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By G. Carini, Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 CHRISTIAN CRUZ as an individual, and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 CHARLES E. THOMAS COMPANY, INC., a
18 California corporation; and DOES 1 through 100,
19 inclusive,

20 Defendants.

Case No.: 22STCV37722

[Assigned for all purposes to the Hon.
Yvette M. Palazuelos]

**DECLARATION OF DANIEL J.
BROWN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: August 16, 2023
Time: 10:00 a.m.
Dept.: 9

Complaint Filed: December 2, 2022
Trial Date: None Set

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I, DANIEL J. BROWN, declare as follows:

1. I am the principal of the law firm of Stansbury Brown Law, and counsel for the named plaintiff Christian Cruz (“Plaintiff”) and the proposed Settlement Class in the above-captioned matter. I am a member in good standing of the bar of the State of California and am admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I am a 2015 graduate of UCLA School of Law. I was admitted to the California State Bar in December 2015 after passing the bar exam on my first attempt. Since that time, I have practiced exclusively in the area of employment litigation. From December 2015 to June 2017, I worked for the law firm Rastegar Law Group, APC, an employment litigation firm in Torrance, California. The vast majority of my work at Rastegar Law Group, APC, focused on representing employees in wage and hour class actions. I was also the lead attorney on individual claims for wrongful termination, harassment, discrimination, and retaliation. While non-exhaustive, the type of work I performed included: conducting client intakes, performing pre-filing research and analysis, drafting complaints, attending court hearings, corresponding with opposing counsel, drafting and responding to written discovery, preparing for and taking and defending depositions, analyzing payroll and timekeeping records and employee handbooks, drafting and opposing motions for remand, demurrers and motions to dismiss, motions to compel, drafting mediation briefs, attending mediations, drafting long-form settlement agreements, drafting motions for preliminary and final settlement approval, and overseeing the claims and/or opt-out processes.

3. In June 2017, I voluntarily resigned from the Rastegar Law Group, APC, in order to accept a position with the Haines Law Group, APC, an employment litigation firm specializing in employment class action litigation. During my employment at the Haines Law Group, APC, I played a significant role in the class actions that I was staffed on. In particular, I received a wide-array of wage and hour class action experience performing the following types of tasks: drafting oppositions to demurrers, motions to strike and/or dismiss; remanding actions back to state court

1 from federal court; drafting and responding to written discovery; drafting and opposing discovery
2 related motions; arguing discovery related motions; interviewing putative class members and
3 obtaining declarations in connection with class certification; drafting motions for class
4 certification; conducting exposure analyses to assess the strengths and weaknesses of asserted
5 claims, the likelihood of prevailing at class certification and potential damages resulting from
6 such claims; drafting mediation briefs; serving as the primary contact for opposing counsel;
7 deposing corporate witnesses and putative class members; and defending the depositions of
8 named plaintiffs. In short, I played an integral role in all aspects of litigation from the inception
9 of a matter through and beyond class certification.

10 4. In June 2019, I started my own law firm, Stansbury Brown Law, focusing almost
11 exclusively on employment litigation. Currently, over eighty-five percent (85%) of my practice
12 is dedicated exclusively to the prosecution of wage and hour class actions, and I am currently
13 responsible for prosecuting over thirty (30) wage and hour class actions. The following is a non-
14 exhaustive list of wage and hour class actions in which I have played a significant role in
15 prosecuting the litigation, which have received final approval: *Spinks v. Suja Life, LLC.*, Case No.
16 37-2014-00036496-CU-OE-CTL, California Superior Court, County of San Diego, Judge
17 Richard E.L. Strauss presiding (approved as class counsel in wage and hour class action on behalf
18 of non-exempt employees of a juice manufacture involving claims for unpaid wages, meal and
19 rest period violations, and other claims); *Galvan v. Amvac Chemical Corporation*, Case No. 30-
20 2014-00716103-CU-OE-CXC, California Superior Court, County of Orange, Judge William D.
21 Cluster presiding (granted final approval of settlement on behalf of non-exempt employees of a
22 chemical manufacturing company involving claims for unpaid overtime and waiting time
23 penalties); *Blank v. Coty, Inc., et al.*, Case No. BC624850, California Superior Court, County of
24 Los Angeles, Judge William F. Highberger presiding (granting final approval of a class of
25 employees of a beauty products manufacturer involving claims for unpaid overtime, meal period
26 violations, and wage statement violations); *Lira v. Discus Dental, LLC, et al.*, Case No.
27 CIVDS1620402, California Superior Court, County of San Bernardino, Judge David Cohn
28 presiding (approved as class counsel in a wage and hour class action on behalf of non-exempt

1 employees of a manufacturer of dental products involving claims for unpaid overtime, minimum
2 wage violations, meal period violations, wage statement and waiting time penalties); *Nieto v.*
3 *Emtek Products, Inc.* Case No. BC652704, California Superior Court, County of Los Angeles,
4 Judge Shepard Wiley, Jr. presiding (approved as class counsel in a wage and hour class action on
5 behalf of non-exempt employees of a manufacturer of door hardware involving claims for meal
6 and rest period violations, and for waiting time, wage statement, and for penalties pursuant to the
7 Private Attorneys General Act (“PAGA”)); *Frank Gonzalez III v. Prime Communications*, Case
8 No. BC702262, California Superior Court, Judge Kenneth R. Freeman presiding (granting final
9 approval to a wage and hour class action on behalf of non-exempt employees against a cell phone
10 provider for meal and rest period violations, off-the-clock violations, and for derivative penalties);
11 *Fierro v. Universal City Studios LLC*, Case No. BC642460, California Superior Court, County of
12 Los Angeles, Judge Maren E. Nelson presiding (granting final approval of a wage and hour class
13 action on behalf of current and former non-exempt employees against an amusement park
14 involving claims for meal and rest period violations, failure to indemnify, failure to pay all
15 minimum and overtime wages, and for waiting time, wage statement, and PAGA penalties);
16 *Stephen et al. v. PSC Industrial Outsourcing, LP*, Case No. BC10752, California Superior Court,
17 County of Los Angeles, Judge Shepard Wiley Jr. presiding (granting final approval in and wage
18 and hour class action on behalf of current and former non-exempt employees of an industrial
19 cleaning company for meal and rest period violations, unpaid wages, failure to reimburse business
20 expenses, and waiting time, wage statement, and PAGA penalties); *Duran v. Prada USA Corp.*,
21 Case No. BC644319, California Superior Court, Los Angeles County, Judge Maren E. Nelson
22 presiding (approved as class counsel in a wage and hour class action on behalf of current and
23 former employees of a clothing store involving claims for unlawful claw back of earned
24 commissions, meal and rest period violations, failure to reimburse necessary business expenses,
25 and derivate claims for penalties); *Honorato Lopez v. Moon Valley Nursey, Inc.*, Case No.
26 BC668161, California Superior Court, Los Angeles County, Judge John Shepard Wiley, Jr.
27 (approved as class counsel in a wage and hour class action on behalf of current and former
28 employees of a commercial nursery involving claims for failure to pay for all hours worked,

1 automatically deducting work time for meal periods regardless if taken, rest period violations,
2 and derivate claims for penalties); *Alfaro v. Orange Automotive d/b/a Kia of Orange*, Case No,
3 30-2017-00945105-CU-OE-CXC, California Superior Court, County of Orange, Judge Randall
4 J. Sherman presiding (approved as class counsel in a wage and hour class action on behalf of
5 current and former employees of a car dealership involving claims for minimum wage violations,
6 meal and rest period violations, failure to reimburse business expenses, wage statement violations,
7 waiting time penalties, and PAGA penalties); *Lemus v. Promenade Imports, LLC*, California
8 Superior Court, County of Orange, Judge William Claster presiding (granting final approval in a
9 wage and hour class action on behalf of current and former non-exempt employees of a car
10 dealership involving claims for minimum wage violations, meal and rest period violations, failure
11 to reimburse business expenses, and claims for derivative penalties); *Garcia v. Fabrica*
12 *International, Inc.*, Case No. 30-2017-00949461-CU-OE-CXC, California Superior Court,
13 County of Orange, Judge William Claster presiding (approved as class counsel in a wage and
14 hour class action on behalf of current and former non-exempt employees of a high-end residential
15 carpets and custom rugs company involving claims for meal and rest period violations, regular
16 rate miscalculation, unlawful rounding policy, and claims for derivative penalties); *Vazquez, et*
17 *al. v. Kraft Heinz Foods Company*, Case No. 16-CV-02749-WGH (AGS), United States District
18 Court, Southern District of California, Honorable William Q. Hayes presiding (certifying
19 subclasses of employees for meal period violations, failure to pay for all hours worked, and a
20 derivate waiting time class); *Perez v. Moss Bros. Auto Group, Inc., et al.*, Case No. RIC1709905,
21 California Superior Court, County of Riverside, Judge Craig G. Reimer presiding (granting final
22 approval of a wage and hour class action on behalf of current and former non-exempt employees
23 of a car dealership involving claims for minimum wage violations, failure to pay all overtime
24 wages, meal period violations, rest period violations, wage statement violations, and civil
25 penalties under the PAGA); *Gonzalez v. Lacey Milling Company*, Case No. 19C-0361, California
26 Superior Court, County of Kings, Judge Kathy Cuiffini presiding (approved as class counsel in a
27 wage and hour class action on behalf of current and former non-exempt employees of flour
28 packing company involving claims for meal and rest period violations, unlawful rounding policy,

1 and claims for derivate penalties); *Manuel Alberto Alvino v. Family Ranch, Inc. et al.*, Case No.
2 19CECG04356, California Superior Court, County of Fresno, Honorable Kristi Culver Kapetan
3 presiding (PAGA only approving a wage and hour PAGA only settlement on behalf of current
4 and former agricultural workers involving claims of unpaid non-productive and rest and recovery
5 time, meal and rest period violations, facially deficient wage statements, and waiting time
6 violations); *Massey v. Louidar*, Case No. RIC1905130, California Superior Court, County of
7 Riverside, Honorable Sunshine Sykes, presiding (approved as class counsel in a wage and hour
8 class action on behalf of current and former non-exempt employees of a restaurant involving
9 claims for minimum wage and overtime violations, meal and rest period violations, and claims
10 for derivative penalties); *Jesse Alvarez v. Associa Developer Services, Inc., et al.*, Case No.
11 RIC1905170, California Superior Court, County of Riverside, Honorable Sunshine S. Sykes
12 presiding (approved as class counsel in a wage and hour class action on behalf of current and
13 former non-exempt employees of a property management company involving claims off-the-
14 clock work, unpaid overtime, on-duty meal and rest periods, and claims for derivative penalties);
15 *Saul Tamayo Diaz v. Antonini Bros.*, Case No. STK-CV-UOE-2020-0000823, California Superior
16 Court, County of San Joaquin, Honorable George J. Abdallah presiding (approved as class
17 counsel in a wage and hour case on behalf of current and former non-exempt truck drivers for
18 unpaid minimum wages, meal and rest period violations, and derivative wage statement, waiting
19 time, and PAGA civil penalties); *Manuel Alberto Alvino v. Aguayo Contracting, Inc.*, Case No.
20 VCU281300, Superior Court of California, County of Tulare, Honorable David C. Mathias,
21 presiding (approved as class counsel in a wage and hour class action on behalf of current and
22 former agricultural workers for unpaid wages, meal and rest period violations, and derivate
23 penalties); *Nazario Martinez v. JNM Contracting, Inc., et al.*, Case No. VCU282822, Superior
24 Court of California, County of Tulare, Honorable Nathan D. Id presiding (approved as class
25 counsel in a wage and hour class and representative action on behalf of current and former non-
26 exempt agricultural workers for unpaid wages, meal and rest period violations, and derivate
27 penalties); *Gabriel Valles v. Fresno Fab-Tech, Inc.*, Case No. 19CECG04218, Superior Court of
28 California, County of Fresno, Honorable D. Tyler Tharpe presiding (approved as class counsel in

1 a wage and hour class action on behalf of metal fabricators for unpaid wages, meal and rest period
2 violations, and associated penalties); *Maria E. Herrera De Quilo v. Yergat Packing Company,*
3 *Inc.*, Case No. MCV085367, Superior Court of California, County of Madera, Honorable Michael
4 J. Jurkovich presiding (approved as class counsel in a wage and hour class action on behalf of
5 current and former agricultural workers for unpaid wages, meal violations, and derivative
6 penalties); *Juan Olivares v. Brickley Construction Company, Inc.*, Case No. CIVSB2025107,
7 Superior Court of California, County of San Bernardino, Honorable David Cohn presiding
8 (approved as class counsel in wage and hour class action on behalf of construction workers for
9 off-the-clock violations, regular rate violations, meal and rest period violations and related
10 penalties); *Nora Ambris Cruz v. WMJ Farms, Incorporated*, Case No. VCU282915, Superior
11 Court of California, County of Tulare, Honorable David C. Mathias presiding (approved as class
12 counsel in a wage and hour class action on behalf of current and former agricultural workers for
13 unpaid wages, meal and rest period violations, and derivative penalties); *Veronica Graham v.*
14 *Gafe Pizza, Inc.*, Case No. CIV-DS-2013279, Superior Court of California, County of San
15 Bernardino, Honorable David Cohn, presiding (approved as class counsel and granted final
16 approval of settlement in a wage and hour class action on behalf of current and former employees
17 of a fast food franchise for unpaid wages, meal and rest period violations, unpaid reimbursements,
18 and derivative penalties); *Daniel Moreno v. Peters Fruit Farms, Inc.*, Case No. 21C-0196,
19 Superior Court of California, County of Kings, Honorable Valerie R. Chrissakis, presiding
20 (approved as class counsel and granted final approval of settlement in a wage and hour class
21 action on behalf of current and former agricultural workers for unpaid wages, meal and rest period
22 violations, unlawful deductions, and derivative penalties); *Marcos Garnica v. Socal Retail*
23 *Services, Inc.*, Case No. 21STCV08762, Superior Court of California, County of Los Angeles,
24 Honorable Maren Nelson, presiding (approved as class counsel and granted final approval of
25 settlement in wage and hour class action on behalf of current and former construction workers for
26 unpaid wages, meal and rest period violations, unpaid reimbursements, and derivative penalties).

