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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

ROBERT BARAY, on behalf of himself and on
behalf of all persons similarly situated,

Plaintiffs,

vs.

CURATION FOODS, INC, a Delaware
Corporation; LANDEC CORPORATION, a
Delaware Corporation; and DOES 1 through
50, Inclusive;

Defendants.

Case No. 21CV02834

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: November 22, 2022

Time: 8:30 a.m.

Judge: Hon. James F. Rigali

Dept.: 2

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiff ROBERT BARAY (hereafter "Plaintiff") in this wage and hour class action filed against
6 CURATION FOODS, INC and LANDEC CORPORATION. (hereinafter "Defendants").

7 2. This declaration is being submitted in support of Plaintiff's motion for Preliminary
8 Approval of Class Action Settlement.

9 **I. EXHIBITS**

10 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Stipulation
11 of Settlement of Class and PAGA Action Claims and Release of Claims ("Agreement" or "Settlement
12 Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and correct copy of the proposed
13 Notice Packet.

14 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the
15 Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement
16 and Motion for Preliminary Approval of Class Action and PAGA Settlement evidencing Class
17 Counsel's compliance with California Labor Code Section 2699(l)(2).

18 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the JCL Law Firm "Firm
19 Resume" detailing some of the major cases the JCL Law Firm has undertaken.

20 **II. INTRODUCTION**

21 6. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
22 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
23 The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement
24 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
25 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
26 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
27 denied or of Defendants prevailing at trial. The entire Net Settlement Amount will be paid to all

1 Settlement Class Members who do not opt out of the Settlement resulting in an average Individual
2 Settlement Payment of approximately **\$1,653.13**.

3 7. As discussed below, the proposed Settlement satisfies all criteria for preliminary
4 settlement approval and falls within the range of reasonableness. The average Individual Settlement
5 Payments to the Settlement Class meets or exceeds awards in similar wage and hour class actions.
6 Moreover, the proposed Settlement Class is appropriate for provisional certification. Accordingly,
7 Plaintiff respectfully requests the Court grant preliminary approval of the Settlement.

8 **III. FACTS AND PROCEDURE**

9 **A. Overview of the Litigation**

10 8. Defendants are Delaware corporations that develop and commercialize packaged foods,
11 including at the Santa Barbara, California location where Plaintiff worked. Plaintiff worked for
12 Defendants as a non-exempt employee in California from approximately March of 2013 to July of 2020.
13 Throughout his employment, Defendants failed to pay Plaintiff wages for all hours worked, including
14 overtime compensation, failed to provide legally compliant meal and rest periods, failed to issue
15 accurate itemized wage statements, and failed to pay all wages when due. Throughout his employment,
16 Plaintiff was subject to Defendants' written policies and procedures contained in, among other
17 documents, the "Apio, Inc. Employee Policies" and "Curation Foods Employee Policies."

18 9. Defendants forcefully deny liability for each of Plaintiff's claims. Further, Defendants
19 assert that they fully complied with all applicable employment laws and raised several other significant
20 defenses to Plaintiff's claims, including but not limited to, compliant compensation policies and plans,
21 complaint meal and rest practices, compliant wage statements, and timely payment of all wages due
22 upon separation of employment.

23 10. On May 12, 2021, Plaintiff served Defendants and the Labor and Workforce
24 Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA
25 Notice set forth the facts and theories supporting Defendants' alleged violations of various provisions
26 of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and
27

1 of his intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab.
2 Code Sections 2698 *et seq.* (“PAGA”).

3 11. On July 16, 2021, Plaintiff filed a class action complaint in the Santa Barbara Superior
4 Court, Case Number 21CV02834 (“Action”). The Action alleged eight causes of action against
5 Defendants for: (1) Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq.*; (2)
6 Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 & 1197.1;
7 (3) Failure to pay overtime wages in violation of California Labor Code sections 510 *et seq.*; (4) Failure
8 to provide required meal periods in violation of California Labor Code sections 226.7 and 512 and the
9 applicable IWC wage order; (5) Failure to provide required rest periods in violation of California Labor
10 Code sections 226.7 and 512 and the applicable IWC wage order; (6) Failure to provide accurate
11 itemized wage statements in violation of California Labor Code section 226; (7) Failure to provide
12 wages when due in violation of Cal. Lab. Code sections 201, 202 and 203; and (8) Violation of the
13 Private Attorneys General Act [Labor Code section 2698, *et seq.*].

14 12. Plaintiff commenced written discovery in September 2021. After answering Plaintiff’s
15 discovery requests and taking Plaintiff’s deposition, the Parties agreed to mediate the Action. To
16 prepare for mediation, the Parties agreed to informally produce additional documents and data points
17 subject to the mediation privilege, including but not limited to, employee handbooks, the Class
18 Members’ time data, and certain payroll data points. As discussed *infra*, Plaintiff’s counsel retained
19 the forensic consultants at Berger Consulting Group (“BCG”) to analyze Defendants’ time and payroll
20 data.

21 13. On June 6, 2022, the Parties participated in a full day mediation with David Rotman, Esq.,
22 an experienced mediator of wage and hour class and PAGA actions. The mediation concluded with a
23 settlement, after both sides agreed to a Mediator’s proposal, which was subsequently memorialized in
24 the form of a Memorandum of Understanding (“MOU”).

25
26 ///

27 ///

B. Class Counsel Thoroughly Investigated the Factual and Legal Issues

14. Months before filing the Action, Class Counsel began their pre-filing investigation into Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiff. As part of the interview process, Plaintiff produced documents related to his employment, including portions of Defendants' handbooks, compensation policies, and time and payroll records. At the conclusion of the interviews, Class Counsel determined that each Plaintiff's complaints justified further inquiry.

15. Class Counsel subsequently requested Plaintiff's employee file from Defendants. In response, Defendants produced hundreds of pages of documents, including but not limited, copies of Plaintiff's hiring documents, payroll and time records, performance reviews and separation documents. Class Counsel reviewed and analyzed the documents and determined the documents appeared to substantiate Plaintiff's claim that Defendants failed to, among other things, provide accurate wage statements and to provide compliant meal and rest periods.

16. To prepare for mediation, Class Counsel requested documents and data points to further evaluate Plaintiff's claims and Defendants' liability exposure to the Class Members. In response to Class Counsel's request, Defendants produced, among other things, time and payroll records for a sample of Class Members, aggregate workweek and pay period data, and copies of applicable handbooks, policies, and agreements. In total, Defendants produced over 120,000 unique cells of time and payroll data for Class Counsel to analyze.

17. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class Members' payroll and time data. BCG provides data analysis and damage modeling consulting services, specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed and experienced experts in their fields and have provided their expertise on thousands of cases.

18. BCG analyzed Defendants' time and payroll data to assist in the development of various damage models. Among other things, BCG determined the approximate amount of unpaid wages, amount of unpaid overtime wages, number of workweeks, pay periods, average length of shifts and

1 average number of hours worked per week. BCG also estimated the number of missed, late, or truncated
2 meal and rest periods, and the amount of missed meal and rest period premiums paid during the Class
3 Period.

4 19. Overall, Additionally, at the time of mediation, Plaintiff's expert estimated that there were
5 approximately 92 Aggrieved Employees who worked approximately 3,245 pay periods during the
6 PAGA Period.

7 20. Class Counsel thoroughly investigated the claims at issue, including: (1) determining
8 Plaintiff's suitability as a putative class representative through interviews, background investigations,
9 and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims; (3) researching
10 similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of
11 employer; (4) analyzing the Settlement Class's time and payroll records; (5) analyzing Defendants'
12 labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues
13 which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendants'
14 liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the
15 mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the
16 claims being settled, as well as the impediments to recovery, such as to make an independent assessment
17 of the reasonableness of the terms to which the Parties have agreed.

18 21. Class Counsel only agreed to enter the Settlement following this thorough investigation
19 and evaluation of Plaintiff's claims. Based on its investigation of the facts, applicable law, and
20 marketplace for similar settlements, and considering the risk of significant delay and uncertainty
21 associated with litigation, and the various defenses asserted by Defendants, Class Counsel firmly
22 believe this Agreement to be in the best interests of the Class Members. Because the Settlement's terms
23 are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

24 **C. The Parties Settled at Mediation**

25 22. On June 6, 2022, the Parties conducted a full day of mediation with David Rotman, Esq.,
26 an experienced mediator of wage and hour class and PAGA actions. Mediator Rotman helped manage
27 the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides.

1 The Parties made substantial progress with Mediator Rotman's assistance. Namely, the Parties
2 exchanged information regarding their respective claims and defense, including their respective
3 evaluation of the damages.

4 23. Once the Parties agreed to the Mediator's proposal, the Parties engaged in protracted
5 negotiations regarding the written terms of the class action settlement. The Parties maintained the arm's
6 length, non-collusive and adversarial negotiations while arriving at the final terms of the Settlement.
7 The Agreement is the final product of these mediated negotiations. Objectively, the Settlement terms
8 are fair, adequate and represent a reasonable compromise of the claims at issue.

