrew Dat, and Fidel Antonio Munoz (collectively, "Plaintiffs").

The Action seeks payment for alleged wage and hour violations that occurred during the "Class Period," which means the period for identifying Class Members only, and not for defining the periods of the releases applicable to the Released Class Claims, which starts on August 4, 2018, and continues through September 13, 2024.

"Class" means all persons employed by Defendant in California in a non-exempt position who worked for Defendant during the Class Period.

The Action also seeks penalties on behalf of Aggrieved Employees for alleged wage and hour violations that occurred during the "PAGA Period," which means the period for identifying Aggrieved Employees only, and not for defining the period of the releases applicable to the Released PAGA Claims, which the period starts from May 29, 2019, and continues through September 13, 2024.

Plaintiffs and Defendant have reached a proposed settlement under which you may be entitled to receive money. The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, you worked a total of ____ class pay periods and PAGA pay periods with Defendant, and the Parties' current assumptions, **your Individual Class Payment is estimated to be $______ (less withholding) and your Individual PAGA Payment is estimated to be $______**.

The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

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

If you are a Class Member or an Aggrieved Employee as defined above, you have two basic options under the Settlement:

(1) **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, you will receive an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

| | |
|---|---|
| **You Don't Have to Do Anything to Participate in the Settlement** | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if eligible). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims). |

| | |
|---|---|
| **You Can Opt-out of the Class Settlement but not the PAGA Settlement**<br><br>**The Opt-out Deadline is ______________** | If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section **6** of this Notice.<br><br>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue the PAGA claims listed in Section **10** of this Notice. |
| **Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement**<br><br>**Written Objections Must be Submitted by ______________** | All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section **7** of this Notice. |
| **You Can Participate in the ______________ Final Approval Hearing** | The Court's Final Approval Hearing is scheduled to take place on ______________. 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 Payment**<br><br>**Written Challenges Must be Submitted by ______________** | The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Pay Periods you worked during the Class Period. The number of Class Pay Periods and/or PAGA Pay Periods you worked according to Defendant's records is stated above. If you disagree with either of this number, you must challenge it by ______________. |

## 1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees who worked for Defendant. The Action accuses Defendant of violating California labor laws by its alleged: (1) failure to pay minimum wages; (2) failure to pay overtime owed; (3) failure to provide lawful meal periods: (4) failure to authorize and permit rest periods; (5) failure to timely pay wages during employment; (6) failure to timely pay wages owed upon separation of employment; (7) unlawful deductions; (8) knowing and intentional failure to comply with itemized wage statement provisions; and (9) failure to reimburse necessary business expenses. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: James R. Hawkins, Christina M. Lucio, Mitchell J. Murray and the law firm of James Hawkins APLC; Graham S.P. Hollis, Nathan Reese and the law firm of GrahamHollis APC; and Zachary Crosner, Sepideh Ardestani, and the law firm of Crosner Legal, PC ("Class Counsel.")

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

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

So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator Lynn Frank, in an effort to resolve the Action by negotiating an end to the case by agreement (settlement of the case) rather than continuing the expensive and time-consuming process of litigation. The Parties successfully settled the matter at mediation. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendant have negotiated a proposed Settlement that is subject to the Court's final approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine final approval.

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

1. Defendant Will Pay $2,800,000 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and a payment to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants final approval, Defendant will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions

from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to $ $980,000 (35% of the Gross Settlement) to Class Counsel for attorneys' fees and up to $47,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to $10,000 each to Douglass Olmsted, Andrew Dat, and Fidel Antonio Munoz as a Class Representative Award for filing their lawsuits, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment and any Individual PAGA Payment.

C. Up to $23,000 to the Administrator for services administering the Settlement.

D. Up to $140,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement"). Participating Class Members will receive their pro rata share of the Net Settlement Amount calculated according to the number of Class Pay Periods worked by the Class Member during the applicable Class Period as compared to the total number of Class Pay Periods worked by all Class Members, provided, however, that no participating Class Member receives a payment of less than $10.00.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 20% of each Participating Class Member's payment of his/her/their pro rata share of the Net Settlement Amount to settlement of wage claims (the "Wage Portion"), and 80% of each Participating Class Member's payment of his/her/their pro rata share of the Net Settlement Amount to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Defendant will separately pay the employer payroll taxes owed on the Wage Portions. The Non-Wage Portions are not subject to tax withholdings. The Individual PAGA Payments also are for settlement of claims for penalties. The Administrator will report the Non-Wage Portions of the Individual Class Payments and the Individual PAGA Payments on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and/or Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, the monies will no longer be available to you.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed), that you wish to opt-out. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her/their representative setting forth the Class Member's name, present address, telephone number, and a simple statement of a desire to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against 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) will still receive an Individual PAGA Payment and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