27 5. I have also been named a California Super Lawyers' Rising Star in the area of
28 employment litigation three years in a row from 2019 to 2022. I was also recognized by

1 TopVerdict for being part of a team that secured one of the top 50 labor and employment law
2 settlements in California in 2019. Furthermore, I was recognized by TopVerdict for securing two
3 of the top 100 labor and employment law settlements in 2022. I am also active in the California
4 employment and consumer law community. I am a member of the Consumer Attorneys
5 Association of Los Angeles ("CAALA") and the California Employment Lawyers Association
6 ("CELA") for which I serve on the CELA Wage and Hour Committee. I also participate in the
7 CELA mentor program to provide mentorship and guidance to young attorneys interested in
8 employment law. As counsel for Plaintiff and the proposed Settlement Class, I have been
9 intimately involved in every aspect of this case from its inception through the present, and I
10 believe that the proposed Settlement is an excellent result for the Settlement Class.

11 6. Defendant is a corporation that employs individuals to perform construction jobs
12 for various retail and commercial businesses in California, namely gas stations. Plaintiff worked
13 for Defendant from approximately February 2009 until approximately August 18, 2022 and like
14 the vast majority of non-exempt employees he worked for Defendant on an hourly basis
15 performing general labor and technician work. Plaintiff was subject to Defendant's wage and
16 hour policies that are at issue in this action. Plaintiff's claims are therefore typical of those held
17 by the members of the proposed Settlement Class. Like other Settlement Class Members, Plaintiff
18 was employed by Defendant as a non-exempt hourly employee and was compensated via
19 Defendant's pay plans during the Class Period. Plaintiff alleges that he did not receive all legally
20 compliant meal or rest periods or premium pay in lieu thereof. Plaintiff further alleges that he
21 was subject to Defendant's "on-call" policies and practices which he alleges served to deny
22 himself and the Settlement Class all due minimum and overtime wages. Moreover, Plaintiff
23 alleges he was not always paid at a proper overtime rate of pay for overtime hours worked. Lastly,
24 Plaintiff asserts that he did not receive all earned wages at the time of his separation of
25 employment and received non-compliant wage statements.

26 7. Plaintiff filed a class action complaint ("Complaint" or "Lawsuit") against
27 Defendant on December 2, 2022, in Los Angeles County Superior Court, which alleges class
28 wide causes of action for: (1) minimum wage violations (2) failure to pay all overtime wages; (3)

1 meal period violations; (4) rest period violations; (5) waiting time penalties; (6) wage statement
2 violations; and (7) unfair competition. On March 14, 2023, Plaintiff amended his complaint as
3 a matter of right pursuant to Labor Code Section 2699.3(a)(2)(c) to add an additional cause of
4 action (8) for civil penalties under the Private Attorneys General Act pursuant to Labor Code
5 Sections 2698 *et seq.*

6 8. After agreeing to participate in early mediation, Defendant informally produced
7 all of its relevant time and pay records as well as its wage and hour policies and other documents
8 and information relevant to the claims alleged in advance of mediation. After the detailed review
9 of the payroll and time records and other documents and policies produced by Defendant, my
10 office drew on our extensive experience in similar cases to assess strengths and weaknesses of
11 Plaintiff's case.

12 9. I transmitted Defendant's mediation production to my expert, Bennett Berger a
13 Partner and Senior Data Analyst at Berger Consulting Group. I asked Mr. Berger to perform
14 specific analyses using the records that Defendant produced. The damages analysis discussed in
15 ¶¶ 15-22 of this declaration is based on Mr. Berger's analysis. Mr. Berger received his Bachelors
16 of Art in Business Management Economics from the University of California, Santa Cruz in
17 2011. He has been engaged in over 1,750 employment and labor law class-action litigation
18 matters to consult on data collection and analysis since 2013. All of the cases he has worked on
19 required extensive use of Excel and data analysis including but not limited to writing formulas
20 and custom equations to determine individual and/or class-wide violation rates. He has
21 experience processing and analyzing electronic time and payroll records in a variety of native
22 formats including XLSX, CSV, Kronos as well as processing PDF records in a way they can be
23 electronically analyzed. He has been hired to determine and analyze claims for rounding, meal
24 breaks, rest breaks, overtime, off-the-clock, regular rate of pay, reimbursement claims, driving
25 time calculations, derivative penalties, and other wage and hour claims. His experience within
26 Excel consists of using standard Excel functions, building custom Visual Basic for applications
27 (VBA) macros, using pivot tables, writing complex conditional formulas, and utilizing other
28 Excel capabilities to analyze class-action cases.

1 10. When I transmitted the time and pay data to my hired expert, Mr. Berger, I
2 requested that Mr. Berger confirm the date range of the data provided, and extrapolate: (i) the
3 number of pay periods and shifts worked by the class during the Class Period and the PAGA
4 period, (ii) the average rate of pay for the class, (iii) the number of shifts worked over 3.5 hours,
5 over 5.0 hours, over 6.0 hours, over 8.0 hours, over 10.0 hours, and over 12.0 hours, and (iv) the
6 first and second meal period violation rate based on the produced time records. In addition, I
7 requested that Mr. Berger review the time data produced by Defendant to determine the amount
8 of unpaid overtime due to a failure to properly calculate the regular rate of pay and the amount
9 of unpaid off-the-clock work, including work performed on-call. As discussed in detail below,
10 this analysis allowed me to determine the scope of the various violations alleged in the
11 concurrently filed Second Amended Complaint (“SAC”), and Defendant’s potential exposure if
12 the Parties were not able to reach a settlement at mediation.

13 11. On May 3, 2023, after extensive research and analysis, including Class Counsel’s
14 detailed analysis of Defendant’s potential exposure with the help of a retained economics expert,
15 a full-day in-person mediation was held with the Hon. Leo Wagner (ret.), a well-respected wage
16 and hour class action mediator. During mediation, the Parties vigorously debated their opposing
17 legal positions, the likelihood of certification of Plaintiff’s claims, and the legal basis for the
18 claims and defenses for the claims alleged in the proposed SAC. the Parties ultimately accepted
19 a mediator’s proposal for a class and representative wide settlement. Thereafter, the Parties
20 signed the LASC Model Class Action and PAGA Settlement Agreement and Class Notice
21 (“Settlement”). A true and correct copy of the Settlement is attached hereto as **Exhibit 1**. The
22 proposed Notice is attached to the Settlement as **Exhibit A**. The proposed Notice will be sent in
23 Spanish and English and will notify Class Members of the final approval hearing date and provide
24 the contact information for Class Counsel. The proposed Notice further provides that relevant
25 case documents, including the final judgment, and any changes to the final approval hearing date
26 and time will be posted on the Settlement Administrator’s website at:
27 www.apexclassaction.com/cetcompany. The redline reflecting changes made from the LASC
28 Model Class action and PAGA Settlement Agreement and Class Notice is attached hereto as
Exhibit 2. The Proposed SAC is attached hereto as **Exhibit 5**. Pursuant to the terms of

1 Settlement, subject to Court approval, the Parties stipulated to allow Plaintiff to file a Second
2 Amended Class and Representative Action Complaint (“SAC”) to redefine the class definition
3 from all current and former non-exempt employees of Defendants to only those non-exempt
4 employees who worked in the positions of: (i) Construction Technician; (ii) Service Technician;
5 (iii) Construction Technician Trainee; (iv) Service Technician Trainee; and/or (v) Superintendent
6 (if such Superintendent was paid on an hourly basis). Redefining the class is proper as the scope
7 of the claims negotiated and settled at mediation was based on a thorough analysis of time & pay
8 records, policies, and other related information only for individuals employed in similarly
9 situated positions as Plaintiff, and not Defendant’s non-exempt employees in other positions such
10 office or dispatch employees.

11 12. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount (“GSA”):	\$357,600.00
Minus Court-approved attorneys’ fees (1/3 of GSA):	\$119,200.00
Minus Court-approved, verified costs (not to exceed):	\$18,000.00
Minus Court-approved Service Payment (not to exceed):	\$10,000.00
Minus Settlement Administrator costs (not to exceed):	\$4,899.00
Minus PAGA Payment to the LWDA:	\$18,750.00
Net Settlement Amount (“NSA”):	\$186,751.00

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18 13. Defense counsel represents that the Settlement Class consists of approximately 62
19 putative class members who worked approximately 7,450 workweeks. Therefore, the average
20 Individual Settlement Payment is projected to be approximately \$3,012.11. After deducting
21 amounts for the Court-approved attorneys’ fees and verified costs, the Class Representative
22 Enhancement Payment to Plaintiff, Settlement Administrator costs, and the PAGA payment to
23 the LWDA, the Settlement requires Defendant to pay a Net Settlement Amount (“NSA”) amount
24 of approximately \$186,751.00 to all Class Members who do not timely opt out (“Settlement Class
25 Members”).

26 14. The Settlement provides that the employer’s share of payroll taxes shall be paid
27 separately from, and in addition to, the Maximum Settlement Amount. Moreover, the Parties
28 have agreed to allocate 20% of the Individual Settlement Awards as unpaid wages and 80% as

1 penalties and interest. Accordingly, since premium payments may be considered wages subject
2 to W-2 withholdings for which Defendants face potential tax liability for not deducting payroll
3 taxes, the Parties determined that a portion of those premiums will be treated as wages for the
4 purposes of Individual Settlement Award allocations. Therefore, the Parties determined that the
5 appropriate allocation of the Individual Settlement Awards was 20% wages and 80% penalties
6 and interest for tax purposes.

7 15. Plaintiff alleges that he and other Class Members were made to work off-the-clock
8 during their meal periods at the direction of their supervisors in an effort to meet the tight
9 deadlines imposed on them to complete projects by Defendant. Specifically, Plaintiff and the
10 putative class were not always authorized to take a meal period, but still had the time for a meal
11 period deducted from their pay. Defendant's alleged failure to pay Class Members for all hours
12 worked, if established, would violate California law, which is designed to ensure payment for all
13 hours worked. After conducting an investigation of this claim for mediation, Plaintiff estimated
14 that the Class Members worked approximately 11,630 shifts with an unlawful meal period auto-
15 deduction, meaning each shift was undercompensated 30 minutes of pay, 84.4% of which were
16 over 8.0 hours, amounting to 908 uncompensated regular hours worked and 4,907
17 uncompensated overtime hours worked. Accordingly, Plaintiff estimated Defendant's exposure
18 for this claim as follows: $(908 \text{ regular hours} * \$24.36 \text{ average hourly rate of pay}) + (4,907$
19 $\text{ overtime hours} * \$36.54 \text{ average overtime rate of pay}) = \$201,420.66$. Plaintiff further alleges
20 that he and Class Members were made to work off-the-clock by virtue of Defendant's on-call
21 practices, which only compensate Class Members for time spent actually performing jobs while
22 on-call and not for the time spent waiting for jobs be assigned to them. As to Plaintiff's on-call
23 claim, Plaintiff alleges that each and every week that 2 employees would rotate being on-call.
24 Plaintiff alleges that on average, on-call employees would work approximately 40 hours per week
25 on-call waiting for work to be assigned to them, all hours that were uncompensated by Defendant.
26 Plaintiff further alleges that the on-call hours, to the extent they were compensable, should have
27 been paid at an overtime rate of pay as on-call employees would still work their normal 40+
28 hour/week schedules while on-call. Accordingly, Plaintiff estimated Defendant's exposure as
follows: $[\text{approximately } 235 \text{ weeks} * 40 \text{ uncompensated on-call hours per workweek} * 36.54$

1 average overtime rate of pay * 2 on-call employees per workweek] = \$686,952.00. In total
2 Plaintiff alleges \$888,372.66 in off-the clock time worked. Defendant countered that throughout
3 the Class Period Defendant maintained and enforced its policy prohibiting off the clock work.
4 Moreover, Defendant argued that to the extent that any off-the-clock work was performed by the
5 putative class, that it was performed without its knowledge as the putative class was usually
6 working in the field on their own and Defendant could not have feasibly monitored every minute
7 spent during their workdays. Defendant argued further that by its very nature this claim is not
8 suited for class treatment, as there are no records to indicate how often or how much off the clock
9 work was performed thereby prohibiting class certification of this claim. As it relates to
10 Plaintiff's on-call claims, Defendant countered that the on-call hours at issue were not
11 compensable as the putative class were i) not restricted in their activities while on call; ii) not
12 excessively geographically restricted in their movements while on-call; iii) could easily trade on-
13 call responsibilities; iv) had ample time to respond to on-call responsibilities; and v) that in
14 reality, the putative class frequently engaged in personal activities and ventures while on-call
15 without any objection from Defendant. In light of these defenses, I discounted the maximum
16 amount for these claims by 70% for risk of non-certification, and an additional 30% for being
17 unsuccessful on the merits, or having the amount of damages reduced due to an over estimation
18 of the amount of off-the-clock work performed to arrive at an estimated exposure of \$144,259.

19 16. Plaintiff alleges that Plaintiff and the Class Members routinely were denied all
20 meal periods and instead were made to continue working through them, and that meal periods
21 were not receive prior to the end of their fifth hour worked. While Defendant's written meal
22 period policies are generally compliant, Plaintiff alleges that he and the Class Members in reality
23 were subject to an inconsistent meal period policy/practice that did not serve to track their meal
24 periods accurately in favor of automatically deducting thirty minutes off of their time sheets each
25 shift, regardless of if a timely and legally compliant meal period was actually exercised.
26 Accordingly, Plaintiff alleges that he and the Class Members often did not receive meal periods
27 and when they did, the meal periods were often late and not duty-free as they were subject to the
28 whims of their supervisor's desires to meet unrealistic and tight project deadlines. Plaintiff also
alleged that second meal periods were not provided on shifts over 10.0 hours thus providing

1 further exposure based on second meal period violations. Indeed, the records provided to Plaintiff
2 for analysis reflect approximately 9,389 unique meal period violations during the class period.
3 Based on the timekeeping records provided in connection with mediation, Plaintiff estimates
4 Defendant's maximum exposure for first and second meal period violations at \$228,716.04
5 (9,389 meal period violations * \$24.36 average meal premium). Defendant maintains that it has
6 always provided legally compliant first and second meal periods to Class Members and
7 maintained and enforced lawful meal period policies which provide for timely and duty-free meal
8 periods. Additionally, Defendant argues that any allegations of systemic meal period violations
9 should not apply to the entire Putative Class because the alleged practice was one that, if it
10 occurred, was limited to a handful of employees who voluntarily skipped meal periods without
11 Defendant's knowledge while they were working alone in the field. Defendant further argues
12 that this claim would not be certified due to the lack of any common evidence tying together the
13 reason that Class Members experienced a first meal period violation as the experiences of its
14 employees varied greatly depending on the job sites that they worked at. Defendant also argues
15 that the presence of these affirmative defenses as to the voluntariness of a particular meal period
16 decision would preclude class certification. Moreover, Defendant argues that its exposure is
17 vastly overestimated as Plaintiff already claims unpaid off-the-clock time as a result of auto-
18 deducting meal period time and that Plaintiff cannot simultaneous recovery a premium payment
19 and unpaid wages. Therefore, I discounted the maximum amount that the class could potentially
20 recover for meal period violations by 50% for a risk of non-certification, and an additional 65%
21 for a risk of losing on the merits, or having exposure reduced due to Defendants' waiver
arguments, to arrive at an estimated exposure amount of \$40,025.