9 **IV. ARGUMENT**

10 **A. The Court Should Preliminarily Approve the Settlement**

11 24. The Gross Settlement Amount of \$495,000.00 is fair and reasonable considering the
12 nature and magnitude of the claims being settled and the various potential impediments to recovery.
13 Prior to mediation, Class Counsel retained BCG to develop economic damage models measuring
14 Defendants' liability exposure while accounting for the uncertainties of continued litigation. The
15 various models were informed by Class Counsel's investigation, including the analysis of a significant
16 sample of time and payroll data. Class Counsel projected Defendants' liability exposure for *class claims*
17 (excluding PAGA Penalties) ranged between \$2,658,941.45 dollars for damages and \$2,846,512.45
18 dollars for damages and statutory penalties if successful at trial. Thus, the Gross Settlement Amount of
19 \$495,000.00 represents approximately 18.6% of Defendants' *class-wide* liability exposure for damages,
20 and approximately 17% of Defendants' *class-wide* liability exposure for damages and statutory
21 penalties, as estimated by Class Counsel at the time of mediation. The following summarizes
22 Defendants' estimated exposure.

23 25. Plaintiff's primary claim in this Action is that Defendants failed to provide Class
24 Members with compliant meal and rest periods. Specifically, Plaintiff alleges that as a result of their
25 rigorous work schedules, Plaintiff, Class Members, and Aggrieved Employees were not able to take
26 timely and duty-free meal and rest periods. When Plaintiff, Class Members and Aggrieved Employees
27 were able to take meal and rest periods, they were required to keep their radios on and on their persons

1 during meal and rest periods in violation of *Augustus v. ABM Security Services, Inc.*, (2016) 2 Cal. 5th
2 257. Consequently, Plaintiff alleges that he is owed meal period premiums for meal and rest period
3 violations that occurred during the Class Period.

4 26. Conversely, Defendants argued, among other things, that it provided all their employees,
5 i.e., Class Members and Aggrieved Employees, with the opportunity to take compliant meal and rest
6 periods. Defendants also argued that they maintained facially compliant meal and rest period policies.
7 Thus, Defendants argued that there was no potential liability for Plaintiff's alleged meal and rest period
8 violations and any claimed violations required a highly individualized inquiry not suitable to class
9 treatment.

10 27. Plaintiff estimated the damages for this claim was approximately \$2,606,005.80.

11 28. Plaintiff also alleged that Defendant failed to pay its employees for all hours worked.
12 Specifically, Plaintiff asserts that he, other Class Members and Aggrieved Employees performed a
13 substantial amount of off-the-clock work, including, but not limited to, undergoing pre-shift security
14 checkpoints all while off the clock. As a result, Defendants failed to accurately compensate Plaintiff
15 and other Class Members for all hours worked and their overtime hours worked.

16 29. Defendants argued that they maintained a facially compliant policy which prohibited
17 employees from working while off the clock. Notwithstanding, there is no defense to Defendants'
18 failure to compensate its employees for the time spend going through Defendants' security checkpoints.
19 Plaintiff estimated Defendants' exposure for underpayment of wages to its employees was
20 approximately \$52,935.65.

21 30. Plaintiff alleges that Defendants' alleged violations resulted in derivative violations of
22 Labor Code sections 203 and 226(a). Class Counsel considered the arguable presence of various
23 penalties and weighed the potential recoveries against probable defenses. Specifically, Defendants
24 could argue that Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties
25 under Labor Code section 203. Additionally, Defendants could argue that Plaintiff could not show that
26 Class Members suffered an "injury" because of wage statement violations, as required by Labor Code
27 section 226.

31. Plaintiff could not give the penalty claims great weight given that they depended on proving the underlying claims, which had their own risks. Plaintiff estimated Defendant's exposure for this claim to be approximately \$187,571.00 dollars.

32. Class Counsel's damage models also estimated Defendants' exposure for PAGA penalties. At the time of mediation, Plaintiff estimated Defendants' PAGA exposure to be approximately \$949,850 dollars.

33. In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each of the underlying Labor Code violations. *See Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiff would need to prove that each Aggrieved Employee suffered a violation for each pay period the employee worked. Again, Defendants raised several defenses that presented serious threats to the claims of the Plaintiff and the Aggrieved Employees. In addition to those arguments discussed *supra*, Defendants also argued that the Court of Appeals decision in *Cacho v. Eurostar, Inc.* (2019) 43 Cal.App.5th 885, weakened Plaintiff's claims, on liability, value, and manageability as to the rest period claims.

34. The proposed Settlement allocates \$20,000 to satisfy the PAGA claims. This amount represents approximately 4% of the Gross Settlement Amount. This is well within the range *See, e.g., Nordstrom Comm'n Cases* (2010) 186 Cal.App.4th 576, 589 (approving 0% PAGA allocation); *Berry v. Urban Outfitters* (N.D. Cal. Lead Case No. 13-cv-02628-JSW) (approving 1% PAGA allocation in \$5M settlement); *Jack v. Hartford Fire Ins. Co.* (S.D. Cal. 2011) 2011 WL 4899942 * 6 (approving \$3,000 PAGA allocation in \$1.2M settlement); *Singer v. Becton Dickinson & Co.* (S.D. Cal. 2010) 2010 WL 2196104 *2 (approving \$3,000 PAGA allocation in \$1M settlement); and *Hopson v. Hanesbrands, Inc.* (N.D. Cal. 2009) 2009 WL 928133 * 9 (approving \$1,500 PAGA allocation in \$1.026M settlement.)

B. Inherent Risks of Continued Litigation Support Preliminary Approval

35. With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded

1 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
2 the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies,*
3 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
4 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
5 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
6 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
7 individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176
8 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
9 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
10 harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
11 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
12 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
13 certification of driver meal and rest period claims based on the predominance of individual issues).
14 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
15 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
16 settlement.

17 36. Finally, continuing to litigate this action would require continued and extensive resources
18 coupled with significant Court time to proceed through trial and post-trial motions, which can often
19 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
20 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
21 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
22 Defendants would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,
23 the risk of an appeal and subsequent reversal is real.

24 37. Given the amount of the settlement here, as compared to potential value of the claims,
25 offset by the various inherent risks to continued litigation, the settlement is fair and reasonable.

26 **C. Proposed Notice Informs the Class About the Case and Settlement**
27

38. The Parties jointly drafted the Notice Packet which fairly and neutrally informs the Class Members of their rights and remedies. The Settlement Administrator will first verify addresses, then mail the proposed Notice Packet to all Class Members. The Notice Packet will include information regarding the nature of the lawsuit, a summary of the substance of the Settlement's terms, the procedure, and time period within which to requests for exclusions or objections to the Settlement, the date for the final approval hearing, the formula used to calculate settlement payments, and the terms and scope of the Released Class Claims. Agreement at § III(L)(2)(a). The Parties negotiated this method to ensure delivering the most reasonable method of notice to the Class Members while ensuring cost effective administration of the Settlement.

39. As detailed in the Agreement, the method of disseminating the proposed Class Notice and contents of the Proposed Class Notice satisfy due process and the California Rule of Court 3.766.

C. The Court Should Preliminarily Approve the Class Representative Service Award

40. The Settlement provides for a Class Representative Service Award of \$17,500 for Plaintiff. The service award is fair and reasonable compensation for the Plaintiff's efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of his case and the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class.

41. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class Representative Service Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated Class Representative Service Award.

D. The Court Should Preliminary Approve the Negotiated Class Counsel Award

42. Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average Individual Settlement Payment illustrates the demonstrably positive outcome for the Settlement Class Members. Considering the positive outcome for the Class Members, and in light of the supporting authority, the proposed Class Counsel Award is fair and reasonable.

43. Plaintiff will file a formal motion for the negotiated Class Counsel Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees.

E. The Court Should Provisionally Certify the Settlement Class

44. For Settlement, Plaintiff contends, and Defendants do not dispute, that provisional certification of the Class is appropriate.

45. Because all Class Members are Defendants' current and former non-exempt employees, the class is readily ascertainable from Defendants' regular business records, i.e., payroll records.

46. The statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Settlement Class. Factually, Defendants' policies and practices apply class-wide and Defendants' liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Settlement Class.

47. Plaintiff's wage and hour claims are typical of the proposed Settlement Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Settlement Class. Plaintiff alleges that he was injured by the same company-wide practices to which the proposed Class Members were subject to and seeks the same relief. Plaintiff has already demonstrated his ability to advocate for the interests of the Class Member by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

48. A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual claim, the Class Members likely have little incentive to litigate their claims on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication.

F. Class Counsel's Experience

50. I am qualified to represent the Plaintiff, the Class Members, the State of California and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Additionally, I have extensive complex mass tort litigation experience and complex construction product liability experience. I can, will and have adequately represented the interests of the Plaintiff, the State of California and the Aggrieved Employees throughout this action.

51. I have represented consumers and employees in California class actions, and complex multi-party product liability actions exclusively for more than 13 years. I have been in practice as a plaintiffs' civil litigation attorney since April 2007.

52. I have significant class counsel and collective action counsel experience. My credentials are reflected in the JCL Law Firm, APC, Firm Resume, which is attached hereto as Exhibit 3.

53. Since 2010, my firm has successfully resolved more than sixty (65) cases and recovered in excess of \$75 million on behalf of the Firm's clients.

54. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a favorable verdict for the firm's clients.

55. Finally, I have published appellate experience in *William Blanchette et al., v. The Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

56. Consequently, I was named to the prestigious Thomson Reuters, Super Lawyers, Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising

1 Star list recognizes the top 2.5% of eligible attorneys. (see
2 https://www.superlawyers.com/about/selection_process.html.)

