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6 Attorneys for Plaintiff VALERIE MAE LUNA,
7 on behalf of herself, all others similarly situated,
8 and on behalf of the general public

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF LOS ANGELES**

11 VALERIE MAE LUNA on behalf of herself,
12 all others similarly situated, and on behalf of
13 the general public,

14 Plaintiffs,

15 v.

16 ACCU BIO-CHEM LABORATORIES; and
17 DOES 1-100,

18 Defendants.

Case No. 22STCV35014

*[Assigned for All Purposes to the
Honorable Elihu M. Berle, Dept.6]*

**DECLARATION OF DAVID MARA, ESQ.,
IN SUPPORT OF PLAINTIFF VALERIE
MAE LUNA'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION,
APPROVAL OF CLASS NOTICE, SETTING
OF FINAL APPROVAL HEARING DATE**

Date: October 2, 2023

Time: 9:00 a.m.

Date File: November 3, 2022

Trial Date: None Set

1 I, DAVID MARA, declare the following:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for Plaintiff and the putative
3 class in this matter. I am duly admitted to practice before all the courts of the state of
4 California. The following facts are within my personal knowledge and, if called to testify,
5 I could and would competently testify thereto.
- 6 2. I have been practicing law in California since 2004.
- 7 3. I extensively handle employment cases which involve violations of the California Labor
8 Code and Industrial Welfare Commission Wage Orders, such as wage and hour class
9 actions and cases alleging violations of the Private Attorneys General Act of 2004
10 (“PAGA”).
- 11 4. I have litigated over three hundred and fifty (350) class action and PAGA lawsuits. I have
12 been litigating wage and hour class action lawsuits for nearly 20 years. I graduated from
13 California Western School of Law and was admitted to practice law in California in May
14 2004. I primarily handle wage and hour class actions and PAGA actions. I am the President
15 of Mara Law Firm, PC.
- 16 5. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County
17 Superior Court, Case No. GIC834348) which was the underlying case in the California
18 Supreme Court’s landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012)
19 53 Cal.4th 1004, in which the California Supreme Court delineated the scope of employer
20 obligations to provide, and employee rights to receive, meal and rest periods under
21 California law. I am frequently called upon to author Amicus Curiae briefs on behalf of
22 Consumer Attorneys of California (“CAOC”). For example, I authored the Amicus Curiae
23 briefs on behalf of CAOC in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257,
24 (The California Supreme Court ruling that, like meal periods, employers must relieve
25 employees of all duty and relinquish all control to satisfactorily discharge its obligation to
26 authorize and permit rest periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The
27 California Supreme Court ruling that the time spent on the employer’s premises waiting
28 for, and undergoing, required exit searches of packages, bags, or personal technology

1 devices voluntarily brought to work is compensable hours worked within the meaning of
2 the Wage Orders.); *Oliver v. Superior Court* (2021) California Court of Appeal Case No.
3 H049185 (A brief asking the California Court of Appeal for the Sixth Appellate District to
4 determine whether mandatory drive time of personal vehicles should be considered hours
5 worked within the meaning of the Wage Orders' suffered or permitted test.). *Davidson v.*
6 *O'Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No. 18-56188)(a brief seeking
7 Review *En Banc* of an order denying class certification in a wage and hour matter). I am
8 also a member of CAOC's Amicus Committee that determines the cases in which the
9 organization will agree to provide amicus support.

10 6. I have been named as class counsel in a number of wage and hour class actions in which
11 the Court granted the plaintiff's motion for class certification. For example, I have been
12 named class counsel in the following cases: *Mario Norona v. B&G Delivery System, Inc.*
13 (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald*
14 *Schroeder v. YRC, Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH);
15 *John Martin v. Sysco Corporation, et al.* (Eastern District of California, Case No. 1:16-cv-
16 00990-DAD-SAB); *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.*
17 (District of Nebraska, Case No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San
18 Diego County Superior Court, Case No. 37-2014-00016621-CU-OE-CTL); *Eric Mendez*
19 *v. M&N Consulting, Inc. dba A-Line Messenger Service* (San Bernardino County Superior
20 Court, Case No. CIVDS1923624); *Denson Sales v. Professional Auto Transport, Inc. et al.*
21 (San Bernardino County Superior Court, Case No. CIVDS2010153); *Sonny Williams v.*
22 *Hansen and Adkins Auto Transport, Inc.; et al.* (San Bernardino County Superior Court,
23 Case No. CIVDS2020832); and *Bobby Williams v. Mohsen Transport, Inc.* (San Diego
24 County Superior Court, Case No. 37-2019-00063361-CU-OE-CTL).

25 7. I have also been named as class counsel in numerous cases during the settlement process.
26 Here is a non-exhaustive list of cases where I have been named as class counsel in cases
27 during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior
28 Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern

1 County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage*
2 *Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Jaime Ruiz v. Altura*
3 *Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577); *George*
4 *Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court, Case No.
5 RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin County
6 Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria Healthcare*
7 *Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-
8 CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District of
9 California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.*
10 (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass*
11 *Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy*
12 *Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case
13 No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County Superior
14 Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San Mateo
15 County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron, LLC; et*
16 *al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v.*
17 *California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No.
18 CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino
19 County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v.*
20 *Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No.
21 CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside County
22 Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI*
23 *Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO); *Larry*
24 *Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-
25 2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino
26 County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries,*
27 *Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); *Joshua*
28 *Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County Superior

1 Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern
2 County Superior Court, Case No. BCV-21-101357).