22 17. Plaintiff argues that as with Defendant failed to authorize duty-free rest periods
23 and that he and the Class Members were made to work through the entirety of their shifts and
24 forego rest periods. Plaintiff alleges that Defendant's written rest period policies were facially
25 deficient and served to ensure that Plaintiff and the Class Members were not able to exercise
26 legally compliant rest periods due to its requirements that employees not leave their trucks
27 unattended during their shifts. Moreover, Defendant also failed to pay any rest period premium
28 wages per Labor Code Section 226.7 and it is Plaintiff's understanding that Defendant failed to

1 maintain any pay code for paying rest period premium wages per Labor Code Section 226.7.
2 Therefore, I calculated Defendant's maximum exposure for rest period violations, assuming a
3 rest period violation on all shifts over 3.5 hours, as follows: \$673,188 (27,635 rest period
4 violations * 24.36 average rest period premium). However, Defendant contends that, despite
5 Plaintiff's arguments to the contrary, it maintained legally compliant rest period policies and
6 practices throughout the Class Period, authorized and permitted all rest periods to class members,
7 and in practice did not prevent the Class Members from leaving their trucks during their rest
8 periods. Defendant further argues that Plaintiff's rest period claim is inherently unsuited for class
9 treatment as there are no records of whether or not rest periods were taken, therefore requiring
10 an individualized inquiry into whether each class member failed to take rest periods on each shift,
11 which would devolve into an unmanageable series of mini-trials, especially in light of the fact
12 that members of the class worked at different job sites throughout the Class Period, and therefore
13 any alleged restrictions on authorizing rest periods would be unique to the specific job site. In
14 light of these defenses, I discounted the maximum amount for this claim by 65% for risk of non-
15 certification, and an additional 55% for a risk of being unsuccessful on the merits or having the
16 amount of violations determined to be less than Plaintiff alleges to arrive at an estimated exposure
of \$106,027.

17 18. Throughout the Class Period, Defendant paid its employees non-discretionary
18 bonus payments that were not factored into the Class's respective regular rates of pay for
19 overtime purposes. As stated, these non-discretionary payments must be included in the regular
20 rate of pay when calculating employee's overtime rate of pay. Defendant's failure to include
21 these bonuses when calculating an overtime rate of pay led to a violation on approximately 51.0%
22 of pay periods, which affected approximately 56.5% of Class Members. Plaintiff's expert
23 determined that the total underpayment for the Class Period was \$49,306.00. However,
24 Defendant counters that the incentive compensation represents discretionary payments and/or not
25 compensation for hours of employment and therefore is not required to be included in the "regular
26 rate" of pay. Moreover, Defendant argues that differences in the frequency, type, and amount of
27 performance pay received by different Class Members would preclude class certification of this
28 claim. Therefore, I discounted the maximum amount that the class could potentially recover for

1 these violations by 30% for a risk of non-certification, and an additional 25% for a risk of losing
2 on the merits, to arrive at an estimated exposure amount of \$25,885.

3 19. With respect to wage statement violations, Plaintiff contends that for each pay
4 period in which there is a meal or rest period violation, off-the-clock violation, or overtime
5 violation, Plaintiff and other employees would have received a non-compliant wage statement in
6 violation of Labor Code Section 226. These types of derivative claims are routinely certified.
7 Plaintiff's data analysis reflected that there were approximately 1,145 total wage statements
8 issued during the relevant period and approximately 51 unique employees during the relevant
9 time period. Plaintiff calculated Defendant's maximum exposure for wage statement violations
10 at \$204,000.00 (51 employees * \$4,000 aggregate penalty) = \$204,000.00. Based on Defendant's
11 arguments that: (i) no violations occurred, (ii) any alleged violations were not "knowing and
12 intentional" as required by Labor Code § 226(e), (iii) no injury was suffered, and (iv) the decision
13 in *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, which holds that there is no
14 wage statement violation when the wage statements accurately reflect the compensation received
15 by an employee, Plaintiff discounted the calculated exposure by 60% for a risk of non-
16 certification and an additional 65% for a risk of being unsuccessful on the merits or having the
17 number of violations reduced since only a subset of the wage statements contained an alleged
18 derivate violation based on failure to pay all overtime wages to arrive at an estimated total of
19 \$28,560.

20 20. Plaintiff alleges that Defendant is also liable for waiting time penalties as a result
21 of its failure to pay all off the clock and overtime wages and premium wages owed. There are
22 approximately 45 Class Members who separated their employment with Defendant within the
23 relevant time period. The estimated average waiting time penalty per former employee was
24 calculated at \$5,846.40 (\$24.36 average hourly rate of pay * 8.0 hours per day * 30 days),
25 resulting in a total maximum exposure of \$263,088.00 (45 former employees x \$5,846.40). To
26 the extent that Plaintiff's waiting time penalty claim was derivative of his unpaid wage claims,
27 Defendant argues that not all former employees (if any) did, in fact, experience under payment
28 of wages (and therefore Plaintiff's exposure was overstated). Defendant also contends that
because it possessed good-faith defenses to the underlying claims, any failure to pay wages was

1 not “willful” as a matter of law. Defendant further maintains that waiting time penalties are not
2 recoverable at all for meal and rest period violations. As a result, I discounted the maximum
3 exposure by 55% to account for the risk of non-certification of the claims upon which the waiting
4 time penalties rely, and an additional 65% for failing to prevail on the merits, including the
5 inability to recover waiting time penalties for missed meal and rest period premium payments
6 and the inability to establish willfulness, to arrive at an estimated exposure of \$41,436.36.

7 21. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing
8 alleged Labor Code violations. The specific statutory violations upon which Plaintiff bases the
9 claim under PAGA are: (i) Labor Code sections 204, 510, 558, 1194, and 1198 for failing to pay
10 all overtime wages owed; (ii) Labor Code sections 1194, 1194.2, 1197 for failing to pay all
11 minimum wages owed; (iii) Labor Code sections 226.7, 512, and 558 for meal period violations;
12 (iv) Labor Code sections 226.7, 516, and 558 for rest period violations; (v) Labor Code section
13 226(e) for failing to provide accurate, itemized wage statements; (vi) Labor Code sections 201
14 through 204, and 210 for failing to pay all timely wages, including wages owed upon termination.
15 Plaintiff also alleged stand-alone PAGA Penalties for failure to make necessary Labor Code §
16 2810.5 disclosures and failure to provide required sick leave pursuant to Labor Code § 245.5(b),
17 however after further investigation into these claims Plaintiff found Defendant’s policies and
18 practices with respect to providing necessary disclosures and sick leave to be generally legally
19 compliant. Based on the violations addressed above, Plaintiff contends that Defendant is liable
20 for PAGA civil penalties for each of the 1,145 pay periods worked during the PAGA period.
21 Accordingly, Plaintiff calculates Defendant’s exposure as follows: 1,145 pay periods * \$100 for
22 initial violation = \$114,500. However, Defendant asserts a number of credible defenses to
23 Plaintiff’s claims. First, these penalties derive from the underlying wage and hour violations
24 discussed above, which Defendant vigorously disputes. Defendant also maintains that given its
25 good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA
26 penalties if it were to find Defendant liable for any of Plaintiff’s claims. Defendant further alleges
27 that none of the violations would be deemed knowing and intentional as there is no evidence to
28 suggest Defendant intentionally violated the Labor Code and that Defendant’s policies and
procedures demonstrate that Defendant acted in good faith in regards to paying the putative class

1 members all wages due. For these reasons, Defendant argues the Court would drastically reduce
2 any award of PAGA penalties as “confiscatory.” Therefore, I discounted the maximum PAGA
3 exposure by 50% for risk of losing on the merits, and an additional 65% to account for the
4 possibility of this Court reducing penalties, to arrive at an estimated exposure of \$20,037.
5 Further, neither the Court nor a jury has made a factual finding of a violation of any Labor Code
6 provision such that approving an amount that is less than the statutory maximum is appropriate.
7 As discussed above the Parties specifically negotiated the payment, like the other terms of the
8 settlement, and ultimately agreed to resolve the PAGA claim for \$25,000.00 at mediation.

9 22. Using these estimated figures for each of the claims described above, I predicted
10 that the potential recovery for the Settlement Class would be approximately \$406,229. The
11 proposed settlement of \$357,600 therefore represents approximately 88% of the reasonably
12 forecasted recovery for the Settlement Class. Preliminary approval is appropriate since the
13 Settlement will provide significant monetary relief to Class Members, which is consistent with
14 what Plaintiff’s counsel believes could have been recovered had the case proceeded through trial.
15 Further, the average Individual Settlement Amount of \$3,012.11 is significantly more than the
16 average payments achieved in other wage and hour class action settlements.

17 23. My office will also apply for an attorneys’ fees award of one-third of the MSA,
18 which is currently estimated to be \$119,200.00 and up to \$18,000 in verified costs
19 reimbursement. Plaintiff submits the requested fee is fair compensation for undertaking
20 complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. My
21 office has incurred substantial attorney fees conducting pre-filing investigation, analyzing
22 Plaintiff’s claims, conducting legal research, reviewing Defendant’s documents and policies,
23 analyzing Class Member’s relevant records, working with a retained expert to create a
24 comprehensive damages model, speaking with Class Members regarding the claims, preparing
25 for and attending a full day mediation, negotiating and preparing the long-form Settlement
26 Agreement, preparing this Motion, and otherwise litigating the case. I also expect to expend
27 additional attorney time in attending the hearing on this Motion, overseeing the Notice process
28 and fielding questions from Class Members, preparing the final approval papers, and attending
the Final Approval hearing. Moreover, as part of the final approval motion, my office will

1 provide the necessary information regarding hours reasonably expended and Class Counsel's
2 reasonable hourly rate to allow the Court to perform a lodestar cross-check.

3 24. To date, my firm has incurred approximately \$15,015.17 in litigation costs. As
4 part of Plaintiff's motion for final approval, my firm will request only the reimbursement of costs
5 reasonably incurred supported by declaration with an itemized cost sheet. The costs Plaintiff
6 seeks are the types of costs routinely approved by courts. I anticipate additional charges
7 pertaining to filing the instant motion and motion for final approval, and supplement filings
8 requested by the Court, and the costs of any future appearance.

9 25. Plaintiff will seek a Class Representative Service Payment of \$10,000, and I
10 believe this Enhancement Payment is reasonable given Plaintiff's effort in this case and the risks
11 he undertook on behalf of the Settlement Class, including the risk that he could be held liable for
12 Defendants' costs if this case was unsuccessful. Plaintiff was integral in the prosecution of this
13 action, by, among other things, providing substantial factual information and documents to Class
14 Counsel, attending multiple virtual meetings with Class Counsel to discuss the claims and
15 theories at issue in the litigation, actively participating in the prosecution of his claims, contacting
16 other class members and coordinating obtaining their Declarations, actively participating in the
17 full-day mediation, as well as the significant risks Plaintiff undertook by agreeing to serve as the
18 named plaintiff in this case.

19 26. Although the Parties engaged in significant informal discovery in advance of
20 mediation, the Parties still had significant written and deposition discovery to complete in formal
21 litigation had the matter not settled. This would have required expenditure of substantial time
22 and resources by both Parties that would have very likely spanned several years. Moreover,
23 Plaintiff still had to file for class certification, and faced the prospect of appeals in the wake of a
24 disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. Even
25 if the classes sought to be certified by Plaintiff were in fact certified, the Parties would incur
26 considerably more attorneys' fees and costs through a possible decertification motion, trial, and
27 possible appeal. This settlement avoids those risks and the accompanying expense.

1 27. My office submitted a PAGA notice letter to the Labor and Workforce
2 Development Agency (“LWDA”) on December 2, 2022. Attached hereto as **Exhibit 3** is
3 Plaintiff’s original PAGA notice letter to the LWDA. Further, my office submitted the Settlement
4 to the LWDA. Attached hereto as **Exhibit 4** is a true and correct copy of my submission of the
5 Settlement to the LWDA.

6 28. In conformity with the LASC Checklist for Preliminary Approval of Class Action
7 Settlement, a [Proposed] Judgment for the Court’s review is attached hereto as **Exhibit 6**.

8 I declare under penalty of perjury under the laws of the State of California and the United
9 States that the foregoing is true and correct. Executed on July 25, 2023, at Venice, California.

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Daniel J. Brown

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EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Christian Martin Perez Cruz (“Plaintiff”) and defendant Charles E. Thomas Company, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned 22STCV37722 initiated on December 2, 2022 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2 “Administrator” means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4 “Aggrieved Employee” means all non-exempt employees who worked for Defendant at any time during the PAGA Period and held the job title of: (i) Construction Technician; (ii) Service Technician; (iii) Construction Technician Trainee; (iv) Service Technician Trainee; and/or (v) Superintendent (if such Superintendent was paid on an hourly basis).
- 1.5 “Class” means all non-exempt employees who worked for Defendant at any time during the Class Period and held the job title of: (i) Construction Technician; (ii) Service Technician; (iii) Construction Technician Trainee; (iv) Service Technician Trainee; and/or (v) Superintendent (if such Superintendent was paid on an hourly basis).
- 1.6 “Class Counsel” means Daniel J. Brown, Esq. and Ethan C. Surls, Esq. of Stansbury Brown Law, PC.
- 1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8 “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

- 1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a copy certified-translated to Spanish by the Administrator, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12 “Class Period” means the period from December 2, 2018 to November 1, 2023.
- 1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15 “Court” means the Superior Court of California, County of Los Angeles.
- 1.16 “Defendant” means named Defendant Charles E. Thomas Company, Inc.
- 1.17 “Defense Counsel” means Paul S. Fleck, Esq., David M. Lester, Esq., and Kieran D. Hartley, Esq., of Atkinson, Andelson, Loya, Ruud & Romo.
- 1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “Final Judgment” means the Judgment Entered by the Court upon Granting Final

Approval of the Settlement.