3 I declare under the penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. Executed this 18th day of October 2022, at San Diego, California.

6 **JCL LAW FIRM, APC**

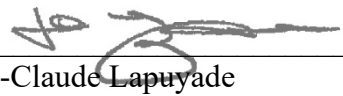
7 By: 
8 Jean-Claude Lapuyade
9 Attorneys for Plaintiff

EXHIBIT 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA BARBARA

ROBERT BARAY, on behalf of himself and on
behalf of all persons similarly situated,

Plaintiffs,

vs.

CURATION FOODS, INC., a Delaware
Corporation; LANDEC CORPORATION, a
Delaware Corporation; and DOES 1-50,
inclusive;

Defendants.

Case No.: 21CV02834

[Action Filed 07/16/2021]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

Judge: Honorable James F. Rigali
Dept.: 2

1 This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is
2 entered into by and between plaintiff ROBERT BARAY (hereinafter “Plaintiff”), an individual, on
3 behalf of the Settlement Class, and in his representative capacity on behalf of the State of California
4 and the Aggrieved Employees, and Defendants CURATION FOODS, INC. and LANDEC
5 CORPORATION (collectively “Defendants”):

6 **I. DEFINITIONS**

- 7 A. “Action” shall mean the putative class action lawsuit *Baray v. Curation Foods, Inc.*,
8 pending in the Santa Barbara County Superior Court, Case No. 21CV-2834, filed July
9 16, 2021.
- 10 B. “Aggrieved Employees” shall mean all of Defendant’s current and former non-
11 exempt employees employed in California during the PAGA Period.
- 12 C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
13 Class Action and Release of Claims.
- 14 D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and
15 Shani Zakay of Zakay Law Group, APLC.
- 16 E. “Class Counsel Award” means the award of fees and expenses that the Court
17 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
18 and the Settlement Class in the Action, consisting of attorneys’ fees not to exceed
19 one-third of the Gross Settlement Amount, currently estimated to be \$165,000.00 out
20 of \$495,000.00, *plus* costs of up to \$20,000.00. Attorneys’ fees will be divided
21 equally between Class Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law
22 Group, APLC).
- 23 F. “Class Data” means information regarding Class Members that Defendants will in
24 good faith compile from its records and provide to the Settlement Administrator. It
25 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
26 Member’s full name; last known address; Social Security Number; and all dates on
27

1 which the Class Member performed work for Defendants, to show the number of Class
2 Period Workweeks and PAGA Pay Periods.

3 G. "Class Members" or the "Class" means all persons who are or previously were
4 employed by Defendants in California and classified as non-exempt employees
5 during the Class Period, including participating Class Members (a Class Member who
6 does not submit a valid and timely exclusion request from the Settlement) or Non-
7 Participating Class Member (any Class Member who opts out of the Settlement by
8 sending a valid and timely exclusion request).

9 H. "Class Period" means the period between July 16, 2017 to June 6, 2022.

10 I. "Class Representative Service Award" means the amount that the Court authorizes to
11 be paid to the Class Representative, in addition to his Individual Settlement Payment
12 and his pro-rata share of the PAGA Settlement, in recognition of his efforts and risks
13 in assisting with the prosecution of the Action and in exchange for executing a
14 General Release of claims including a Civil Code 1542 waiver from the named
15 Plaintiff.

16 J. "Class Representative" shall mean plaintiff ROBERT BARAY.

17 K. "Court" means the Superior Court for the State of California, County of Santa Barbara
18 currently presiding over the Action.

19 L. "Defendants" shall mean CURATION FOODS, INC. and LANDEC
20 CORPORATION and their past present and/or future, direct and/or indirect, owners,
21 officers, directors, members, managers, non-exempt employees, agents,
22 representatives, attorneys, insurers, parent companies, subsidiaries, affiliates,
23 successors, and assigns.

24 M. "Effective Date" means the earliest date, following entry by the Court of an order and
25 judgment finally approving this Settlement, upon which all of the following has
26 occurred: (a) this Agreement is approved by the Court in an Order granting final
27 approval of the settlement; and (b) the Judgement becomes "Final" which means the
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1 last of the following dates, as applicable: (1) after Judgement is entered, the day after
2 the due date to appeal the Judgement when no appeal is filed, or (2) after Judgement
3 is entered and a timely appeal is filed, the date the Judgment is affirmed and is no
4 longer subject to approval.

5 N. "Funding Date" shall mean ten (10) calendar days after the Effective Date and is the
6 date Defendants transfer the Gross Settlement Amount into the QSF in accord with
7 the terms of this Agreement.

8 O. "Gross Settlement Amount" means Four Hundred Ninety-Five Thousand Dollars
9 (\$495,000.00) that Defendants must pay into the QSF in connection with this
10 Settlement, inclusive of the sum of the Individual Settlement Payments, the Class
11 Representative Service Award, the Class Counsel Award, PAGA Settlement and the
12 Settlement Administration Costs (the amount the Settlement Administrator will be
13 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses
14 in accordance with the Settlement Administrator's "not to exceed" bid submitted to
15 the Court in connection with Preliminary Approval of the Settlement), *exclusive* of
16 the employer's share of payroll tax, if any, triggered by any payment under this
17 Settlement.

18 P. "Individual Settlement Payment" means the amount payable from the Net Settlement
19 Amount to each Settlement Class Member and excludes any amounts distributed to
20 Aggrieved Employees pursuant to PAGA.

21 Q. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class
22 Counsel Award, Class Representative Service Award, PAGA Settlement, and
23 Settlement Administration Costs.

24 R. "Notice Packet" means the Class Notice to be provided to the Class Members by the
25 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
26 than formatting changes to facilitate printing by the Settlement Administrator).

- 1 S. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
2 Labor Code § 2698 *et seq.*
- 3 T. "PAGA Pay Periods", for purposes of calculating the distribution of the Aggrieved
4 Employee Payment, as defined herein, means the number of pay periods of
5 employment during the PAGA Period that each Aggrieved Employee worked in
6 California.
- 7 U. "PAGA Payment Ratio" means the respective pay periods during the PAGA Period
8 for each Aggrieved Employee divided by the sum total of the pay periods for all
9 Aggrieved Employees during the PAGA Period.
- 10 V. "PAGA Period" means the period between May 12, 2020 to June 6, 2022.
- 11 W. "PAGA Settlement" shall mean Twenty Thousand Dollars (\$20,000) to be allocated
12 from the Gross Settlement Amount of which Seventy-Five Percent (75%) shall be
13 paid to the LWDA ("LWDA Payment") and the remaining Twenty-Five Percent
14 (25%) paid to the Aggrieved Employees ("Aggrieved Employee Payment").
- 15 X. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
16 Plaintiff or Defendants, individually.
- 17 Y. "Payment Ratio" means the respective Workweeks for each Class Member divided
18 by the sum total Workweeks for all Class Members.
- 19 Z. "Plaintiff" shall mean ROBERT BARAY.
- 20 AA. "QSF" means the Qualified Settlement Fund established, designated and maintained
21 by the Settlement Administrator to fund the Gross Settlement Amount.
- 22 BB. "Released Class Claims" means all claims, demands, rights liabilities that were pled
23 in any of the complaints in this matter, or which could have been pled in any of the
24 complaints in this matter that arose during the Class Period. As a matter of emphasis,
25 but not limitation, the Released Claims shall include: (a) Unfair Competition in
26 Violation of California Business & Professions Code section 17200, *et seq*; (b) Failure
27 to Pay Minimum Wages in Violation of California Labor Code section 1194, 1197,
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1 and 1197.1; (c) Failure to Pay Overtime Wages in Violation of California Labor Code
2 section 510, et seq; (d) Failure to Provide Required Meal Periods in Violation of
3 California Labor Code sections 226.7 and 512; (e) Failure to Provide Required Rest
4 Periods in Violation of California Labor Code sections 226.7 and 512; (f) Failure to
5 Provide Accurate Itemized Wage Statements in Violation of California Labor Code
6 section 226 and 226.2; (g) Failure to Provide Wages When Due in Violation of
7 California Labor Code sections 201, 202, and 203; (h) Released Claims also means
8 any claims, rights, demands, liabilities, damages, wages, benefits, expenses, penalties,
9 debts, obligations, attorneys' fees, costs, any other form of relief or remedy in law,
10 equity, or whatever kind or nature, whether known or unknown, suspected or
11 unsuspected, and causes of action, that could potentially arise from the receipt of any
12 monies as a result of this settlement by any member of the Settlement Class.

13 CC. "Released PAGA Claims" means all claims for PAGA penalties alleged in the Action,
14 including, but not limited to, PAGA penalties, unpaid costs or expenses, attorneys'
15 fees, litigation costs.

16 DD. "Released Parties" shall mean Defendants, their past and present officers, directors,
17 shareholders, unit holders, managers, employees, agents, principals, heirs,
18 representatives, accountants, auditors, consultants, and its respective successors and
19 predecessors in interest, subsidiaries, affiliates, parents and attorneys.

20 EE. "Response Deadline" means the date forty-five (45) days after the Settlement
21 Administrator mails Notice Packets to Class Members and the last date on which
22 Class Members may submit requests for exclusion or objections to the Settlement.