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

8. Administrator. The Court has appointed a neutral company, 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 Class Pay Periods and PAGA Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement, 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, or be part of another lawsuit against Defendant or its 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, including those who also are Aggrieved Employees, will be bound by the following release:

> All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators,

successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Complaint and ascertained in the course of the Action, including claims for (i) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for non-compliant meal and/or rest periods; (iii) failure to correctly calculate the regular rate for overtime pay, payments for non-compliant meal and/or rest periods, and/or paid sick leave; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) unauthorized and unlawful deductions from wages; (vi) failure to reimburse reasonable and necessary work-related expenses; (vii) failure to provide accurate itemized wage statements; (viii) violation of the California Unfair Competition Law; and (ix) all civil and statutory penalties, including PAGA penalties, arising during the period starting on August 4, 2018, and continuing through the date of preliminary court approval of the Settlement ("Class Release Period"). Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Release Period.

10. <u>PAGA Release by Non-Participating Class Members Who Are Aggrieved Employees</u>. After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Non-Participating Class Members who are Aggrieved Employees will be barred from asserting PAGA claims against Defendant, despite excluding themselves from the Settlement. This means that all Aggrieved Employees, who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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

> All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Complaint, the PAGA Notice, and ascertained in the course of the Action, including PAGA penalties for (i) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for non-compliant meal and/or rest periods; (iii) failure to correctly calculate the regular rate for overtime pay, payments for non-compliant meal and/or rest periods, and/or paid sick leave; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) unauthorized and unlawful deductions from wages; (vi) failure to reimburse reasonable and necessary work-related expenses; (vii) failure to

provide accurate itemized wage statements, arising during the period starting on May 29, 2019, and continuing through the date of preliminary court approval of the Settlement ("PAGA Release Period").

## 4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments as follows: All Participating Class Members will receive a minimum payment equal to $10.00. The remaining Net Settlement Amount will be distributed pro rata according to the number of Class Pay Periods worked by the Class Member during the applicable Class Period as compared to the total number of Class Pay Periods worked by all Class Members.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments as follows: All Class Members who are Aggrieved Employees will receive their pro rata share of 25% of the PAGA Penalties payment.

3. Challenges to Number of Class Pay Periods and PAGA Pay Periods. You have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Pay Periods and PAGA Pay Periods attributed to you. You may challenge the determination and/or calculation by communicating with the Administrator via email or mail. You cannot appeal or otherwise challenge the Administrator's decision.

## 5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send payments by U.S. mail to every Participating Class Member (*i.e.*, every Class Member who doesn't opt-out), including those who also qualify as Aggrieved Employees. The Non-Wage Portion of the Individual Class Payment and the Individual PAGA Payment will be combined and paid in a single check.

2. Non-Participating Class Members. The Administrator will send by U.S. mail a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (*i.e.*, every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as *Fidel Antonio Munoz v. Mercury Insurance Services, LLC, et al.,* Los Angeles Superior Court Case No. 24STCV08298, 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 Plaintiffs and Defendant are asking the Court to approve. At least _____ days before the Final Approval Hearing on [date], Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, adequate and reasonable, 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 Plaintiffs are 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 Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is ______________**. 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 *Fidel Antonio Munoz v. Mercury Insurance Services, LLC, et al.,* Los Angeles Superior Court Case No. 24STCV08298 and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on ______________ at __(time)__ in Department 12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (https://www.lacourt.org/lacc/. 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 Defendant and Plaintiffs have promised to do under the proposed Settlement. You can read the Agreement, the Judgment or any other Settlement documents by going to the Administrator's Website ________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 (http://www.lacourt.org/casesummary/ui/index.aspx) and entering the Case Number for the Action, Case No. 24STCV08298. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:
Name of Attorney: James R. Hawkins, Christina M. Lucio, Mitchell J. Murray
Email Address: James@Jameshawkinsaplc.com; Christina@Jameshawkinsaplc.com; mitchell@jameshawkinsaplc.com
Name of Firm: JAMES HAWKINS APLC
Mailing Address: 9880 Research Drive, Irvine, CA 92618
Telephone: (949) 387-7200

Settlement Administrator:
Name of Company: Phoenix Settlement Administrators
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.

## 11. WHAT IF I CHANGE MY ADDRESS?

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

# Exhibit 2

| | |
|---|---|
| **From:** | DIR PAGA Unit |
| **To:** | Mitchell J Murray |
| **Subject:** | Thank you for your Proposed Settlement Submission |
| **Date:** | Wednesday, November 13, 2024 2:05:23 PM |

11/13/2024 02:05:03 PM

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

Item submitted: Proposed Settlement
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