- 1.22 “Gross Settlement Amount” means \$357,600.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraphs 8 and 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.
- 1.23 “Individual Class Payment” means the Participating Class Member’s *pro rata* share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24 “Individual PAGA Payment” means the Aggrieved Employee’s *pro rata* share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period.
- 1.25 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled under Labor Code section 2699, subdivision (i).
- 1.27 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.28 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31 “PAGA Period” means the period from December 2, 2021 to November 1, 2023.
- 1.32 “PAGA” means the Private Attorneys General Act (Lab. Code, § 2698 et seq.).
- 1.33 “PAGA Notice” means Plaintiff’s December 2, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.34 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid

from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$6,250.00) and the 75% to LWDA (\$18,750.00) in settlement of PAGA claims.

- 1.35 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36 “Plaintiff” means Christian Martin Perez Cruz, the named plaintiff in the Action.
- 1.37 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.41 “Released Parties” means Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.42 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email or mail Requests for Exclusion from the Settlement, or (b) fax, email or mail his, her, or their Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45 “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

- 2.1 On December 2, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: 1. Minimum Wage Violations; 2. Failure to Pay All Overtime Wages; 3. Meal Period Violations; 4. Rest Period Violations; 5. Waiting Time Penalties; 6. Wage Statement Violations; and 7. Unfair Competition. On March 14, 2023, Plaintiff filed a First Amended Complaint, alleging all causes of action

against Defendant that were alleged in the December 2, 2022 Complaint and adding an eighth cause of action for Civil Penalties Under PAGA. The Second Amended Complaint, to be filed in connection with Plaintiff's Motion for Preliminary Approval, is the operative complaint in the Action (the "Operative Complaint"). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3 On May 3, 2023, the Parties participated in an all-day mediation presided over by the Hon. John Leo Wagner (Ret.), which led to this Agreement to settle the Action.
- 2.4 Prior to mediation, Plaintiff obtained, through informal discovery: a non-sampled, virtually complete set of time records and pay statements for the full Class Period for virtually all Class Members; Defendant's governing written policies; additional information regarding Defendant's timekeeping and pay practices; and relevant employee count, workweek, and pay period queries. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.5 The Court has not granted class certification.
- 2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraphs 8 and 9 below, Defendant promises to pay \$357,600.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2 Payments from the Gross Settlement Amount. The Administrator will make and

deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third, which is currently estimated to be \$119,200.00, and a Class Counsel Litigation Expenses Payment of not more than \$18,000.00. Defendant will not oppose requests for these payments provided they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$4,899.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$4,899.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

(b) multiplying the result by each Participating Class Member's Workweeks.

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

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

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000.00 to be paid from the Gross Settlement Amount, with 75% (\$18,750.00) allocated to the LWDA PAGA Payment and 25% (\$6,250.00) allocated to the Individual PAGA Payments.

3.2.4.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 62 Class Members who collectively worked a total of 7,450 Workweeks, and 40 Aggrieved Employees who worked a total of 1,450 PAGA Pay Periods.

4.2 Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of

a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

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

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

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

4.4.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without United States Postal Service ("USPS") forwarding address. Within 7 days of receiving a returned

check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

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

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

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

5.1.1 Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes

of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the Civil Code, which reads:

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

5.2 Release by Participating Class Members:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged in the Class Period based on the facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation or claims based on facts occurring outside the Class Period.

5.3 Release by Participating and Non-Participating Class Members Who Are

Aggrieved Employees: All Participating Class Members who are Aggrieved Employees and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, during the PAGA Period based on the facts stated in the Operative Complaint and the PAGA Notice.

5.4 Release by Defendant of Named Plaintiff: Upon the Effective Date, Defendant releases and discharges Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns from all claims, causes of action, or lawsuits arising from Defendant's claim that Plaintiff converted Defendant's property.

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

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching

its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members and the Administrator; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), and this Agreement (Lab. Code, § 2699, subd. (1)(2)); (vii) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel’s Declarations shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of Counsel. Class Counsel is responsible for finalizing and filing the Motion for Preliminary Approval, obtaining a prompt hearing date for the Motion for Preliminary Approval, and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any nonmaterial change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns. The Parties are not obligated to agree to a material change to this Agreement if the Court conditions approval on a material change to this Agreement, and in the event the Parties do not agree to a material change to obtain approval, this Agreement shall be deemed void *ab initio*. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material change to the Agreement within the meaning of this paragraph.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Apex Class Action LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for

payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

7.4 Notice to Class Members.

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

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

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

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

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

7.5 Requests for Exclusion (Opt-Outs).

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

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

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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

5.3 of this Agreement and are eligible for an Individual PAGA Payment.

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

7.7 Objections to Settlement.

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

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

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

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

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval

and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and an attached Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the

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

- 8. WORKWEEK ESTIMATE AND ESCALATOR CLAUSE.** This Settlement Agreement is based on an estimated total of 7,450 Workweeks for the Class Period. If the actual number of Workweeks for the Class Period exceeds 8,195 (representing an increase of 745, or 10%, over the 7,450 estimate), then the Gross Settlement Amount shall automatically increase by \$48 for each Workweek that exceeds 8,195. Because the amount of \$25,000 allocated to PAGA Penalties is based on a reasonable compromise under Labor Code section 2699(1)(2), there shall be no adjustment to the LWDA PAGA Payment or Individual PAGA Payments.
- 9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
- 10. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subdivision (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 10.1 Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any nonmaterial change to the Settlement, the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Parties are not obligated to agree to a material change to this Agreement if the Court conditions approval on a material change to this

Agreement, and in the event the Parties do not agree to a material change to obtain approval, this Agreement shall be deemed void *ab initio*. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material change to the Agreement within the meaning of this paragraph.

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

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

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

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

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an

admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

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

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

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

required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement (except for material changes), submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed or waived only by an express written instrument signed by all Parties or their representatives and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule. Not later than

90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Daniel J. Brown, Esq.
Ethan C. Surls, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
Tel.: (323)204.3124
Email: dbrown@stansburybrownlaw.com
esurls@stansburybrownlaw.com
assistant@stansburybrownlaw.com

To Defendant:

Paul S. Fleck, Esq.
David M. Lester, Esq.
Kieran D. Hartley, Esq.
ATKINSON, ANDELSON, LOYA, RUUD & ROMO, APLC
12800 Center Court Drive South, Suite 300
Cerritos, California 90703-9364
Tel.: (562) 653-3200
Fax: (562) 653-3333
Email: PFleck@aalrr.com
David.Lester@aalrr.com
Kieran.Hartley@aalrr.com

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

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

PLAINTIFF CHRISTIAN MARTIN PEREZ
CRUZ

Dated: _____

Christian Martin Perez Cruz

DEFENDANT CHARLES E. THOMAS
COMPANY, INC.

Dated: 7/24/2023



By: Greg Thomas, President

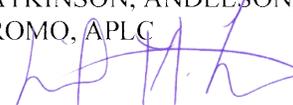
STANSBURY BROWN LAW, PC

Dated: _____

Daniel J. Brown
Ethan Surls
Attorneys for Plaintiff Christian Martin
Perez Cruz

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO, APLC

Dated: July 24, 2023



Paul S. Fleck
David M. Lester
Kieran D. Hartley
Attorneys for Defendant Charles E. Thomas
Company, Inc.

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

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

Dated: 7/24/2023

PLAINTIFF CHRISTIAN MARTIN PEREZ
DocuSigned by:

42A6EF29F27B498
Christian Martin Perez Cruz

Dated: _____

DEFENDANT CHARLES E. THOMAS
COMPANY, INC.

By: Greg Thomas, President

Dated: July 24, 2023

STANSBURY BROWN LAW, PC

Daniel J. Brown
Ethan Surls
Attorneys for Plaintiff Christian Martin
Perez Cruz

Dated: _____

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO, APLC
Paul S. Fleck
David M. Lester
Kieran D. Hartley
Attorneys for Defendant Charles E. Thomas
Company, Inc.

EXHIBIT A

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

Christian Cruz v. Charles E. Thomas Company, Inc.
Los Angeles County Superior Court Case No. 22STCV37722

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Charles E. Thomas Company, Inc. (“CET”) for alleged wage and hour violations. The Action was filed by a former CET employee, Christian Martin Perez Cruz (“Plaintiff”) and seeks payment of (1) back wages, penalties, and interest for employment-related wage claims for a class of hourly field employees (“Class Members”) who worked for CET during the Class Period (December 2, 2018 to November 1, 2023); and (2) civil penalties under the California Private Attorney General Act (“PAGA”) for all hourly field employees who worked for CET during the PAGA Period (December 2, 2021 to November 1, 2023) (“Aggrieved Employees”).

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

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

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

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

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

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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

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

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former CET employee. The Action accuses CET of violating California labor laws by failing to pay minimum, overtime, and final wages and failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for unfair competition and a claim for civil penalties under the California Private Attorneys General Act (Lab. Code, § 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action:

Daniel J. Brown, Esq.
Ethan C. Surls, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
Tel.: 323.204.3124
Email: dbrown@stansburybrownlaw.com
esurls@stansburybrownlaw.com
assistant@stansburybrownlaw.com

("Class Counsel.")

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

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

So far, the Court has made no determination whether CET or Plaintiff is correct on the merits.

In the meantime, Plaintiff and CET hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and CET have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, CET does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) CET has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. CET Will Pay \$357,600.00 as the Gross Settlement Amount (Gross Settlement). CET has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorneys’ fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, CET will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$119,200.00 [one-third of the Gross Settlement] to Class Counsel for attorneys’ fees and up to \$18,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 to Plaintiff as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$4,899.00 to the Administrator for services administering the Settlement.
 - D. Up to \$25,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees

based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and CET are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. CET will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as 100% penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than <<_____>>, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the <<_____>> Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her/their representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against CET.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible

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

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

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged in the Class Period based on the facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and CET has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims arising from the PAGA Period against CET, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue or participate in any other PAGA claim against CET or its related entities for the PAGA Period based on the facts alleged in the Action and resolved by this Settlement.

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

All Participating Class Members who are Aggrieved Employees and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, during the PAGA Period based on the facts stated in the Operative Complaint and the PAGA Notice.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$6250.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in CET's records, are stated in the first page of this Notice. You have until <<_____>> to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Christian Cruz v. Charles E. Thomas Company, Inc., LASC Case No. 22STCV37722, and include your identifying information (full name, address, telephone number, approximate dates of employment and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by <<____>>, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is <<____>>.** Be sure to tell the Administrator what you object to, why you object and any facts that support your objection. Make sure you identify the Action as Christian Cruz v. Charles E. Thomas Company, Inc., LASC Case No. 22STCV37722 and include your name, current address, telephone number and approximate dates of employment for CET and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on <<_____>> at <<(time)>> in Department 9 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything CET and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at <<(url)>>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 22STCV37722. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel: Daniel J. Brown, Esq.
Ethan C. Surls, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
Tel.: 323.204.3124
Email: dbrown@stansburybrownlaw.com
esurls@stansburybrownlaw.com
assistant@stansburybrownlaw.com

Settlement Administrator:
Name of Company: Apex Class Action LLC
Email Address: <<____>>
Mailing Address: <<____>>
Telephone: <<____>>
Fax Number: <<____>>

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10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund at <https://www.sco.ca.gov/index.html> for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT 2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff [Christian Martin Perez Cruz](#) (“Plaintiff”) and defendant [Charles E. Thomas Company, Inc.](#) (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1 “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned [22STCV37722](#) initiated on [December 2, 2022](#) and pending in Superior Court of the State of California, County of Los Angeles.

1.2 “Administrator” means [Apex Class Action LLC](#), the neutral entity the Parties have agreed to appoint to administer the Settlement.

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

1.4 “Aggrieved Employee” means [all non-exempt employees](#) who worked for Defendant at any time during the PAGA Period and held the job title of: (i) [Construction Technician](#); (ii) [Service Technician](#); (iii) [Construction Technician Trainee](#); (iv) [Service Technician Trainee](#); and/or (v) [Superintendent \(if such Superintendent was paid on an hourly basis\)](#).

1.5 “Class” means [all non-exempt employees](#) who worked for Defendant at any time during the Class Period and held the job title of: (i) [Construction Technician](#); (ii) [Service Technician](#); (iii) [Construction Technician Trainee](#); (iv) [Service Technician Trainee](#); and/or (v) [Superintendent \(if such Superintendent was paid on an hourly basis\)](#).

1.6 “Class Counsel” means [Daniel J. Brown, Esq. and Ethan C. Surls, Esq. of Stansbury Brown Law, PC](#).

1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

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

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1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a copy certified-translated to Spanish by the Administrator, in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12 “Class Period” means the period from December 2, 2018 to November 1, 2023.

1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15 “Court” means the Superior Court of California, County of Los Angeles.

1.16 “Defendant” means named Defendant Charles E. Thomas Company, Inc.

1.17 “Defense Counsel” means Paul S. Fleck, Esq., David M. Lester, Esq., and Kieran D. Hartley, Esq., of Atkinson, Andelson, Loya, Ruud & Romo.

1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21 “Final Judgment” means the Judgment Entered by the Court upon Granting Final

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Approval of the Settlement.

1.22 “Gross Settlement Amount” means \$357,600.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraphs 8 and 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.

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1.23 “Individual Class Payment” means the Participating Class Member’s *pro rata* share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

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1.24 “Individual PAGA Payment” means the Aggrieved Employee’s *pro rata* share of 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period.

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

1.26 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled under Labor Code section 2699, subdivision (i).

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1.27 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).

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

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

1.30 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

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1.31 “PAGA Period” means the period from December 2, 2021 to November 1, 2023.

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1.32 “PAGA” means the Private Attorneys General Act (Lab. Code, § 2698 et seq.).

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1.33 “PAGA Notice” means Plaintiff’s December 2, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).

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1.34 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid

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from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$6,250.00) and the 75% to LWDA (\$18,750.00) in settlement of PAGA claims.

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

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1.36 “Plaintiff” means Christian Martin Perez Cruz, the named plaintiff in the Action.

1.37 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.38 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.39 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.40 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.41 “Released Parties” means Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

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1.42 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email or mail Requests for Exclusion from the Settlement, or (b) fax, email or mail his, her, or their Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

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

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1.45 “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

2.1 On December 2, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: 1. Minimum Wage Violations; 2. Failure to Pay All Overtime Wages; 3. Meal Period Violations; 4. Rest Period Violations; 5. Waiting Time Penalties; 6. Wage Statement Violations; and 7. Unfair Competition. On March 14, 2023, Plaintiff filed a First Amended Complaint, alleging all causes of action

against Defendant that were alleged in the December 2, 2022 Complaint and adding an eighth cause of action for Civil Penalties Under PAGA. The Second Amended Complaint, to be filed in connection with Plaintiff's Motion for Preliminary Approval, is the operative complaint in the Action (the "Operative Complaint"). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.3 On May 3, 2023, the Parties participated in an all-day mediation presided over by the Hon. John Leo Wagner (Ret.), which led to this Agreement to settle the Action,

2.4 Prior to mediation, Plaintiff obtained, through informal discovery, a non-sampled, virtually complete set of time records and pay statements for the full Class Period for virtually all Class Members; Defendant's governing written policies; additional information regarding Defendant's timekeeping and pay practices; and relevant employee count, workweek, and pay period queries. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5 The Court has not granted class certification.