23 FF. "Settlement" means the disposition of the Action pursuant to this Agreement.

24 GG. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
25 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement
26 Administrator establishes, designates and maintains, as a QSF under Internal Revenue
27 Code section 468B and Treasury Regulation section 1.468B-1, into which the amount

of the Gross Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendants and any person related to Defendants. *All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payment.*

HH. “Settlement Class Members” or “Settlement Class” means all Class Members who have not submitted a timely and valid request for exclusion by the Response Deadline as provided in this Agreement.

II. “Workweeks”, for purposes of calculating the distribution of the Net Settlement Amount, means the number of weeks of employment during the Class Period that each Class Member was employed by Defendants in California, excluding weeks during which the Class Member did not perform any work for Defendants.

II. RECITALS

A. On May 12, 2021, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendants.

B. On July 16, 2021, Plaintiff filed the class action lawsuit for:

1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;
2. Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1;
3. Failure to pay overtime wages in violation of California Labor Code sections 510 *et seq*;
4. Failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order;
5. Failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order;

6. Failure to provide accurate itemized wage statements in violation of California Labor Code section 226;

7. Failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203; and

8. Violation of the Private Attorneys General Act [Labor Code section 2698].

C. The Class Representative believes he has meritorious claims based on alleged violations of the California Labor Code, and the Industrial Wage Commission Orders, and that class certification is appropriate because the prerequisites for class certification can be satisfied in the Action, and this action is manageable as a PAGA representative action.

D. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, disputes any wages, damages and penalties claimed by the Class Representative are owed, and further contends that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the California Labor Code and the Industrial Wage Commission Orders.

E. The Class Representative is represented by Class Counsel. Class Counsel conducted an investigation into the facts relevant to the Action, including conducting an independent investigation as to the allegations, reviewing documents and information exchanged through informal discovery, and reviewing documents and information provided by Defendants pursuant to informal requests for information to prepare for mediation. Based on their own independent investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendants is fair, reasonable and adequate, and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendants, uncertainties regarding class certification, and numerous potential appellate issues. Although it denies any liability, Defendants are agreeing to this

1 Settlement solely to avoid the inconveniences and cost of further litigation. The
2 Parties and their counsel have agreed to settle the claims on the terms set forth in this
3 Agreement.

4 F. On June 6, 2022, the Parties participated in mediation presided over by David
5 Rotman, Esq., an experienced mediator of wage and hour class and PAGA actions.
6 The Parties agreed to settle the Action which was memorialized in the form of a
7 Memorandum of Understanding("MOU").

8 G. This Agreement replaces and supersedes the MOU and any other agreements,
9 understandings, or representations between the Parties. This Agreement represents a
10 compromise and settlement of highly disputed claims. Nothing in this Agreement is
11 intended or will be construed as an admission by Defendants that the claims in the
12 Action of Plaintiff or the Class Members have merit or that Defendants bear any
13 liability to Plaintiff or the Class on those claims or any other claims, or as an
14 admission by Plaintiff that Defendants' defenses in the Action have merit.

15 H. The Parties believe that the Settlement is fair, reasonable and adequate. The
16 Settlement was arrived at through arm's-length negotiations, taking into account all
17 relevant factors. The Parties recognize the uncertainty, risk, expense and delay
18 attendant to continuing the Action through trial and any appeal. Accordingly, the
19 Parties desire to fully, finally, and forever settle, compromise and discharge all
20 disputes and claims arising from or relating to the Action.

21 I. The Parties agree to certification of the Class for purposes of this Settlement only. If
22 for any reason the settlement does not become effective, Defendants reserve the right
23 to contest certification of any class for any reason and reserves all available defenses
24 to the claims in the Action.

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Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendants will pay the sum of the Individual Settlement Payment, the Class Representative Service Award, the Class Counsel Award, PAGA Settlement, and the Settlement Administration Costs, as specified in this Agreement, equal to the Gross Settlement Amount of Four Hundred Ninety-Five Thousand Dollars (\$495,000.00). The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross Settlement Amount shall revert to Defendants. Other than the Defendants' share of employer payroll taxes and as provided for in Section III(A)(2) below, if any, Defendants shall not be required to pay more than the Gross Settlement Amount, except as provided for hereinbelow.
2. Class Size. At the time of mediation, Defendants estimated that the Settlement Class was comprised of 160 individuals who collectively worked approximately 20,012 Workweeks ("Projected Workweeks") during the Class Period. In regard hereto, Defendants will provide a declaration under penalty of perjury before the deadline for filing the motion for preliminary approval of the settlement, confirming the number of Workweeks. If at the time the Court grants preliminary approval, the actual workweek county during the Class Period is more than 15% higher than 20,012 (or more than 23,014), then Defendants will add \$24.74 every workweek that is above the 15% cap.
3. Settlement Payment. Defendants, and each of them, are jointly and severally liable for payment of the Gross Settlement Amount. Defendants shall pay the Gross Settlement Amount to the Settlement Administrator on the Funding Date.

1 4. Defendants' Share of Payroll Taxes. Defendants' share of employer side
2 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
3 together with the Gross Settlement Amount.

4 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
5 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
6 release the Released Parties from the Released Class Claims for the Class Period.

7 C. PAGA Release. As of the Funding Date, in exchange for the consideration set forth in
8 this Agreement, the Plaintiff, the LWDA and the State of California release the
9 Released Parties from the PAGA Released Claims for the PAGA Period.

10 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
11 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
12 Released Parties from any and all claims, whether known or unknown, which exist or
13 may exist on his behalf as of the date of this Agreement, including but not limited to
14 any and all tort claims, contract claims, wage claims, wrongful termination claims,
15 disability claims, benefit claims, public policy claims, retaliation claims, statutory
16 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
17 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising
18 under any federal, state or other governmental statute, law, regulation or ordinance,
19 including, but not limited to claims for violation of the Fair Labor Standards Act, the
20 California Labor Code, the Wage Orders of California's Industrial Welfare
21 Commission, other state wage and hour laws, the Americans with Disabilities Act, the
22 Age Discrimination in Employment Act (ADEA), the Employee Retirement Income
23 Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment
24 and Housing Act, the California Family Rights Act, the Family Medical Leave Act,
25 California's Whistleblower Protection Act, California Business & Professions Code
26 Section 17200 et seq., and any and all claims arising under any federal, state or other
27 governmental statute, law, regulation or ordinance. Plaintiff also waives and
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1 relinquishes any and all claims, rights or benefits that he may have under California
2 Civil Code § 1542, which provides as follows:

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

9 Thus, notwithstanding the provisions of section 1542, and to implement a full and
10 complete release and discharge of the Released Parties, Plaintiff expressly
11 acknowledges this Settlement Agreement is intended to include in its effect, without
12 limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at
13 the time of signing this Settlement Agreement, and that this Settlement Agreement
14 contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff
15 has read this Settlement Agreement, including this waiver of California Civil Code
16 section 1542, and that Plaintiff has consulted with or had the opportunity to consult
17 with counsel of Plaintiff's choosing about this Settlement Agreement and specifically
18 about the waiver of section 1542, and that Plaintiff understands this Settlement
19 Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters
20 into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may
21 discover facts different from or in addition to those Plaintiff now knows or believes to
22 be true regarding the matters released or described in this Settlement Agreement, and
23 even so Plaintiff agrees that the releases and agreements contained in this Settlement
24 Agreement shall remain effective in all respects notwithstanding any later discovery of
25 any different or additional facts. Plaintiff expressly assumes any and all risk of any
26 mistake in connection with the true facts involved in the matters, disputes, or
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1 controversies released or described in this Settlement Agreement or with regard to any
2 facts now unknown to Plaintiff relating thereto.

3 E. Conditions Precedent: This Settlement will become final and effective only upon the
4 occurrence of all of the following events:

- 5 1. The Court enters an order granting preliminary approval of the Settlement;
- 6 2. The Court enters an order granting final approval of the Settlement and a Final
7 Judgment;
- 8 3. If an objector appears at the final approval hearing, the time for appeal of the
9 Final Judgment and Order Granting Final Approval of Class Action
10 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
11 any appeal from the Judgment and Order Granting Final Approval of Class
12 Action Settlement; and
- 13 4. Defendants fully fund the Gross Settlement Amount.

14 F. Nullification of Settlement Agreement. If more than ten percent (10%) of the Class
15 Members opt-out of the Settlement, or if this Settlement Agreement is not preliminarily
16 or finally approved by the Court, fails to become effective, or is reversed, withdrawn
17 or modified by the Court, or in any way prevents or prohibits Defendants from
18 obtaining a complete resolution of the Released Claims, or if Defendants fails to fully
19 fund the Gross Settlement Amount:

- 20 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
21 and shall not be admissible in any judicial, administrative or arbitral
22 proceeding for any purpose or with respect to any issue, substantive or
23 procedural;
- 24 2. The conditional class certification (obtained for any purpose) shall be void *ab*
25 *initio* and of no force or effect, and shall not be admissible in any judicial,
26 administrative or arbitral proceeding for any purpose or with respect to any
27 issue, substantive or procedural; and

1 3. None of the Parties to this Settlement will be deemed to have waived any
2 claims, objections, defenses or arguments in the Actions, including with
3 respect to the issue of class certification.

4 4. If Defendants fail to fully fund the Gross Settlement Amount, or if more than
5 ten percent (10%) of the Class Members opt-out of the Settlement,
6 Defendants shall bear the sole responsibility for any cost to issue or reissue
7 any curative notice to the Settlement Class Members and all Settlement
8 Administration Costs incurred to the date of nullification.

9 G. Certification of the Settlement Class. The Parties stipulate to conditional class
10 certification of the Class for the Class Period for purposes of settlement only. In the
11 event that this Settlement is not approved by the Court, fails to become effective, or is
12 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
13 Defendants from obtaining a complete resolution of the Released Claims, the
14 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
15 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
16 proceeding for any purpose or with respect to any issue, substantive or procedural.

17 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
18 effect of the payments called for, and Class Members and/or Aggrieved Employees are
19 not relying on any statement or representation by the Parties in this regard. Class
20 Members and/or Aggrieved Employees understand and agree that they will be
21 responsible for the payment of any taxes and penalties assessed on the Individual
22 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
23 Settlement described and will be solely responsible for any penalties or other
24 obligations resulting from their personal tax reporting of Individual Settlement
25 Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement.

26 I. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
27 the "acknowledging party" and each Party to this Agreement other than the
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acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

J. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which shall include this Settlement Agreement. Plaintiff will provide Defendants with a draft of the Motion at least 10 business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

K. Settlement Administrator. The Settlement Administrator shall be responsible for: establishing and administering the QSF; calculating, processing and mailing payments to the Class Representative, Class Counsel, LWDA and Class Members; printing and mailing the Notice Packets to the Class Members as directed by the Court; receiving and reporting the objections and requests for exclusion; calculating, deducting and remitting all legally required taxes from Individual Settlement Payments and

1 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
2 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
3 Settlement; processing and mailing tax payments to the appropriate state and federal
4 taxing authorities; providing declaration(s) as necessary in support of preliminary
5 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
6 or the Court orders the Settlement Administrator to perform. The Settlement
7 Administrator shall keep the Parties timely apprised of the performance of all
8 Settlement Administrator responsibilities by among other things, sending a weekly
9 status report to the Parties' counsel stating the date of the mailing, the of number of
10 Elections Not to Participate in Settlement it receives (including the numbers of valid
11 and deficient), and number of objections received.

12 L. Notice Procedure.

13 1. Class Data. No later than 10 business days after the Preliminary Approval
14 Date, Defendants shall provide the Settlement Administrator with the Class
15 Data for purposes of preparing and mailing Notice Packets to the Class
16 Members.

17 2. Notice Packets.

18 a) The Notice Packet shall contain the Notice of Class Action Settlement
19 in a form substantially similar to the form attached as **Exhibit A**. The
20 Notice of Class Action Settlement shall inform Class Members and
21 Aggrieved Employees that they need not do anything in order to
22 receive an Individual Settlement Payment and/or Aggrieved
23 Employees' individual shares of the PAGA Settlement and to keep the
24 Settlement Administrator apprised of their current mailing address, to
25 which the Individual Settlement Payments and/or Aggrieved
26 Employees' individual shares of the PAGA Settlement will be mailed
27 following the Funding Date. The Notice of Class Action Settlement
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1 shall set forth the release to be given by all members of the Class who
2 do not request to be excluded from the Settlement Class and/or
3 Aggrieved Employees' in exchange for an Individual Settlement
4 Payment and/or Aggrieved Employees' individual shares of the PAGA
5 Settlement, the number of Workweeks worked by each Class Member
6 during the Class Period and PAGA Period, if any, and the estimated
7 amount of their Individual Settlement Payment if they do not request
8 to be excluded from the Settlement and each Aggrieved Employee's
9 share of the PAGA Settlement, if any. The Settlement Administrator
10 shall use the Class Data to determine Class Members' Workweeks and
11 PAGA Workweeks. The Notice will also advise the Aggrieved
12 Employees that they will release the Released PAGA Claims and will
13 receive their share of the PAGA Settlement regardless of whether they
14 request to be excluded from the Settlement.

15 b) The Notice Packet's mailing envelope shall include the following
16 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
17 ENTITLED TO PARTICIPATE IN A CLASS ACTION
18 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
19 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
20 NOTICE."

21 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
22 the Settlement Administrator will perform a search based on the National
23 Change of Address Database to update and correct any known or identifiable
24 address changes. No later than 14 calendar days after receiving the Class Data
25 from Defendants, the Settlement Administrator shall mail and email copies of
26 the Notice Packet to all Class Members via regular First-Class U.S. Mail and
27 electronic mail. The Settlement Administrator shall exercise its best judgment
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1 to determine the current mailing address for each Class Member. The address
2 identified by the Settlement Administrator as the current mailing address shall
3 be presumed to be the best mailing address for each Class Member.

4 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
5 Administrator as non-delivered on or before the Response Deadline shall be
6 re-mailed to any forwarding address provided. If no forwarding address is
7 provided, the Settlement Administrator shall promptly attempt to determine a
8 correct address by lawful use of skip-tracing, or other search using the name,
9 address and/or Social Security number of the Class Member involved, and
10 shall then perform a re-mailing, if another mailing address is identified by the
11 Settlement Administrator. In addition, if any Notice Packets, which are
12 addressed to Class Members who are currently employed by Defendants, are
13 returned to the Settlement Administrator as non-delivered and no forwarding
14 address is provided, the Settlement Administrator shall notify Defendants.
15 Defendants will request that the currently employed Class Member provide a
16 corrected address, and transmit to the Administrator any corrected address
17 provided by the Class Member. Class Members who received a re-mailed
18 Notice Packet shall have their Response Deadline extended 15 days from the
19 original Response Deadline.

20 5. Disputes Regarding Individual Settlement Payments. Class Members will
21 have the opportunity, should they disagree with Defendants' records regarding
22 the start and end dates of employment to provide documentation and/or an
23 explanation to show contrary dates. If there is a dispute, the Settlement
24 Administrator will consult with the Parties to determine whether an
25 adjustment is warranted. The Settlement Administrator shall determine the
26 eligibility for, and the amounts of, any Individual Settlement Payments under
27 the terms of this Agreement. The Settlement Administrator's determination
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1 of the eligibility for and amount of any Individual Settlement Payment shall
2 be binding upon the Class Member and the Parties.

3 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
4 by the Settlement Administrator concerning the administration of the
5 Settlement will be resolved by the Court under the laws of the State of
6 California. Before any such involvement of the Court, counsel for the Parties
7 will confer in good faith to resolve the disputes without the necessity of
8 involving the Court.

9 7. Exclusions. The Notice Packet shall contain the Notice of Class Action
10 Settlement in a form substantially similar to the form attached as Exhibit A
11 and a Request for Exclusion form attached hereto as Exhibit B. The Notice
12 of Class Action Settlement shall inform Class Members and Aggrieved
13 Employees that they need not do anything in order to receive an Individual
14 Settlement Payment and/or Aggrieved Employees' individual shares of the
15 PAGA Settlement and to keep the Settlement Administrator apprised of their
16 current mailing address, to which the Individual Settlement Payments and/or
17 Aggrieved Employees' individual shares of the PAGA Settlement will be
18 mailed following the Funding Date. The Notice of Class Action Settlement
19 shall set forth the release to be given by all members of the Class who do not
20 request to be excluded from the Settlement Class and/or Aggrieved
21 Employees' in exchange for an Individual Settlement Payment and/or
22 Aggrieved Employees' individual shares of the PAGA Settlement, the number
23 of Workweeks worked by each Class Member during the Class Period and
24 PAGA Period, if any, and the estimated amount of their Individual Settlement
25 Payment if they do not request to be excluded from the Settlement and each
26 Aggrieved Employee's share of the PAGA Settlement, if any. The Settlement
27 Administrator shall use the Class Data to determine Class Members'

1 Workweeks and PAGA Workweeks. The Notice will also advise the
2 Aggrieved Employees that they will release the Released PAGA Claims and
3 will receive their share of the PAGA Settlement regardless of whether they
4 request to be excluded from the Settlement.

- 5 8. Objections. The Notice of Class Action Settlement contained in the Notice
6 Packet shall state that Class Members who wish to object to the Settlement
7 may submit to the Settlement Administrator a written statement of objection
8 (“Notice of Objection”) by the Response Deadline. The postmark date of
9 mailing shall be deemed the exclusive means for determining that a Notice of
10 Objection was served timely. The Notice of Objection must be signed by the
11 Settlement Class Member and state: (1) the case name and number; (2) the
12 name of the Settlement Class Member; (3) the address of the Settlement Class
13 Member; (4) the last four digits of the Settlement Class Member’s Social
14 Security number; (5) the basis for the objection; and (6) if the Settlement Class
15 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
16 Class Members who fail to make objections in writing in the manner specified
17 above may still make their objections orally at the Final Approval/Settlement
18 Fairness Hearing with the Court’s permission. Settlement Class Members will
19 have a right to appear at the Final Approval/Settlement Fairness Hearing to
20 have their objections heard by the Court. At no time shall any of the Parties or
21 their counsel seek to solicit or otherwise encourage Class Members to file or
22 serve written objections to the Settlement or appeal from the Order and Final
23 Judgment. Class Members who submit a written request for exclusion may not
24 object to the Settlement. Class Members may not object to the PAGA
25 Settlement.

1 M. Funding and Allocation of the Gross Settlement Amount. Defendants are required to
2 pay the Gross Settlement Amount on or before the Funding Date, plus any employer's
3 share of payroll taxes, if any, as mandated by law within the time specified herein.