2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraphs 8 and 9 below, Defendant promises to pay \$357,600.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and

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deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third, which is currently estimated to be \$119,200.00, and a Class Counsel Litigation Expenses Payment of not more than \$18,000.00. Defendant will not oppose requests for these payments provided they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of the Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$4,899.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$4,899.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

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(b) multiplying the result by each Participating Class Member's Workweeks.

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

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

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3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000.00 to be paid from the Gross Settlement Amount, with 75% (\$18,750.00) allocated to the LWDA PAGA Payment and 25% (\$6,250.00) allocated to the Individual PAGA Payments.

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3.2.4.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

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4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 62 Class Members who collectively worked a total of 7,450 Workweeks, and 40 Aggrieved Employees who worked a total of 1,450 PAGA Pay Periods.

4.2 Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of

a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

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

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

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

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4.4.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without United States Postal Service ("USPS") forwarding address. Within 7 days of receiving a returned

check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

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

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

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

5.1.1 **Plaintiff's Waiver of Rights Under Civil Code Section 1542.** For purposes

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of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the Civil Code, which reads:

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

5.2 Release by Participating Class Members:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have, been alleged, in the Class Period based on the facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation or claims based on facts occurring outside the Class Period.

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5.3 Release by Participating and Non-Participating Class Members Who Are Aggrieved Employees: All Participating Class Members who are Aggrieved Employees and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, during the PAGA Period based on the facts stated in the Operative Complaint and the PAGA Notice.

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5.4 Release by Defendant of Named Plaintiff: Upon the Effective Date, Defendant releases and discharges Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns from all claims, causes of action, or lawsuits arising from Defendant's claim that Plaintiff converted Defendant's property.

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

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6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching

its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and the Administrator; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), and this Agreement (Lab. Code, § 2699, subd. (1)(2)); (vii) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel’s Declarations shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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6.2 **Responsibilities of Counsel.** Class Counsel is responsible for finalizing and filing the Motion for Preliminary Approval, obtaining a prompt hearing date for the Motion for Preliminary Approval, and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.3 **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any nonmaterial change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns. The Parties are not obligated to agree to a material change to this Agreement if the Court conditions approval on a material change to this Agreement, and in the event the Parties do not agree to a material change to obtain approval, this Agreement shall be deemed void *ab initio*. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material change to the Agreement within the meaning of this paragraph.

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7. SETTLEMENT ADMINISTRATION.

7.1 **Selection of Administrator.** The Parties have jointly selected Apex Class Action LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for

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payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

7.4 Notice to Class Members.

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

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

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

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

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

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7.5 Requests for Exclusion (Opt-Outs).

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

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

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7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

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

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5.3 of this Agreement and are eligible for an Individual PAGA Payment.

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

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7.7 Objections to Settlement.

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

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

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

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

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval

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and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

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

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

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

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

7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the

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

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8. WORKWEEK ESTIMATE AND ESCALATOR CLAUSE. This Settlement Agreement is based on an estimated total of 7,450 Workweeks for the Class Period. If the actual number of Workweeks for the Class Period exceeds 8,195 (representing an increase of 745, or 10% over the 7,450 estimate), then the Gross Settlement Amount shall automatically increase by \$48 for each Workweek that exceeds 8,195. Because the amount of \$25,000 allocated to PAGA Penalties is based on a reasonable compromise under Labor Code section 2699(1)(2), there shall be no adjustment to the LWDA PAGA Payment or Individual PAGA Payments.

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

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

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

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10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any nonmaterial change to the Settlement, the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Parties are not obligated to agree to a material change to this Agreement if the Court conditions approval on a material change to this

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Agreement, and in the event the Parties do not agree to a material change to obtain approval, this Agreement shall be deemed void ab initio. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material change to the Agreement within the meaning of this paragraph.

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

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

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

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

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12. **ADDITIONAL PROVISIONS.**

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an

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admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

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

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

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

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required to effectuate the terms of this Agreement including any amendments to this Agreement.

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

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

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

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

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

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

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

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

12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule. Not later than

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90 days after the date when the Court discharges the Administrator’s obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from Defendant unless, prior to the Court’s discharge of the Administrator’s obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

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

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

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

To Plaintiff:

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Daniel J. Brown, Esq.
Ethan C. Surls, Esq.
STANSBURY BROWN LAW, PC
2610 ½ Abbot Kinney Blvd.
Venice, CA 90291
Tel.: (323)204.3124
Email:dbrown@stansburybrownlaw.com
esurls@stansburybrownlaw.com
assistant@stansburybrownlaw.com

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To Defendant:

Paul S. Fleck, Esq.
David M. Lester, Esq.
Kieran D. Hartley, Esq.
ATKINSON, ANDELSON, LOYA, RUUD & ROMO, APLC
12800 Center Court Drive South, Suite 300
Cerritos, California 90703-9364
Tel.: (562) 653-3200
Fax: (562) 653-3333
Email: PFleck@aalrr.com
David.Lester@aalrr.com
Kieran.Hartley@aalrr.com

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

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

PLAINTIFF CHRISTIAN MARTIN PEREZ
CRUZ

Dated: _____
Christian Martin Perez Cruz

DEFENDANT CHARLES E. THOMAS
COMPANY, INC.

Dated: _____
By: Greg Thomas, President

STANSBURY BROWN LAW, PC

Dated: _____
Daniel J. Brown
Ethan Surls
Attorneys for Plaintiff Christian Martin
Perez Cruz

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO, APLC

Dated: _____
Paul S. Fleck
David M. Lester
Kieran D. Hartley
Attorneys for Defendant Charles E. Thomas
Company, Inc.

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EXHIBIT A

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

Christian Cruz v. Charles E. Thomas Company, Inc.
Los Angeles County Superior Court Case No. 22STCV37722

The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit ("Action") against Charles E. Thomas Company, Inc. ("CET") for alleged wage and hour violations. The Action was filed by a former CET employee, Christian Martin Perez Cruz ("Plaintiff") and seeks payment of (1) back wages, penalties, and interest for employment-related wage claims for a class of hourly field employees ("Class Members") who worked for CET during the Class Period (December 2, 2018 to November 1, 2023); and (2) civil penalties under the California Private Attorney General Act ("PAGA") for all hourly field employees who worked for CET during the PAGA Period (December 2, 2021 to November 1, 2023) ("Aggrieved Employees").

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

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

The above estimates are based on CET's records showing that you worked << >> workweeks during the Class Period and you worked << >> pay periods during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

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

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

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

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SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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

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

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1. WHAT IS THE ACTION ABOUT?

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Plaintiff is a former CET employee. The Action accuses CET of violating California labor laws by failing to pay minimum, overtime, and final wages and failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for unfair competition and a claim for civil penalties under the California Private Attorneys General Act (Lab. Code, § 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action:

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[Daniel J. Brown, Esq.](#)
[Ethan C. Surls, Esq.](#)
STANSBURY BROWN LAW, PC
[2610 ½ Abbot Kinney Blvd.](#)
[Venice, CA 90291](#)
[Tel.: 323.204.3124](#)
[Email:dbrown@stansburybrownlaw.com](mailto:dbrown@stansburybrownlaw.com)
esurls@stansburybrownlaw.com
assistant@stansburybrownlaw.com

(“Class Counsel.”)

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

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

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So far, the Court has made no determination whether CET or Plaintiff is correct on the merits.

In the meantime, Plaintiff and **CET** hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and **CET** have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, **CET** does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) **CET** has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. **CET** Will Pay **\$357,600.00** as the Gross Settlement Amount (Gross Settlement). **CET** has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorneys’ fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, **CET** will fund the Gross Settlement not more than **30** days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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2. **Court Approved Deductions from Gross Settlement.** At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to **\$119,200.00** [one-third of the Gross Settlement] to Class Counsel for attorneys’ fees and up to **\$18,000** for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to **\$10,000.00** to Plaintiff as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
- C. Up to **\$4,899.00** to the Administrator for services administering the Settlement.
- D. Up to **\$25,000.00** for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees

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based on their PAGA Period Pay Periods.

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

- 3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
- 4. Taxes Owed on Payments to Class Members. Plaintiff and CET are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. CET will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as 100% penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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

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

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible

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

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

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8. Administrator. The Court has appointed a neutral company, Apex Class Action LLC (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

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9. Participating Class Members' Release. After the Judgment is final and CET has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue or be part of any other lawsuit against CET or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

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All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, in the Class Period based on the facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation or claims based on facts occurring outside the Class Period.

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10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and CET has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims arising from the PAGA Period against CET, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue or participate in any other PAGA claim against CET or its related entities for the PAGA Period based on the facts alleged in the Action and resolved by this Settlement.

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

All Participating Class Members who are Aggrieved Employees and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, during the PAGA Period based on the facts stated in the Operative Complaint and the PAGA Notice.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5250.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in CET's records, are stated in the first page of this Notice. You have until << >> to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as [Christian Cruz v. Charles E. Thomas Company, Inc., LASC Case No. 22STCV37722](#), and include your identifying information (full name, address, telephone number, approximate dates of employment and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by << >>, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is << >>.** Be sure to tell the Administrator what you object to, why you object and any facts that support your objection. Make sure you identify the Action as [Christian Cruz v. Charles E. Thomas Company, Inc., LASC Case No. 22STCV37722](#) and include your name, current address, telephone number and approximate dates of employment for [CET](#) and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

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8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on << >> at <<(time)>> in Department 9 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

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9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything [CET](#) and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [the Administrator's website](#) at <<(url)>>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. [22STCV37722](#). You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel: [Daniel J. Brown, Esq.](#)
[Ethan C. Suris, Esq.](#)
[STANSBURY BROWN LAW, PC](#)
[2610 1/2 Abbot Kinney Blvd.](#)
[Venice, CA 90291](#)
[Tel.: 323.204.3124](#)
[Email: dbrown@stansburybrownlaw.com](#)
[esuris@stansburybrownlaw.com](#)
[assistant@stansburybrownlaw.com](#)

Settlement Administrator:
Name of Company: [Apex Class Action LLC](#)
Email Address: << >>
Mailing Address: << >>
Telephone: << >>
Fax Number: << >>

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10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, [you should consult the Unclaimed Property Fund at https://www.sco.ca.gov/index.html](https://www.sco.ca.gov/index.html) for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

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ⁱ This Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.[¶]

ⁱⁱ Whether the "date of preliminary approval" yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties' *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount "represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation." (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94-95, internal quotation marks omitted.)[¶]

ⁱⁱⁱ See endnote ii above.[¶]

^{iv} The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.[¶]

^v The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.[¶]

^{vi} Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code section 226, subdivision (a) claim).[¶]

^{vii} Insert negotiated terms, if any, addressing the possibility that XYZ's estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an "escalator" clause memorializing XYZ's promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ's estimates.[¶]

^{viii} Releases in Notice should track the releases in the Settlement Agreement.[¶]

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EXHIBIT 3

Thank you for submission of your PAGA Case. External Inbox x



LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
to esurls@stansburybrownlaw.com

10:40 AM (0 minutes ago) ☆ ↶ ⋮

12/2/2022

LWDA Case No. LWDA-CM-922378-22
Law Firm : Stansbury Brown Law, PC
Plaintiff Name : Christian Cruz
Employer: Charles E. Thomas Company, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private Attorneys General Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

Thank you for your assistance Received, thank you Thank you!



STANSBURY BROWN
LAW PC

December 2, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Christian Cruz v. Charles E. Thomas Company, Inc., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Christian Cruz in claims arising from his employment with Charles E. Thomas Company, Inc.; and DOES 1 through 100 (collectively “CET”). Mr. Cruz is an “aggrieved employee” as defined by Labor Code Section 2698 *et seq.*, due to CET’ numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

CET is in the business of servicing and maintenance of gas stations throughout California. Mr. Cruz worked for CET from approximately February 2009 until approximately August 18, 2023. His most recent position was that of a Senior Service Technician. Mr. Cruz’s primary job duties revolved around service and maintenance of gas stations around California. Mr. Cruz had no set schedule. Rather, he would work anywhere from 45-65 hours per week depending on work demands. Occasionally, Mr. Cruz would work all seven days a in a workweek, and sometimes more than seven days straight. As discussed below, Mr. Cruz worked considerably more hours than he was credited for on his wage statements. Mr. Cruz was paid at a rate of approximately \$40.00 per hour at the time of his separation with CET.

For purposes of this letter, the “aggrieved employees” whom Mr. Cruz seeks to represent are the other aggrieved employees of CET in California at any time during the one year preceding the date of this letter through the present.

Throughout the duration of Mr. Cruz’s employment with CET, Mr. Cruz and other aggrieved employees were not paid for all hours worked. Furthermore, Mr. Cruz and other aggrieved employees routinely worked overtime hours but did not receive overtime compensation equal to one and one-half times their regular rate of pay for all overtime hours worked. Mr. Cruz would consistently notice that hours that he worked were missing from his wage statements. Mr. Cruz brought this to the attention of his supervisors and

the payroll department on countless occasions, however the practice never changed. Mr. Cruz's inquiries regarding the discrepancies between the hours he worked and the hours he was credited for, whether verbally or via e-mail, were consistently evaded or outright ignored. Furthermore, Mr. Cruz would consistently be badgered with work related calls and communications on his days off, which he would attend to from anywhere between a few minutes to multiple hours, but was never provided any sort of compensation for this off-the-clock work. Additionally, Mr. Cruz would sometimes work seven days in a workweek, thus entitling him to statutory double time compensation, however despite his entitlement to such pay, CET failed to pay Mr. Cruz for all statutory double time hours worked. Consequently, due to CET's unlawful timekeeping and payment policies and practices that failed to compensate for all hours worked, Mr. Cruz and other aggrieved employees have been deprived of all required minimum, overtime wages, and double time wages earned.

Mr. Cruz and other aggrieved employees were not authorized to take all legally required rest periods. Mr. Cruz and the other employees would be made to work through their rest periods to meet the intense workloads imposed on them by CET. Due to the overwhelming workload and the company culture, Mr. Cruz and the other aggrieved employees were generally not permitted to exercise any compliant duty-free rest periods. Additionally, CET's policy/practice prohibited Mr. Cruz and other aggrieved employees from leaving their trucks unattended during their rest periods, and therefore, failed to authorize and permit Mr. Cruz and other aggrieved employees to take duty-free paid rest periods for every four-hour period worked, or major fraction thereof. Further, upon information and belief during at least a portion of the relevant time period, CET maintained no payroll code or other mechanism for the payment of rest period premium payments under Labor Code § 226.7 in the event that a legally compliant rest period was not authorized or permitted to Mr. Cruz and the other aggrieved employees.