4 1. Individual Settlement Payments. Individual Settlement Payments shall be
5 paid from the Net Settlement Amount and shall be paid pursuant to the
6 formula set forth herein. Using the Class Data, the Settlement Administrator
7 shall add up the total number of Workweeks for all Class Members. The
8 respective Workweeks for each Class Member will be divided by the total
9 Workweeks for all Class Members, resulting in the Payment Ratio for each
10 Class Member. Each Class Member's Payment Ratio will then be multiplied
11 by the Net Settlement Amount to calculate each Class Member's estimated
12 Individual Settlement Payments. Each Individual Settlement Payment will be
13 reduced by any legally mandated employee tax withholdings (e.g., employee
14 payroll taxes, etc.). Individual Settlement Payments for Class Members who
15 submit valid and timely requests for exclusion will be redistributed to
16 Settlement Class Members who do not submit valid and timely requests for
17 exclusion on a pro rata basis based on their respective Payment Ratios.

18 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
19 Class Data, the Settlement Administrator shall add up the total number of
20 PAGA pay periods for all Aggrieved Employees during the PAGA Period.
21 The respective PAGA pay periods for each Aggrieved Employee will be
22 divided by the total PAGA pay periods for all Aggrieved Employees, resulting
23 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
24 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
25 Aggrieved Employee Payment to calculate each Aggrieved Employee's
26 estimated share of the PAGA Settlement.

- 1 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
2 Settlement Payments shall be allocated as follows: 20% as wages (“Wage
3 Portion”); 80% as penalties and interest (“Non-Wage Portion”). The Wage
4 Portion is subject to wage withholdings and shall be reported on IRS Form W-
5 2. The Non-Wage Portion shall not be subject to wage withholdings and shall
6 be reported on IRS Form 1099.
- 7 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
8 Employee Settlement Payments shall be allocated and treated as 100%
9 penalties and shall be reported on IRS Form 1099.
- 10 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
11 individual shares of the PAGA Settlement made to Settlement Class Members
12 and/or Aggrieved Employees under this Settlement Agreement, as well as any
13 other payments made pursuant to this Settlement Agreement, will not be
14 utilized to calculate any additional benefits under any benefit plans to which
15 any Class Members may be eligible, including, but not limited to profit-
16 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
17 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
18 Parties’ intention that this Settlement Agreement will not affect any rights,
19 contributions, or amounts to which any Class Members may be entitled under
20 any benefit plans.
- 21 6. All monies received by Settlement Class Members under the Settlement which
22 are attributable to wages shall constitute income to such Settlement Class
23 Members solely in the year in which such monies actually are received by the
24 Settlement Class Members. It is the intent of the Parties that Individual
25 Settlement Payments and individual shares of the PAGA Settlement provided
26 for in this Settlement agreement are the sole payments to be made by Defendants
27 to Settlement Class Members and/or Aggrieved Employees in connection with
28

1 this Settlement Agreement, with the exception of Plaintiff, and that the
2 Settlement Class Members and/or Aggrieved Employees are not entitled to any
3 new or additional compensation or benefits as a result of having received the
4 Individual Settlement Payments and/or their shares of the PAGA Settlement.

5 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
6 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
7 and/or Aggrieved Employees last known mailing address no later than 15
8 calendar days after the Funding Date.

9 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
10 Employees shall remain valid and negotiable for one hundred and 180
11 calendar days from the date of their issuance. If a Settlement Class Member
12 and/or Aggrieved Employee does not cash his or her settlement check within
13 90 calendar days, the Settlement Administrator will send a letter to such
14 persons, advising that the check will expire after the 180th day, and invite that
15 Settlement Class Member and/or Aggrieved Employee to request reissuance
16 in the event the check was destroyed, lost or misplaced. In the event an
17 Individual Settlement Payment and/or Aggrieved Employee's individual
18 share of the PAGA Settlement check has not been cashed within 180 calendar
19 days, all funds represented by such uncashed checks, plus any interest accrued
20 thereon, shall be transmitted to the Controller of the State of California to be
21 held pursuant to the Unclaimed Property Law, California Civil Code § 1500
22 *et seq.*, in the names and corresponding amounts associated with each Class
23 Member and/or Aggrieved Employee whose check(s) are cancelled.

24 9. Class Representative Service Award. In addition to the Individual Settlement
25 Payment and his individual share of the PAGA Settlement to be paid to
26 Plaintiff, Plaintiff will apply to the Court for an award of not more than
27 \$17,5000.00, as the Class Representative Service Award. Defendants do not
28

1 presently intend to oppose a Class Representative Service Award of not more
2 than \$17,500.00 for Plaintiff. The Settlement Administrator shall pay the
3 Class Representative Service Award, either in the amount stated herein if
4 approved by the Court or some other amount as approved by the Court, to
5 Plaintiff from the Gross Settlement Amount no later than 15 calendar days
6 after the Funding Date. Any portion of the requested Class Representative
7 Service Award that is not awarded to the Class Representative shall be part of
8 the Net Settlement Amount and shall be distributed to Settlement Class
9 Members as provided in this Agreement. The Settlement Administrator shall
10 issue an IRS Form 1099 — MISC to Plaintiff for his Class Representative
11 Service Award. Plaintiff shall be solely and legally responsible to pay any
12 and all applicable taxes on his Class Representative Service Award and shall
13 hold harmless the Released Parties from any claim or liability for taxes,
14 penalties, or interest arising as a result of the Class Representative Service
15 Award. The Class Representative Service Award shall be in addition to
16 Plaintiff's Individual Settlement Payment as a Settlement Class Member.
17 Approval of this Settlement shall not be conditioned on Court approval of the
18 requested amount of the Class Representative Service Award. If the Court
19 reduces or does not approve the requested Class Representative Service
20 Award, Plaintiff shall not have the right to revoke the Settlement, and it will
21 remain binding.

- 22 10. Class Counsel Award. Defendants understand a motion by Class Counsel for
23 attorneys' fees not to exceed one-third of the Gross Settlement Amount
24 currently estimated to be \$165,000.00 plus costs and expenses supported by
25 declaration not to exceed \$20,000, from the Gross Settlement Amount will be
26 filed. Any portion of the requested Class Counsel Award that is not awarded
27 to Class Counsel shall be part of the Net Settlement Amount and shall be
28

distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall allocate and pay the Class Counsel Award to Class Counsel from the Gross Settlement Amount no later than 15) calendar days after the Funding Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. If the Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right to revoke the Settlement, or to appeal such order, and the Settlement will remain binding.

11. PAGA Settlement. \$20,000 shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004 (“PAGA Settlement”). The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Settlement (\$15,000) to the California Labor and Workforce Development Agency no later than 15 calendar days after the Funding Date (hereinafter “LWDA Payment”). Twenty-five percent (25%) of the PAGA Settlement (\$5,000) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter “Aggrieved Employee Payment”). For purposes of distributing the PAGA Settlement to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

12. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Settlement Administration Costs is \$8,000. The Settlement Administrator shall be paid the Settlement Administration Costs no later than 15 calendar days after the Funding Date.

1 N. Defendants' Option to Revoke Settlement. Defendants have the right to revoke the
2 Settlement and Defendants shall have the option to void this Settlement if, after the
3 Responsive Deadline, the number of Settlement Class Members who submitted timely
4 and valid written requests for exclusion from the Settlement is at least 10% of all
5 Settlement Class Members. If Defendants exercise the option to terminate this
6 Settlement, Defendants shall: (a) provide written notice to Class Counsel within five
7 (5) calendar days after (i) providing the Class Date to the Settlement Administrator
8 or (ii) the Settlement Administrator provides information regarding opt outs (which
9 can occur no later than 14 calendar days after the Response Deadline, and (b) pay all
10 Settlement Administration Costs incurred up to the date or as result of the termination;
11 and the Parties shall proceed in all respects as if this Agreement had not been
12 executed.

13 O. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with
14 the Court a Motion for Order Granting Final Approval and Entering Judgment, within
15 28 calendar days following the expiration of the Response Deadline, which motion
16 shall request final approval of the Settlement and a determination of the amounts
17 payable for the Class Representative Service Award, the Class Counsel Award, the
18 PAGA Settlement, and the Settlement Administration Costs. Plaintiff will provide
19 Defendants with a draft of the Motion at least 3 business days prior to the filing of the
20 Motion to give Defendants an opportunity to propose changes or additions to the
21 Motion.

22 1. Declaration by Settlement Administrator. No later than 14 calendar days after
23 the Response Deadline, the Settlement Administrator shall submit a
24 declaration in support of Plaintiff's motion for final approval of this
25 Settlement detailing the number of Notice Packets mailed and re-mailed to
26 Class Members, the number of undeliverable Notice Packets, the number of
27 timely requests for exclusion, the number of objections received, the amount
28

1 of the average Individual Settlement Payment and highest Individual
2 Settlement Payment, the Settlement Administration Costs, and any other
3 information as the Parties mutually agree or the Court orders the Settlement
4 Administrator to provide.

5 2. Final Approval Order and Judgment. Class Counsel shall present an Order
6 Granting Final Approval of Class Action Settlement to the Court for its
7 approval, and Judgment thereon, at the time Class Counsel files the Motion
8 for Final Approval.

9 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
10 an opportunity for Counsel for Defendants to review the Motions for Preliminary and
11 Final Approval, including the Order Granting Final Approval of Class Action
12 Settlement, and Judgment before filing with the Court. The Parties and their counsel
13 will cooperate with each other and use their best efforts to affect the Court's approval
14 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
15 Judgment.