CET also rarely, if ever, provided Mr. Cruz and other aggrieved employees with a compliant first meal period when they worked shifts in excess of 5.0 hours. Mr. Cruz and other aggrieved employees rarely, if ever, were entitled to exercise the use of a thirty-minute uninterrupted meal period despite always working at least 6.0 hours in a day. Rather, Mr. Cruz and other aggrieved employees were not provided all legally compliant meal periods due to CET's meal period policies and practices which fail to provide a timely 30-minute duty-free first meal period (i.e. a first meal period commencing before the end of the fifth hour of work). Mr. Cruz estimates that he did not receive a compliant first meal period, whether it be shortened, missed, or interrupted, on at least 90% of the shifts that he worked. For example, shortened meal periods were a common occurrence as Mr. Cruz and other aggrieved employees were made to adhere to strict schedules and deadlines that caused them to be pressured to get back to work as soon as possible after beginning their meal periods. Furthermore, even on those occasions where Mr. Cruz and other aggrieved employees did receive meal periods, they were almost always interrupted and/or on-duty. Mr. Cruz would have to discuss work related matters with his supervisors and coworkers off-the-clock during his meal periods and make sure that he did not leave his truck unattended making his meal periods inherently not duty-free. Finally, for the

vast majority of his employment, Mr. Cruz was not afforded to take any time to exercise a meal period whatsoever, instead being made to simply eat whatever snacks and food he had with him while driving between gas stations. Mr. Cruz's shortened, late, and on-duty meal periods were a direct result of CET's policy/practice. CET also failed to provide second meal periods when Mr. Cruz and other aggrieved employees worked shifts in excess of 10.0 hours. Mr. Cruz worked in excess of 10 hours nearly every shift during his employment, but he cannot recall receiving a second meal period. On those occasions when Mr. Cruz and the other aggrieved employees were not provided with all legally compliant meal periods to which they were entitled, CET failed to compensate them with the required meal period premiums, as mandated by Labor Code § 226.7. Further, upon information and belief during at least a portion of the relevant time period, CET maintained no payroll code or other mechanism for the payment of meal period premium payments under Labor Code § 226.7 in the event that a legally compliant meal period was not authorized or permitted to Mr. Cruz and the other aggrieved employees.

Mr. Cruz and other aggrieved employees routinely worked in excess of 8 hours per workday and/or 40 hours per workweek, but did not receive overtime compensation equal to one and one-half times their regular rate of pay for working overtime hours. Specifically, CET paid Mr. Cruz and other aggrieved employees non-discretionary bonuses, and other forms of non-discretionary pay that are not excludable from the regular rate of pay (hereinafter the aforementioned forms of pay are referred to as "Incentive Pay"). Despite CET's payment of Incentive Pay to Mr. Cruz and other aggrieved employees, CET failed to properly calculate the regular rate of pay, thereby causing Mr. Cruz and other aggrieved employees to be underpaid all required overtime wages. For example, Mr. Cruz's wage statement for the pay period ending on June 25, 2022, shows that Mr. Cruz worked 88.25 hours including 24.25 hours of overtime paid at 1.5 times Mr. Cruz's hourly rate of pay (i.e., \$60.00). However, in the same pay period Mr. Cruz also received a \$109.75 "On Call Bonus". Therefore, Mr. Cruz's overtime rate of pay when including Incentive Pay (which must be properly included in the overtime rate of pay) should have been approximately \$62.57. This practice was pervasive throughout Mr. Cruz's employment as he routinely received these nondiscretionary "On Call Bonus" payments. However, the "On Call Bonus" payments, were not factored in by CET when calculating Mr. Cruz's regular rate of pay during those pay periods when he received "On Call Bonus" payments. This practice resulted in a systemic underpayment of overtime wages, in addition to the time-shaving as described above

Additionally, Mr. Cruz and other aggrieved employees were constantly required to be "on-call" when they weren't working their regularly scheduled hours, but were not paid all minimum wages, overtime, and/or double time hours for this necessary time worked. Mr. Cruz and other aggrieved employees would be on-call at all hours of the day, and often would have to attend to work-related matters while on-call for hours at a time. However, instead of properly compensating Mr. Cruz and other aggrieved employees for at least minimum wages for these on-call hours worked, CET would simply elect to pay them an "on-call bonus" of around \$100 per week, which was vastly under representative of the amount of hours that they were necessarily performing work on call.

CET failed to meet its obligations to provide paid sick leave to Mr. Cruz and other aggrieved employees under Labor Code § 245.5(b) which requires that employers authorize and permit its employees who worked 30 or more days within a year to accrue paid sick leave, and to allow them to exercise paid sick leave on or after their 90th day of employment. Despite meeting all of the statutory requirements for being able to accrue and utilize paid sick leave, Mr. Cruz and other aggrieved employees were not provided paid sick leave on all of those occasions where they needed to take a “sick day” in violation of Labor Code § 245.5(b).

As a result of CET’s failure to pay all minimum and overtime wages, and failure to provide all required meal periods and authorize all rest periods or pay premium pay in lieu thereof to Mr. Cruz and other aggrieved employees, CET has maintained inaccurate payroll records, failed to timely pay all wages owed to employees, and issued inaccurate wage statements.

Furthermore, CET violated Labor Code § 204 by failing to pay Mr. Cruz and other aggrieved employees all wages earned at least twice during each calendar month.

Finally, CET failed to conform to the requirements of Labor Code § 2810.5 by failing to provide Mr. Cruz and other aggrieved employees written notices, in the language normally used to communicate employment related information to the employees, containing information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the employer; vi) the address of the legal entity that is the employer; vii) the telephone number of the employer; viii) identifying information for the employer’s workers’ compensation insurance carrier; and ix) information informing the employee of their right to accrue and use paid sick leave. Despite maintaining an obligation to provide these disclosures to Mr. Cruz and other aggrieved employees, CET failed to do so in violation of Labor Code § 2810.5.

As described above, CET committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 9 (“Wage Order 9”):

Minimum Wage Violations

CET was required to pay Mr. Cruz and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. See Labor Code §§ 1182.12, 1194; 1194.2, 1197; Wage Order 9 § 4. As alleged above, CET maintained and maintains timekeeping policies/practices that regularly, systematically, and impermissibly underreport the hours worked by Mr. Cruz and other aggrieved employee whether by rounding, time-shaving, or otherwise. As a result of these policies/practices, which fail to compensate for all hours worked, Mr. Cruz and other aggrieved employees were deprived of all required minimum wages.

Overtime Wage Violations

CET was required to pay Mr. Cruz and other aggrieved employees overtime wages for all overtime hours worked. *See* Labor Code §§ 1194(a) and 1198; Wage Order 9, § 3. Wage Order 9, § 3 requires an employer to pay overtime wages when an employee's hours worked cross certain thresholds or meet certain criteria set forth in the Wage Order. At all times relevant herein, CET caused Mr. Cruz and other aggrieved employees to work overtime hours but did not compensate Mr. Cruz and other aggrieved employees at one and one-half times their regular rate of pay for such hours.

Meal Period Violations

As alleged above, CET failed to provide Mr. Cruz and other aggrieved employees with all required and compliant meal periods due to CET's meal period policies/practices that often fail to provide 30 minute off-duty first meal periods before the end of the fifth hour of work. *See* Labor Code §§ 226.7 and 512; Wage Order 9, § 11. As a result, Mr. Cruz and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

Rest Period Violations

As alleged above, CET also failed to authorize and permit Mr. Cruz and other aggrieved employees to take all required paid rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 9, § 12. As a result, Mr. Cruz and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required paid rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Wage Statement Violations

CET was required to furnish Mr. Cruz and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, and total net wages earned. *See* Labor Code §§ 226(a) and 1174(d); Wage Order 9, § 7. As a result of CET's failure to pay all overtime wages, minimum wages, and failure

to pay all required meal and rest period premium wages, CET maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Cruz and other aggrieved employees in violation of Labor Code § 226.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. CET failed to timely pay Mr. Cruz and other aggrieved employees all of their final wages at the time of separation, which included all overtime and minimum wages, and all meal and rest period premium wages at the time of aggrieved employees' separation of employment. Pursuant to Labor Code § 203, CET's failure to pay all final wages due to Mr. Cruz and other aggrieved employees was willful and, consequently, entitles Mr. Cruz and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day CET failed to pay their final wages after their separation from employment, up to a maximum of thirty days.

As an "aggrieved employee," Mr. Cruz will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Cruz's own investigation, and on information and belief, CET committed and continues to commit the following Labor Code violations:

- a. CET violated Labor Code §§ 551-552, 558, 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Mr. Cruz and other aggrieved employees the statutory minimum wage for all hours worked;
- b. CET violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Cruz and other aggrieved employees all overtime compensation earned;
- c. CET violated Labor Code §§ 226.7, 512, and 1198 by failing to provide meal periods as required by law and failing to pay meal period premiums to Mr. Cruz and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. CET violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Mr. Cruz and other aggrieved employees from taking all required paid rest periods, and/or failing to pay all rest period premiums to Mr. Cruz and other aggrieved employees at their respective regular rates of compensation;
- e. CET violated Labor Code § 226 by failing to furnish Mr. Cruz and other aggrieved employees with accurate and compliant itemized wage statements;

- f. CET violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due upon separation of employment to Mr. Cruz and other aggrieved employees;
- g. CET violated Labor Code § 204 by failing to pay Mr. Cruz and other aggrieved employees all wages earned at least twice during each calendar month;
- h. CET violated Labor Code § 245.5 by failing to permit and authorize Mr. Cruz and other aggrieved employees to exercise the use of their accrued paid sick leave days;
- i. CET violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Mr. Cruz and other aggrieved employees; and
- j. CET violated Labor Code § 2810.5 by failing to provide legally mandated disclosures and/or written notices regarding the terms of employment of Mr. Cruz and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3(a)(2)(A), please notify us and CET if the LWDA intends to investigate the alleged violations of the Labor Code stated herein. Please contact me should you require additional information.

Very truly yours,
STANSBURY BROWN LAW, PC



Ethan C. Surls

cc: Charles E. Thomas Company, Inc. (via certified mail)

EXHIBIT 4



Daniel Brown <dbrown@stansburybrownlaw.com>

Thank you for your Proposed Settlement Submission

1 message

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
To: dbrown@stansburybrownlaw.com

Mon, Jul 24, 2023 at 1:10 PM

07/24/2023 01:10:24 PM

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

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

EXHIBIT 5

1 **STANSBURY BROWN LAW, PC**
2 DANIEL J. BROWN (SBN 307604)
3 dbrown@stansburybrownlaw.com
4 ETHAN C. SURLS (SBN 327605)
5 esurls@stansburybrownlaw.com
6 2610 ½ Abbot Kinney Blvd.
7 Venice, California 90291
8 Tel: (323) 204-3124

9 Attorneys for Plaintiff

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12 CHRISTIAN CRUZ as an individual, and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 v.

16 CHARLES E. THOMAS COMPANY, INC., a
17 California corporation; and DOES 1 through
18 100, inclusive,

19 Defendants.

Case No. 22STCV37722

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, AND
1198);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 512);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7 AND 516);**
- (5) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (6) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (7) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200, *et seq.*); AND**
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Christian Cruz (hereinafter “Plaintiff”), as an individual, and on behalf of all
2 others similarly situated, hereby brings this Second Amended Class and Representative Action
3 Complaint against Charles E. Thomas Company, Inc., a California corporation, and DOES 1 to
4 100, inclusive (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff hereby brings this Second Amended Class and Representative Action
7 Complaint for recovery of unpaid wages and penalties under California Business and Professions
8 Code § 17200 *et. seq.*, Labor Code §§ 201-203, 204, 226 *et. Seq.*, 226.7, 510, 512, 516, 558,
9 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq.*, and Industrial Welfare Commission Wage Order
10 9 (“Wage Order 9”), in addition to seeking declaratory relief and restitution. This Complaint is
11 brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
12 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
13 this Court's jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in the County of Los Angeles. Defendants own, maintain offices, transact business, have
18 an agent or agents within the County of Los Angeles, and/or otherwise are found within the
19 County of Los Angeles, and Defendants are within the jurisdiction of this Court for purposes of
20 service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was and currently is a California resident. During the four years immediately preceding
24 the filing of the Complaint in this action and within the statute of limitations periods applicable
25 to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt
26 employee. Plaintiff was and is a victim of Defendants’ policies and/or practices complained of
27 herein, lost money and/or property, and has been deprived of the rights guaranteed by Labor Code
28 §§ 201-203, 204, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698

1 *et seq.*, California Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”),
2 and Wage Order 9, which sets employment standards for the transportation industries.

3 4. Plaintiff is informed and believes, and based thereon allege, that during the four
4 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
5 continue to do) business by transporting commodities in California and the United States,
6 employed Plaintiff within Los Angeles County and the state of California and, therefore, were
7 (and are) doing business in Los Angeles County and the State of California.

8 5. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
11 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
12 and believe, and based thereon allege, that each of said fictitious defendants, whether individual,
13 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
14 and proximately caused Plaintiff and the Class (as defined herein) to be subjected to the unlawful
15 employment practices, wrongs, injuries and damages complained of herein.

16 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
17 herein, Defendants were and are the employers of Plaintiff and all members of the Class.

18 7. At all times herein mentioned, each of said Defendants participated in the doing
19 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
20 Defendants, and each of them, were the agents, servants, and employees of each and every one of
21 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
22 were acting within the course and scope of said agency and employment. Defendants, and each
23 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
24 omissions complained of herein.

25 8. At all times mentioned herein, Defendants, and each of them, were members of
26 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
27 and scope of, and in pursuance of said joint venture, partnership, and common enterprise. Further,
28 Plaintiff alleges that all Defendants were joint employers for all purposes towards Plaintiff and

1 all members of the Class.

2 **GENERAL FACTUAL ALLEGATIONS**

3 9. Plaintiff worked for Defendants from approximately February 2009 until
4 approximately August 18, 2022. His most recent position was that of a Senior Service Technician.
5 Plaintiff's job duties generally revolved around service and maintenance of gas stations around
6 Southern California.

7 10. Plaintiff had no set schedule. Rather, he would work anywhere from 45-65 hours
8 per week depending on work demands. Occasionally, Plaintiff would work all seven days a in a
9 workweek, and sometimes more than seven days straight. As discussed below, Plaintiff worked
10 considerably more hours than he was credited for on his wage statements. Plaintiff was paid at
11 a rate of approximately \$40.00 per hour at the time of his separation with Defendants.

12 11. Throughout the duration of Plaintiff's employment with Defendants, Plaintiff and
13 other aggrieved employees were not paid for all hours worked. Furthermore, Plaintiff and other
14 aggrieved employees routinely worked overtime hours but did not receive overtime compensation
15 equal to one and one-half times their regular rate of pay for all overtime hours worked. Plaintiff
16 would consistently notice that hours that he worked were missing from his wage statements.
17 Plaintiff brought this to the attention of his supervisors and the payroll department on countless
18 occasions, however the practice never changed. Plaintiff's inquiries regarding the discrepancies
19 between the hours he worked and the hours he was credited for, whether verbally or via e-mail,
20 were consistently evaded or outright ignored. Furthermore, Plaintiff would consistently be
21 badgered with work related calls and communications on his days off, which he would attend to
22 from anywhere between a few minutes to multiple hours, but was never provided any sort of
23 compensation for this off-the-clock work. Additionally, Plaintiff would sometimes work seven
24 days in a workweek, thus entitling him to statutory double time compensation, however despite
25 his entitlement to such pay, Defendants failed to pay Plaintiff for all statutory double time hours
26 worked. Consequently, due to Defendants' unlawful timekeeping and payment policies and
27 practices that failed to compensate for all hours worked, Plaintiff and other aggrieved employees
28 have been deprived of all required minimum, overtime wages, and double time wages earned.

1 12. In addition, Plaintiff and other aggrieved employees were not provided all legally
2 compliant meal periods due to Defendants' meal period policies and practices which fail to
3 provide a timely 30-minute duty-free first meal period (i.e. a first meal period commencing before
4 the end of the fifth hour of work). Plaintiff estimates that he did not receive a compliant first meal
5 period, whether it be shortened, missed, or interrupted, on at least 90% of the shifts that he
6 worked. For example, shortened meal periods were a common occurrence as Plaintiff and other
7 aggrieved employees were made to adhere to strict schedules and deadlines that caused them to
8 be pressured to get back to work as soon as possible after beginning their meal periods.
9 Furthermore, even on those occasions where Plaintiff and other aggrieved employees did receive
10 meal periods, they were almost always interrupted and/or on-duty. Plaintiff would have to discuss
11 work related matters with his supervisors and coworkers off-the-clock during his meal periods
12 and make sure that he did not leave his truck unattended making his meal periods inherently not
13 duty-free. Finally, for the vast majority of his employment, Plaintiff was not afforded to take any
14 time to exercise a meal period whatsoever, instead being made to simply eat whatever snacks and
15 food he had with him while driving between gas stations. Plaintiff's shortened, late, and on-duty
16 meal periods were a direct result of Defendants' policy/practice. Defendants also failed to provide
17 second meal periods when Plaintiff and other aggrieved employees worked shifts in excess of
18 10.0 hours. Plaintiff worked in excess of 10 hours nearly every shift during his employment, but
19 he cannot recall receiving a second meal period. In addition, on those occasions when Plaintiff
20 and the other aggrieved employees were not provided with all legally compliant meal periods to
21 which they were entitled, Defendants failed to compensate them with the required meal period
22 premiums, as mandated by Labor Code § 226.7.

23 13. Defendants also failed to authorize and permit Plaintiff and other aggrieved
24 employees to take all statutorily mandated rest periods. Plaintiff and the other employees would
25 be made to work through their rest periods to meet the intense workloads imposed on them by
26 Defendants. Due to the overwhelming workload and the company culture, Plaintiff and the other
27 aggrieved employees were generally not permitted to exercise any compliant duty-free rest
28 periods. Additionally, Defendants' policy/practice prohibited Plaintiff and other aggrieved

1 employees from leaving their trucks unattended during their rest periods, and therefore, failed to
2 authorize and permit Plaintiff and other aggrieved employees to take duty-free paid rest periods
3 for every four-hour period worked, or major fraction thereof. Further, upon information and
4 belief during at least a portion of the relevant time period, Defendants maintained no payroll code
5 or other mechanism for the payment of rest period premium payments under Labor Code § 226.7
6 in the event that a legally compliant rest period was not authorized or permitted to Plaintiff and
7 the other aggrieved employees.

8 14. Plaintiff and other aggrieved employees routinely worked in excess of 8 hours per
9 workday and/or 40 hours per workweek, but did not receive overtime compensation equal to one
10 and one-half times their regular rate of pay for working overtime hours. Specifically, Defendants
11 paid Plaintiff and other aggrieved employees non-discretionary bonuses, and other forms of non-
12 discretionary pay that are not excludable from the regular rate of pay (hereinafter the
13 aforementioned forms of pay are referred to as “Incentive Pay”). Despite Defendants’ payment
14 of Incentive Pay to Plaintiff and other aggrieved employees, Defendants failed to properly
15 calculate the regular rate of pay, thereby causing Plaintiff and other aggrieved employees to be
16 underpaid all required overtime wages. For example, Plaintiff’s wage statement for the pay period
17 ending on June 25, 2022, shows that Plaintiff worked 88.25 hours including 24.25 hours of
18 overtime paid at 1.5 times Plaintiff’s hourly rate of pay (i.e., \$60.00). However, in the same pay
19 period Plaintiff also received a \$109.75 “On Call Bonus”. Therefore, Plaintiff’s overtime rate of
20 pay of pay when including Incentive Pay (which must be properly included in the overtime rate
21 of pay) should have been approximately \$62.57. This practice was pervasive throughout
22 Plaintiff’s employment as he routinely received these nondiscretionary “On Call Bonus”
23 payments. However, the “On Call Bonus” payments, were not factored in by Defendants when
24 calculating Plaintiff’s regular rate of pay during those pay periods when he received “On Call
25 Bonus” payments. This practice resulted in a systemic underpayment of overtime wages, in
26 addition to the time-shaving as described above.

27 15. Additionally, Plaintiff and other aggrieved employees were constantly required to
28 be “on-call” when they weren’t working their regularly scheduled hours, but were not paid all

1 minimum wages, overtime, and/or double time hours for this necessary time worked. Plaintiff
2 and other aggrieved employees would be on-call at all hours of the day, and would often have to
3 attend to work-related matters while on-call for hours at a time. However, instead of properly
4 compensating Plaintiff and other aggrieved employees for these on-call hours worked,
5 Defendants would simply elect to pay them an “On-Call Bonus” (as described above) of around
6 \$100 per week, which was vastly under representative of the amount of hours that they were
7 necessarily performing work on call. As a result of Defendants’ policies/practices regarding this
8 on-call work, Defendants failed to pay all requisite minimum, overtime, and/or double time wages
9 owed to Plaintiff and other aggrieved employees.

10 16. Defendants also maintained inaccurate payroll records, and issued inaccurate and
11 deficient wage statements, in part due to Defendant’s failure to pay all minimum and overtime
12 wages, and meal and rest period premium wages .

13 17. Defendants also failed to pay all wages owed to Plaintiff and the other aggrieved
14 employees upon their separation of employment from Defendants, in part due to Defendants’
15 failure to pay all minimum and overtime wages, and meal and rest period premium wages.

16 18. Additionally, Defendants failed to meet its obligation to provide paid sick leave to
17 Plaintiff and other aggrieved employees under Labor Code § 245.5(b) which requires that
18 employers authorize and permit its employees who worked 30 or more days within a year to
19 accrue paid sick leave, and to allow them to exercise paid sick leave on or after their 90th day of
20 employment. Despite meeting all of the statutory requirements for being able to accrue and utilize
21 paid sick leave, Plaintiff and other aggrieved employees were not provided paid sick leave on all
22 of those occasions when they needed to take a “sick day” in violation of Labor Code § 245.5(b),
23 and did not provide sick pay at the correct regular rate.

24 19. Finally, Defendants failed to conform to the requirements of Labor Code § 2810.5
25 by failing to provide Plaintiff and other aggrieved employees written notices, in the language
26 normally used to communicate employment related information to the employees, containing
27 information regarding their: i) rate(s) of pay and the basis thereof; ii) allowances claimed as part
28 of the minimum wage; iii) regular payday designated by the employer; iv) the legal name of the

1 employer; v) the address of the legal entity that is the employer; vi) the telephone number of the
2 employer; vii) identifying information for the employer's workers' compensation insurance
3 carrier; and viii) information informing the employee of their right to accrue and use paid sick
4 leave.

5 **CLASS ACTION ALLEGATIONS**

6 20. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
7 following Class pursuant to § 382 of the Code of Civil Procedure:

- 8 a. All non-exempt employees who worked for Defendant at any time during the Class
9 Period and held the job title of: (i) Construction Technician; (ii) Service
10 Technician; (iii) Construction Technician Trainee; (iv) Service Technician
11 Trainee; and/or (v) Superintendent (if such Superintendent was paid on an hourly
12 basis). ("Settlement Class" or "Settlement Class Members). The "Class Period"
13 as referred to herein shall be from December 2, 2018 to November 1, 2023.

14 21. **Numerosity/Ascertainability:** The members of the Class are so numerous that
15 joinder of all members would be unfeasible and not practicable. It is estimated that the members
16 of the Class number approximately sixty-two (62) individuals. The identity of such membership
17 is readily ascertainable via inspection of Defendants' employment records.

18 22. **Common Questions of Law and Fact Predominate/Well Defined Community
19 of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
20 situated employees, which predominate over questions affecting only individual members. Those
21 common questions include, without limitation:

- 22 i. Whether Defendants paid all minimum wages owed for all hours worked to
23 members of the Settlement Class pursuant to Labor Code §§ 118.2, 1194, 1194.2,
24 and 1197;
25 ii. Whether Defendants violated the applicable Labor Code provisions, including, but
26 not limited to, §§ 510 and 1194 and Wage Order 9 by requiring members of the
27 Settlement Class to perform overtime work and not paying for said work in
28

1 accordance with the overtime laws of the State of California;

- 2 iii. Whether Defendants' timekeeping policies/practices resulted in the failure to
3 properly compensate members of the Settlement Class ;
- 4 iv. Whether Defendants provided all legally compliant meal periods to members of
5 the Settlement Class pursuant to Labor Code §§ 226.7 and 512;
- 6 v. Whether Defendants provided all legally compliant rest periods to members of the
7 Settlement Class pursuant to Labor Code §§ 226.7 and 516;
- 8 vi. Whether Defendants provided accurate, itemized wage statements to members of
9 the Settlement Class; and
- 10 vii. Whether Defendants' policies and/or practices for the timing and amount of
11 payment of final wages to members of the Settlement Class at the time of
12 separation from employment were lawful.

13
14 23. **Predominance of Common Questions:** Common questions of law and fact
15 predominate over questions that affect only individual members of the Class. The common
16 questions of law set forth above are numerous and substantial and stem from Defendants' policies
17 and/or practices applicable to each individual class member, such as Defendants' uniform
18 timekeeping policies and practices, meal and rest period policies and practices, wage statement
19 policies and practices, and the policies and practices regarding the timely payment of final wages.
20 As such, the common questions predominate over individual questions concerning each
21 individual class member's showing as to his or her eligibility for recovery or as to the amount of
22 his or her damages.

23 24. **Typicality:** The claims of Plaintiff are typical of the claims of the Class because
24 Plaintiff was employed by Defendants as a non-exempt employee in California during the
25 statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged
26 herein, Plaintiff, like the members of the Class, was subject to Defendants' meal/rest period and
27 timekeeping policies and practices, was provided inaccurate wage statements, and was not paid
28 all wages earned at the time of his separation of employment.

1 25. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
2 to represent fairly and adequately the interests of the members of the Class. Moreover, Plaintiff's
3 attorneys are ready, willing and able to fully and adequately represent the members of the Class
4 and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-hour class
5 actions in state and federal courts in the past and are committed to vigorously prosecuting this
6 action on behalf of the members of the Class.

7 26. **Superiority:** The California Labor Code is broadly remedial in nature and serves
8 an important public interest in establishing minimum working conditions and standards in
9 California. These laws and labor standards protect the average working employee from
10 exploitation by employers who have the responsibility to follow the laws and who may seek to
11 take advantage of superior economic and bargaining power in setting onerous terms and
12 conditions of employment. The nature of this action and the format of laws available to Plaintiff
13 and members of the Class make the class action format a particularly efficient and appropriate
14 procedure to redress the violations alleged herein. If each employee were required to file an
15 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
16 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
17 their vastly superior financial and legal resources. Moreover, requiring each member of the Class
18 to pursue an individual remedy would also discourage the assertion of lawful claims by employees
19 who would be disinclined to file an action against their former and/or current employer for real
20 and justifiable fear of retaliation and permanent damages to their careers at subsequent
21 employment. Further, the prosecution of separate actions by the individual class members, even
22 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
23 with respect to the individual class members against Defendants herein; and which would
24 establish potentially incompatible standards of conduct for Defendants; and/or legal
25 determinations with respect to individual class members which would, as a practical matter, be
26 dispositive of the interest of the other class members not parties to adjudications or which would
27 substantially impair or impede the ability of the class members to protect their interests. Further,
28

1 the claims of the individual members of the Class are not sufficiently large to warrant vigorous
2 individual prosecution considering all of the concomitant costs and expenses attending thereto.
3 As such, the Class (as defined herein) are maintainable as a Class under § 382 of the Code of
4 Civil Procedure.

5 **FIRST CAUSE OF ACTION**
6 **MINIMUM WAGE VIOLATIONS**
7 **(AGAINST ALL DEFENDANTS)**

8 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

9 28. Wage Order 9, § 4 and California Labor Code §§ 1197 and 1182.12 establish the
10 right of employees to be paid minimum wages for all hours worked in amounts set by state law.
11 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
12 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
13 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
14 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform
15 their pay practices to the requirements of the law by failing to pay Plaintiff and the Settlement
16 Class for all hours actually worked including, but not limited to, all hours he was subject to the
17 control of Defendants and/or suffered or permitted to work under the California Labor Code and
18 Wage Order 9.

19 29. California Labor Code § 1198 makes unlawful the employment of an employee
20 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
21 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
22 those employees the balance of the unpaid wages as well as liquidated damages in an amount
23 equal to the wages due and interest thereon.

24 30. As a direct and proximate result of Defendants' unlawful conduct as alleged
25 herein, Plaintiff and the Settlement Class have sustained economic damages, including but not
26 limited to, unpaid wages and lost interest in an amount to be established at trial, and are entitled
27 to recover economic and statutory damages and penalties and other appropriate relief as a result
28 of Defendants' violations of the California Labor Code and Wage Order 9.