16 O. Cooperation. The Parties and their counsel will cooperate with each other and use
17 their best efforts to implement the Settlement.

18 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
19 except such proceedings necessary to implement and complete the Settlement, pending
20 the Final Approval/Settlement Fairness Hearing to be conducted by the Court

21 Q. Amendment or Modification. This Agreement may be amended or modified only by
22 a written instrument signed by counsel for all Parties or their successors-in-interest.

23 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
24 Agreement among these Parties, and no oral or written representations, warranties or
25 inducements have been made to any Party concerning this Agreement or its Exhibit
26 other than the representations, warranties and covenants contained and memorialized
27 in this Agreement and its Exhibit.

- 1 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate
3 this Agreement and to take all appropriate Action required or permitted to be taken by
4 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
5 documents required to effectuate the terms of this Agreement. The persons signing
6 this Agreement on behalf of Defendants represents and warrants that he/she is
7 authorized to sign this Agreement on behalf of Defendants. Plaintiff represents and
8 warrants that he is authorized to sign this Agreement and that he has not assigned any
9 claim, or part of a claim, covered by this Settlement to a third-party.
- 10 T. No Public Comment: The Parties and their counsel agree that they will not issue any
11 press releases, initiate any contact with the press, respond to any press inquiry, or have
12 any communication with the press about the fact, amount or terms of the Settlement
13 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
14 of its terms for any marketing or promotional purposes. Nothing herein will restrict
15 Class Counsel from including publicly available information regarding this settlement
16 in future judicial submissions regarding Class Counsel's qualifications and experience.
17 Further, Class Counsel will not include, reference or use the Settlement Agreement for
18 any marketing or promotional purposes, either before or after the Motion for
19 Preliminary Approval is filed.
- 20 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
21 to the benefit of, the successors or assigns of the Parties, as previously defined.
- 22 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
23 shall be governed by and interpreted according to the laws of the State of California.
- 24 W. Counterparts. This Agreement may be executed in one or more counterparts. All
25 executed counterparts and each of them shall be deemed to be one and the same
26 instrument provided that counsel for the Parties to this Agreement shall exchange
27 among themselves copies or originals of the signed counterparts.

- 1 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
2 is a fair, adequate and reasonable settlement of this Action and have arrived at this
3 Settlement after extensive arms-length negotiations, taking into account all relevant
4 factors, present and potential.
- 5 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
6 respect to the interpretation, implementation and enforcement of the terms of this
7 Agreement and all orders and judgments entered in connection therewith, and the
8 Parties and their counsel submit to the jurisdiction of the Court for purposes of
9 interpreting, implementing and enforcing the settlement and all orders and judgments
10 entered in connection with this Agreement.
- 11 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
12 the Court shall first attempt to construe the provisions valid to the fullest extent
13 possible consistent with applicable precedents so as to define all provisions of this
14 Agreement valid and enforceable.
- 15 AA. No Unalleged Claims. Plaintiff and Class Counsel represent they will not pursue any
16 claims against Defendants and the Released Parties, including, but not limited to, any
17 judicial, arbitral, or administrative forum, except for the already asserted individual
18 claim/complaint by Plaintiff against Defendants, and any and all claims relating to or
19 arising from Plaintiff's employment with Defendants, regardless of whether Class
20 Counsel is currently aware of any facts or legal theories upon which any claims or
21 causes of action could be brought against Released Parties, including those facts or
22 legal theories alleged in the operative complaint in this Action. The Parties further
23 acknowledge, understand and agree that this representation is essential to the
24 Agreement and that this Agreement would not have been entered into were it not for
25 this representation.
- 26 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
27 certification for purposes of this settlement only.

1 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
2 Released Claims have merit and give rise to liability on the part of Defendants.
3 Defendants claim that the Released Claims have no merit and do not give rise to
4 liability. This Agreement is a compromise of disputed claims. Nothing contained in
5 this Agreement and no documents referred to and no action taken to carry out this
6 Agreement may be construed or used as an admission by or against the Defendants or
7 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
8 than as may be specifically set forth herein, each Party shall be responsible for and
9 shall bear its/his own attorney's fees and costs.

10 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

11
12
13 DATED: Aug 9, 2022

Robert Baray III

Robert Baray III (Aug 9, 2022 14:31 PDT)

ROBERT BARAY

14
15 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

16
17 DATED: _____

18 _____
CURATION FOODS, INC.

19 _____
Printed Name

20 _____
Title

21
22
23 DATED: _____

24 _____
LANDEC CORPORATION.

25 _____
Printed Name

26 _____
Title

1 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
2 Released Claims have merit and give rise to liability on the part of Defendants.
3 Defendants claim that the Released Claims have no merit and do not give rise to
4 liability. This Agreement is a compromise of disputed claims. Nothing contained in
5 this Agreement and no documents referred to and no action taken to carry out this
6 Agreement may be construed or used as an admission by or against the Defendants or
7 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
8 than as may be specifically set forth herein, each Party shall be responsible for and
9 shall bear its/his own attorney's fees and costs.

10 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

11
12
13 DATED: _____

ROBERT BARAY

14
15 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

16
17 DATED: 8/15/2022 _____

CURATION FOODS, INC.

18
19 John Morberg _____

20 Printed Name

21 Chief Financial Officer _____

22 Title

23 DATED: 8/15/2022 _____

LANDEC CORPORATION.

24
25 John Morberg _____

26 Printed Name

27 Chief Financial Officer _____

28 Title

1 IT IS SO AGREED AS TO FORM BY COUNSEL:

2
3 DATED: August 9, 2022

JCL LAW FIRM, A.P.C.

4 By: 

5 Attorneys for Plaintiff and the Settlement Class
6 Members

7
8 DATED: August 9, 2022

ZAKAY LAW GROUP, APLC

9 By: 

10 Attorneys for Plaintiff and the Settlement Class
11 Members

12
13 DATED: _____

OGLETREE, DEAKINS, NASH, SMOAK &
14 STEWART, P.C.

15
16 By: _____

David A. Garcia, Esq.

17 Drake A. Mirsch, Esq.

18 Attorneys for Defendants
19
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1 IT IS SO AGREED AS TO FORM BY COUNSEL:
2

3 DATED: _____

JCL LAW FIRM, A.P.C.

4 By: _____

5 Attorneys for Plaintiff and the Settlement Class
6 Members

7
8 DATED: _____

ZAKAY LAW GROUP, APLC

9 By: _____

10 Attorneys for Plaintiff and the Settlement Class
11 Members

12
13 DATED: 8/15/22 _____

OGLETREE, DEAKINS, NASH, SMOAK &
14 STEWART, P.C.

15
16 By:  _____

17 David A. Garcia, Esq.
18 Drake A. Mirsch, Esq.
19 Attorneys for Defendants
20
21
22
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EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Baray v. Curation Foods, Inc., Santa Barbara County Superior Court Case No. 21CV02834)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendants as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of Santa Barbara (the “Court”) has been reached between Plaintiff Robert Baray (“Plaintiff”) and Defendants Curation Foods, Inc., and Landec Corporation (collectively “Defendants”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All persons who are or previously were employed by Defendants in California and classified as non-exempt employees during the Class Period.

The “Class Period” is the period of time running from July 16, 2017 to June 6, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On July 16, 2021, Plaintiff filed a Complaint against Defendants in the Superior Court of the State of California, County of Santa Barbara. Plaintiff asserted claims that Defendants: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (c) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (h) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.*

Defendants deny and dispute all claims asserted in the Action. Specifically, Defendants contended (and continue to contend) that the Action could not properly be maintained as a class action; that Defendants properly paid members of the class all wages and overtime that was due; that Defendants provided members of the class with all legally required meal breaks and rest breaks; that Defendants paid any members of the class all wages due them at the time of their terminations; that Defendants provided accurate, itemized wage statements to members of the class; that Defendants did not violate California Business and Professions Code section 17200 *et seq.*; that Defendants fully reimbursed members of the class for required business expenses; and that Defendants are not liable for any of the penalties claimed or that could be claimed in the Action.

On June 6, 2022, the Parties participated in an all-day mediation with David Rottman, Esq., an experienced mediator of wage and hour class and PAGA actions. The mediation concluded without a settlement. However, following the mediation, each side, represented by its respective counsel, continued settlement negotiations, with the assistance of Mediator Rotman, until they agreed to settle the Action. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of Four Hundred Ninety-Five Thousand Dollars (\$495,000) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payment to the Plaintiff.