1 ///

2 **FIFTH CAUSE OF ACTION**

3 **WAITING TIME PENALTIES**

4 **(AGAINST ALL DEFENDANTS)**

5 43. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

6 44. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
7 an employer to pay all wages immediately at the time of termination of employment in the event
8 the employer discharges the employee or the employee provides at least 72 hours of notice of
9 his/her intent to quit. In the event the employee provides less than 72 hours of notice of his/her
10 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
11 employee's last date of employment.

12 45. Defendants failed to timely pay Plaintiff and members of the Settlement Class all
13 final wages due to them at the time of their separation including, among other things, unpaid
14 and/or underpaid overtime and minimum wages owed, and meal and rest period premium wages.
15 Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform
16 policy and practice, Defendants continue to fail to pay members of the Settlement Class all
17 earned wages at the end of employment in a timely manner pursuant to the requirements of Labor
18 Code §§ 201-203. Defendants' failure to pay all final wages was willful within the meaning of
19 Labor Code § 203.

20 46. Defendants' willful failure to timely pay Plaintiff and the Settlement Class their
21 earned wages upon separation from employment results in a continued payment of wages up to
22 thirty (30) days from the time the wages were due. Therefore, Plaintiff and the Settlement Class
23 are entitled to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and
24 costs of suit.

25 **SIXTH CAUSE OF ACTION**

26 **WAGE STATEMENT VIOLATIONS**

27 **(AGAINST ALL DEFENDANTS)**

28 47. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

1 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
3 and the Settlement Class with complete and accurate wage statements reflecting the accurate
4 number of hours worked, meal period premiums, and rest period premiums in violation of Labor
5 Code § 226 *et seq.*

6 49. Defendants' failures in furnishing Plaintiff and the Settlement Class with complete
7 and accurate itemized wage statements resulted in actual injury, as said failures led to, among
8 other things, the non-payment of all minimum wages, overtime wages, meal and rest period
9 premium wages, and deprived them of the information necessary to identify the discrepancies in
10 Defendants' reported data.

11 50. Defendants' failures create an entitlement to recovery by Plaintiff and the
12 Settlement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226
13 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit
14 according to California Labor Code § 226 *et seq.*

15 **SEVENTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **(AGAINST ALL DEFENDANTS)**

18 51. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

19 52. Defendants have engaged and continue to engage in unfair and/or unlawful
20 business practices in California in violation of California Business and Professions Code § 17200
21 *et seq.*, by failing to pay Plaintiff and the Settlement Class all minimum and overtime wages,
22 provide all required meal periods and authorize and permit all rest periods, or pay premium
23 payments in lieu thereof, failing to furnish accurate, itemized wage statements, and willfully
24 failing to timely pay Plaintiff and members of the Settlement Class all final wages due upon
25 separation of employment.

26 53. Defendants' utilization of these unfair and/or unlawful business practices deprived
27 Plaintiff and continues to deprive members of the Settlement Class of compensation to which he
28 is legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair

1 advantage over Defendants' competitors who have been and/or are currently employing workers
2 and attempting to do so in honest compliance with applicable wage and hour laws.

3 54. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
4 herein, Plaintiff for himself and on behalf of the members of the Settlement Class, seek full
5 restitution of monies, as necessary and according to proof, to restore any and all monies withheld,
6 acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203
7 and 17208.

8 55. The acts complained of herein occurred within the last four years immediately
9 preceding the filing of the Complaint in this action.

10 56. Plaintiff is compelled to retain the services of counsel to file this court action to
11 protect his interests and those of the Settlement Class, to obtain restitution and injunctive relief
12 on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting
13 the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
14 which he is entitled to recover under Code of Civil Procedure § 1021.5.

15 **EIGHTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **(AGAINST ALL DEFENDANTS)**

18 57. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
19 fully set forth herein.

20 58. Defendants have committed several Labor Code violations against Plaintiff,
21 members of the Class, and other aggrieved employees. Plaintiff, an "aggrieved employee" within
22 the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
23 employees, brings this representative action against Defendants to recover the civil penalties due
24 to Plaintiff, the members of the Settlement Class, other aggrieved employees, and the State of
25 California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but
26 not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and
27 \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code §
28

1 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2)
2 \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code
3 § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each
4 subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00
5 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code §
6 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each
7 subsequent violation per employee per pay period for those violations of the Labor Code for which
8 no civil penalty is specifically provided, based on the following Labor Code violations:

- 9
- 10 a. Failing to pay minimum wages for all hours worked to Plaintiff, the Settlement
11 Class, and other aggrieved employees in violation of Labor Code §§ 558,
12 1182.12, 1194, 1194.2, 1197, and 1198;
 - 13 b. Failing to pay Plaintiff, the Settlement Class, and other aggrieved employees
14 all earned overtime compensation in violation of Labor Code §§ 204, 510, 558,
15 1194, and 1198;
 - 16 c. Failing to authorize and permit all legally required rest periods, and failure to
17 pay rest period premium wages, to Plaintiff, the Settlement Class, and other
18 aggrieved employees at the regular rate of compensation in violation of Labor
19 Code §§ 226.7, 516, 558, and 1198;
 - 20 d. Failing to provide all legally required meal periods, and failure to pay meal
21 period premium wages, to Plaintiff, the Settlement Class, and other aggrieved
22 employees at the regular rate of compensation in violation of Labor Code §§
23 226.7, 512, 558, and 1198;
 - 24 e. Failing to furnish Plaintiff, the Settlement Class, and other aggrieved employees
25 with complete, accurate, itemized wage statements in violation of Labor Code
26 § 226;
 - 27 f. Failing to timely pay all final wages and compensation earned by Plaintiff, the
28 Settlement Class, and other aggrieved employees at the time of separation in
violation of Labor Code §§ 201, 202, and 203;

- 1 g. Failing to pay non-exempt employees all earned wages at least twice during
2 each calendar month in violation of Labor Code § 204;
- 3 h. Failing to permit and authorize Plaintiff and other non-exempt to exercise the
4 use of their accrued paid sick leave days in violation of Labor Code § 245.5;
- 5 i. Failing to provide legally mandated disclosures and/or written notices
6 regarding the terms of employment of Plaintiff and other non-exempt
7 employees in violation of Labor Code § 2810.5; and
- 8 j. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
9 employees in violation of Labor Code § 1174.

10 59. On December 2, 2022, Plaintiff notified Defendants via certified mail, and notified
11 the California Labor and Workforce Development Agency (“LWDA”) via its website, of
12 Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for
13 civil penalties under California Labor Code § 2698 et seq. with respect to violations of the
14 California Labor Code identified in Paragraph 57 (a)-(j). Now that sixty-five days have passed
15 from Plaintiff’s notifying Defendants and the LWDA of these violations, and the LWDA has not
16 provided notice that it intends to investigate the violations, Plaintiff has exhausted his
17 administrative requirements for bringing a claim under the Private Attorneys General Act with
18 respect to these violations.

19 60. Plaintiff was compelled to retain the services of counsel to file this court action to
20 protect his interests and the interests of other similarly aggrieved employees, and to assess and
21 collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and
22 costs, which he is entitled to receive under California Labor Code § 2699(g).

23 **PRAYER**

24 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
25 this suit brought against Defendants, as follows:

- 26 1. For an order certifying the proposed Class;
- 27 2. For an order appointing Plaintiff as representative of the Class;
- 28 3. For an order appointing Counsel for Plaintiff as Counsel for the Class;

1 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
2 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2,
3 1198 and Wage Order 9 § 5(A);

4 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
5 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, 1198 and
6 Wage Order 9 § 5(A);

7 6. Upon the Third Cause of Action, for compensatory, consequential, general and
8 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

9 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
10 special damages according to proof pursuant to Labor Code §§ 226., 516, and 558;

11 8. Upon the Fifth Cause of Action, for statutory waiting time penalties pursuant to
12 Labor Code §§ 201-203;

13 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
14 226;

15 10. Upon the Seventh Cause of Action, for restitution to Plaintiff of all money and/or
16 property unlawfully acquired by Defendants by means of any acts or practices declared by this
17 Court to be in violation of Business and Professions Code § 17200 *et seq.*;

18 11. Upon the Eighth Cause of Action, for (1) \$100.00 for each initial violation for each
19 failure to pay each employee and \$200 for each subsequent violation or willful or intentional
20 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the
21 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
22 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
23 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
24 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
25 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
26 each initial violation and \$200 for each subsequent violation per employee per pay period for the
27 violations of the Labor Code Sections cited in Labor Code § 2699.5

28 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor

1 Code § 218.6 and Civil Code §§ 3287 and 3289;

2 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code
3 §226, and Code of Civil Procedure § 1021.5; and

4 14. For such other and further relief the Court may deem just and proper.

5
6
7 Dated: July 24, 2023

Respectfully submitted,
STANSBURY BROWN LAW, PC

8
9 By: _____


Daniel J. Brown
Ethan C. Surls
Attorneys for Plaintiff

10
11
12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

14
15 Dated: July 24, 2023

Respectfully submitted,
STANSBURY BROWN LAW, PC

16
17
18 By: _____


Daniel J. Brown
Ethan C. Surls
Attorneys for Plaintiff

EXHIBIT 6

1 **STANSBURY BROWN LAW, PC**
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9 Attorneys for Plaintiff

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF LOS ANGELES**

12 CHRISTIAN CRUZ, as an individual and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 CHARLES E. THOMAS COMPANY, INC.,
17 a California corporation; and DOES 1
18 through 100,
19 Defendants.

Case No. 22STCV37722

[Assigned for all purposes to the Hon.
Yvette M. Palazuelos]

**[PROPOSED] CLASS ACTION AND
PAGA SETTLEMENT FINAL
JUDGMENT**

Hearing Date: _____, 202__
Hearing Time: 10:00 a.m.
Hearing Place: Department 09

Complaint Filed: December 2, 2022
Trial Date: None Set

1 This matter came on regularly for hearing before this Court on _____, 202__, pursuant
2 to California Rule of Court 3.769, this Court's _____, 2023 Order Granting Preliminary
3 Approval of Settlement and Setting a Settlement Fairness Hearing ("Preliminary Approval
4 Order"). Having considered the parties' Class Action and PAGA Settlement Agreement (the
5 "Settlement") and the submissions of counsel, the Court hereby ORDERS as follows:

6 1. Final judgment in this matter is hereby entered in conformity with the Settlement,
7 the Preliminary Approval Order, and this Court's Order Granting Plaintiff's Motion for Final
8 Approval of Class Action Settlement, Class Representative's Service Payment, and Attorneys'
9 Fees and Costs ("Final Approval Order").

10 2. The Settlement Class is defined as: "All non-exempt employees who worked for
11 Defendant at any time during the Class Period and held the job title of: (i) Construction
12 Technician; (ii) Service Technician; (iii) Construction Technician Trainee; (iv) Service
13 Technician Trainee; and/or (v) Superintendent (if such Superintendent was paid on an hourly
14 basis) ("Class" or "Class Members")." The "Class Period" means the period from December 2,
15 2018 to November 1, 2023.

16 3. As of _____, 202__, by virtue of this Judgment, all Class Members who do not
17 submit a valid and timely request for exclusion from the settlement "Participating Class
18 Members" on behalf of themselves and their respective former and present representatives,
19 agents, attorneys, heirs, administrators, successors and assigns, shall be deemed to have released
20 Defendant Charles E. Thomas Company, Inc., and each of its former and present directors,
21 officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns,
22 subsidiaries, and affiliates (collectively, "Released Parties") from all claims that were alleged, or
23 reasonably could have been alleged in the Class Period based on the facts stated in the Operative
24 Second Amended Complaint filed on _____ ("Operative Complaint") and ascertained in the
25 course of the Action. The "Action" means Plaintiff Christian Martin Perez Cruz's ("Plaintiff")
26 lawsuit alleging wage and hour violations against Defendant captioned 22STCV37722 initiated
27 on December 2, 2022 and pending in Superior Court of the State of California, County of Los
28 Angeles. Except as provided below, Participating Class Members do not release any other claims,

1 including claims for vested benefits, wrongful termination, violation of the Fair Employment and
2 Housing Act, unemployment insurance, disability, social security, workers' compensation or
3 claims based on facts occurring outside the Class Period. Expressly excluded from this release
4 are Class Member(s) _____, _____, and _____, each of whom submitted a valid request for
5 exclusion from the class action portion of the Settlement ("Non-Participating Class Members").

6 4. In addition, All Participating Class Members who are Aggrieved Employees and
7 Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf
8 of themselves and their respective former and present representatives, agents, attorneys, heirs,
9 administrators, successors and assigns, the Released Parties from all claims for PAGA penalties
10 that were alleged, or reasonably could have been alleged, during the PAGA Period based on the
11 facts stated in the Operative Complaint and the PAGA Notice. "Aggrieved Employee" means all
12 non-exempt employees who worked for Defendant at any time during the PAGA Period and held
13 the job title of: (i) Construction Technician; (ii) Service Technician; (iii) Construction Technician
14 Trainee; (iv) Service Technician Trainee; and/or (v) Superintendent (if such Superintendent was
15 paid on an hourly basis). The "PAGA Period" means the period from December 2, 2021 to
16 November 1, 2023. "PAGA Notice" means Plaintiff's December 2, 2022 letter to Defendant and
17 the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).

18 5. This document shall constitute a final judgment pursuant to California Rule of
19 Court 3.769(h) which provides, "If the court approves the settlement agreement after the final
20 approval hearing, the court must make and enter judgment. The judgment must include a
21 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
22 judgment. The court may not enter an order dismissing the action at the same time as, or after,
23 entry of judgment." The Court will retain jurisdiction to enforce the Settlement, the Final
24 Approval Order, and this Judgment.

25 6. The Parties shall file a Joint Report and a declaration from the Settlement
26 Administrator regarding the disbursement of Settlement funds on or before _____, 2024,
27 and the date for OSC re: Compliance with Terms of Settlement Hearing shall be set for
28 _____, 2024 at 10:00 a.m. The Settlement Administrator shall provide notice of hearing

1 on its website. The declaration shall state the date the checks were mailed, the total number of
2 checks mailed to Settlement Class Members, the number of checks that remain uncashed, the
3 total value of those uncashed checks, and the average amount of the uncashed checks.

4 **IT IS SO ORDERED. JUDGMENT IS HEREBY ENTERED.**

5 Dated: _____, 202__

Honorable Yvette M. Palazuelos
Judge of the Superior Court

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