After the Judgment becomes Final, Defendants will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$8,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

- Attorneys' Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$165,000) and a Class Counsel Litigation Expenses Payment of not more than \$20,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Actions on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Seventeen Thousand Five Hundred Dollars (\$17,500.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of \$20,000.00 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$15,000.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$5,000.00 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments the LWDA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Participating Class Members that occurred during the Class Period and multiplying the result by each individual Participating Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records, a member of the class worked at least one-day during any such workweek.
- Calculation of PAGA Penalties Payments to PAGA Employees. The Net PAGA Amount shall be distributed to PAGA Employees irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employees" means all of Defendant's current and former non-exempt employees employed in California during the PAGA Period. The PAGA Period means the period between May 12, 2020 to June 6, 2022.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 20% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 80% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendants, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all claims, demands, rights liabilities that were pled in any of the complaints in this matter, or which could have been pled in any of the complaints in this matter that arose during the Class Period. As a matter of emphasis, but not limitation, the Released Claims shall include: (a) Unfair Competition in Violation of California Business & Professions Code section 17200, et seq; (b) Failure to Pay Minimum Wages in Violation of California Labor Code section 1194, 1197, and 1197.1; (c) Failure to Pay Overtime Wages in Violation of California Labor Code section 510, et seq; (d) Failure to Provide Required Meal Periods in Violation of California Labor Code sections 226.7 and 512; (e) Failure to Provide Required Rest Periods in Violation of California Labor Code sections 226.7 and 512; (f) Failure to Provide Accurate Itemized Wage Statements in Violation of California Labor Code section 226 and 226.2; (g) Failure to Provide Wages When Due in Violation of California Labor Code sections 201, 202, and 203; (h) Released Claims also means any claims, rights, demands, liabilities, damages, wages, benefits, expenses, penalties, debts, obligations, attorneys' fees, costs, any other form of relief or remedy in law, equity, or whatever kind or nature, whether known or unknown, suspected or unsuspected, and causes of action, that could potentially arise from the receipt of any monies as a result of this settlement by any member of the Settlement Class. The Released PAGA Claims shall be released as follows. Upon entry of final judgment and upon funding in full of the Gross Settlement Amount by Defendants, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all claims for PAGA penalties alleged in the Action, including, but not limited to, PAGA penalties, unpaid costs or expenses, attorneys' fees, litigation costs.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendants' records reflect that you have << ____ >> Workweeks worked during the Class Period (July 16, 2017 to June 6, 2022).

Based on this information, your estimated Individual Settlement Payment is << ____ >>.

Defendants' records reflect that you have << ____ >> pay periods worked during the PAGA Period (May 12, 2022 to June 6, 2022).

Based on this information, your estimated PAGA Payment Share is << ____ >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: _____. (800) _____.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Net PAGA Amount.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is _____. The request for exclusion must state in substance: "I wish to opt out of the settlement of the class action lawsuit **entitled *Baray v. Curation Foods, Inc., Santa Barbara County Superior Court, Case No. 21CV02834***. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Baray v. Curation Foods, Inc., Santa Barbara County Superior Court, Case No. 21CV02834***. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291
Email: shani@zakaylaw.com
[Website: www. zakaylaw.com](http://www.zakaylaw.com)

Counsel for Defendants:

David A. Garcia, Esq.
Drake A. Mirsch, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
4370 La Jolla, Drive, Suite 900
San Diego, CA 92122
Tel.: (858) 652-3100
Fax: (858) 652-3101
E-Mail: david.garcia@ogletree.com
drake.mirsch@ogletree.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **00:00 AM/PM on** _____, at the Santa Barbara County Superior Court, Department 2, located 312 East Cook Street, Building E, Santa Maria, CA 93454 before Judge James F. Rigali. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-888-250-6810 or write to ***Baray v. Curation Foods, Inc., Santa Barbara County Superior Court, Case No. 21CV02834***, Settlement Administrator, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to State Controller's Office. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

EXHIBIT 3

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291

FIRM RESUME

Areas of Practice: Employee Class Actions, Wage and Hour Class Actions, Civil Litigation, and Unlawful Housing Practices.

ATTORNEY BIOGRAPHIES

Jean-Claude Lapuyade, Owner

Biography:

Mr. Lapuyade is a San Diego based labor and employment attorney representing aggrieved California employees and the victims of unlawful housing practices throughout the State of California. Mr. Lapuyade's litigation practice focuses on representing California employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, and misclassification, wrongful termination cases and tenants in unlawful housing class actions. Mr. Lapuyade prides himself on providing his clients with aggressive, attentive and result driven representation through the litigation process, trial and arbitration. Since 2007, Mr. Lapuyade successfully recovered in excess of \$40 million in monetary awards for his clients.

Mr. Lapuyade served as co-editor of the Insurance Column for Consumer Attorneys of San Diego from 2011 to 2014. As editor, Mr. Lapuyade was responsible for publishing monthly articles in the Trial Bar News periodical analyzing complex insurance coverage issues. Mr. Lapuyade is a four-time recipient of the Super Lawyers Rising Star by Thomson Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to 5 percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California
- U.S. District Court Central District of California
- U.S. District Court Eastern District of California

Professional Associations:

- California Employment Lawyers Association, 2007 to Present
- Consumer Attorneys of San Diego, 2007 to Present
- American Bar Association, Section of Litigation, Member, 2007 to Present
- American Bar Association, Labor & Employment Section, Member, 2007 to Present
- American Bar Association, Tort, Trial & Insurance Section, Member, 2007 to Present
- California Bar Association, Labor & Employment Section, Member, 2007 to Present
- California Bar Association, Litigation Section, Member, 2007 to Present

Education:

- **California Western School of Law**
 - J.D. - 2006
 - Honors: Deans Merit Scholarship, California Western School of Law 2005 - 2006
- **University of Arizona**
 - B.A. - 2001
 - Major: History
 -

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2015 - 2018
- Distinguished Advocate Award for Outstanding Oral Advocacy, 2005 – 2006

Biography:

Ms. Castillo-Johnson is a San Diego based labor and employment attorney representing California employees throughout the state of California. Ms. Castillo-Johnson's litigation practice focuses on representing current and former employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, misclassification, and wrongful termination.

Ms. Castillo-Johnson volunteered her time at California Western School of Law first as a student intern and later as a student manager with the Community Law Project which offers legal services to the low-income community of San Diego. She now sits on the Advisory Council with the Community Law Project.

Education:

- **California Western School of Law**
 - J.D.- 2022
 - Honors:
 - Dean's Honor List: Spring 2021, Fall 2021
 - Public Service Honor Society Fall 2021
 - 3L Academic Merit Scholarship
 - Dean's Diversity, Service, and Leadership Scholarship
 - Activities: Community Law Project Student Manager
- **Azusa Pacific University**
 - B.A. – 2018
 - Major: Criminal Justice

REPORTED CASES

- *Blanchette et al., v. Superior Court (GHA Homes)*, 8 Cal.App.5th 521, 2017
- *Chmurny v. State*, 392 Md. 159, 2006

CLASS ACTION & REPRESENTATIVE CASES

- *Martinello v. Century Wilshire, Inc.*, Los Angeles Superior Court Case No. 20STCV32613 (March 1, 2022) Hon. Carolyn Kuhl approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel.
- *Wilson v. Spreen Inc. (dba Spreen Honda)*, San Bernardino Superior Court Case No. CIVSB2119857 (April 6, 2022) Hon. David Cohn approved a \$300,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Ledesma v. TVJ Sons I, Inc.; Porter and Howard, Inc.* Santa Barbara Superior Court Case No. 20CV03573 (November 10, 2021) Hon. Jed Beebe approved a \$350,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC represented the State of California and the Aggrieved Employees.
- *Jacobs v. Rush Media Company, LLC; XLT Management Services, Inc.*, Los Angeles Superior Court Case No. 20STCV32350 (May 2, 2022) Hon. Daniel J. Buckley appointed the JCL Law Firm, APC as Class Counsel and approved a \$330,000 class action settlement for, *inter alia*, independent contractor misclassification.
- *Chavez v. HTL Conrad Domestic, LLC; HTL Conrad Domestic Employer, LLC*, San Diego Superior Court Case No. 37-2020-00016193-CU-OE-CTL (June 9, 2022) Hon. John S. Meyer approved a \$850,000 PAGA action settlement for, *inter alia*, failure to compensate overtime at the regular rate of pay. The JCL Law Firm, APC acted as representative PAGA counsel for the State of California and the Aggrieved Employees.
- *Renteria v. Love's Country Stores of California*, San Bernardino Superior Court Case No. CIVDS20164481 (June 14, 2022) Hon. David Cohn approved a \$2.2 million dollar class action and PAGA action settlement for, *inter alia*, unpaid overtime and sick pay. The JCL Law Firm, APC acted as Class Counsel and as representative PAGA counsel for the State of California.
- *Lopez v. Adidas America, Inc.*, Ventura Superior Court Case No. 56-2021-005498444-CU-OE-VTA (April 4, 2022) Hon. Mark Borrell approved a \$1.5 million dollar class action and PAGA action settlement for, *inter alia*, inaccurate overtime calculations, and appointed the JCL Law Firm, APC as Class Counsel.
- *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No. 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA settlement for, *inter alia*, inaccurate itemized wage

statements. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)

- *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums and appointed Jean-Claude Lapuyade, Esq. as Class Counsel.)
- *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and appointed Jean-Claude Lapuyade, Esq. as Class Counsel in a wage and hour class action settlement.)
- *Latin v. OneMain General Service Corporation*, Stanislaus County Superior Court Case No. CV-20-002498 (October 22, 2021) Hon. Stacy Speiller approved a PAGA action settlement for \$700,000 wage statement violations. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.
- *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson approved \$550 billing rate in a representative California Labor Code Private Attorney General Act settlement).
- *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)
- *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)
- *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)
- *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
- *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)
- *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)
- *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)
- *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)
- *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL Law Firm, APC, acted as lead counsel.)
- *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)
- *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)
- *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)
- *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case No. 37-2018-00043601 (May 31, 2019 – Hon. Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)
- *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval

for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)

- *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)
- *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)
- *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);
- *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);
- *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)
- *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)
- *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);
- *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);
- *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
- *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);