3 8. Jill Vecchi is a partner at Mara Law Firm, PC. She solely handles wage and hour class
4 actions and PAGA actions. Ms. Vecchi graduated from Santa Clara University School of
5 Law and was admitted to practice law in California in December 2014 and received her
6 undergraduate degree from University of California, Riverside in 2010. Ms. Vecchi has
7 been litigating wage and hour class actions for almost eight (8) years and has handled over
8 one hundred (100) class action and PAGA lawsuits.

9 9. Ms. Vecchi has been named as class counsel in the following certified cases as a result of
10 the court granting a motion for class certification: *Mario Norona v. B&G Delivery System,*
11 *Inc.* (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS);
12 *Jerald Schroeder v. YRC, Inc.; YRC Worldwide, Inc.* (Central District of California, Case
13 No. 12-cv-01374-TJH); *John Martin v. Sysco Corporation; Sysco Central California, Inc.*
14 (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB); *Denson Sales, et al.*
15 *v. United Road Services, Inc. et al* (Northern District of California, Case No. 19-cv-08404-
16 JST); *Sonny Williams v. Hansen and Adkins Auto Transport, Inc.; et al.* (San Bernardino
17 County Superior Court, Case No. CIVDS2020832); and *Bobby Williams v. Mohsen*
18 *Transport, Inc.* (San Diego County Superior Court, Case No. 37-2019-00063361-CU-OE-
19 CTL).

20 10. Ms. Vecchi has also been named as class counsel in numerous cases during the settlement
21 process. Here is a non-exhaustive list of cases where Ms. Vecchi has been named as class
22 counsel in cases during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo
23 County Superior Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services,*
24 *Inc.* (Kern County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance*
25 *Beverage Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Alton Davis*
26 *v. Apria Healthcare Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-
27 00004724-CU-OE-CTL); *Timothy Spikes, et al. v. Bear Trucking, Inc., et al.* (San
28 Bernardino County Superior Court, Case No. CIVDS1715151); *Terrance Bailey v. Blue*

1 *Apron, LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey*
2 *Weast v. California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case
3 No. CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San
4 Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega*
5 *Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case
6 No. CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside
7 County Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba*
8 *NCI Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO);
9 *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No.
10 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San
11 Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw*
12 *Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674);
13 *Joshua Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County
14 Superior Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC*
15 (Kern County Superior Court, Case No. BCV-21-101357).

16 11. Defendant is a third-party analytical lab that analyzes and tests various products, such as
17 cosmetics and over-the-counter products, on behalf of other companies. On November 3,
18 2022, Plaintiff commenced this action by filing a Complaint alleging causes of action
19 against Defendant for (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All
20 Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit
21 Rest Periods; (5) Knowing and Intentional Failure to Comply with Itemized Employee
22 Wage Statement Provisions; (6) Waiting Time Penalties; (7) Violation of Unfair
23 Competition Law (Bus. & Prof. Code § 17200, et seq.); and (8) Failure to adopt a compliant
24 sick pay/paid time off policy (Lab. Code §§233, 234, 246).

25 12. On October 24, 2022, Plaintiff provided notice to the Labor and Workforce Development
26 Agency (“LWDA”) and Defendant in accordance with the Private Attorneys General Act
27 of 2004 (“PAGA”). A copy of the PAGA notice that was uploaded to the LWDA is attached
28 hereto as **Exhibit 3**. On January 1, 2023, Plaintiff filed a PAGA action which seeks civil

1 penalties pursuant to Cal. Lab. Code 2699 *et seq.* for violations of all claims in the class
2 action. The PAGA action was consolidated with the class action on March 15, 2023.

3 13. After filing, the Parties engaged in informal discovery. These discovery efforts led to
4 Defendant producing policy documents, such as the employee handbook that covered
5 employees' employment with Defendant, and time and wage records. Included within these
6 documents were Defendant's wage and hour policies, including its meal and rest period
7 policies. Defendant also produced time and wage records for a 20% random sampling of
8 the Class Members which Plaintiff's Counsel analyzed. To determine which Class
9 Members would be included in the sampling, Plaintiff randomly selected employee
10 numbers and those employees were included in the sampling. As such, the sampling should
11 be reflective of the entire Class as the employees included in it were selected at random.
12 Defendant further produced Plaintiff's personnel file and time and pay records. Plaintiff
13 also requested, and Defendant produced, data surrounding the number of current and
14 former employees, as well as the number of shifts and pay periods worked by Class
15 Members during the relevant time period and Class Members' average rate of pay, to
16 establish a potential exposure model in preparation for mediation. From this discovery,
17 Plaintiff and her Counsel were able to analyze Defendant's liability in this action and
18 prepare a realistic damage model.

19 14. The Parties attended an all-day mediation presided over by Honorable Amy Hogue (Ret.)
20 on June 20, 2023. This mediation was successful. The Parties then met and conferred over
21 all the terms of the settlement and finalized their settlement in the Parties' Class Action
22 and PAGA Settlement Agreement and Class Notice (hereinafter "Agreement"). The
23 Parties' utilized the Los Angeles County Superior Court Model Class Action and PAGA
24 Settlement Agreement and Class Notice. The Parties' Agreement is attached hereto as
25 **Exhibit 1**. Attached hereto as **Exhibit 2** is a redlined version of the Agreement showing
26 what changes were made to the Model Class Action and PAGA Settlement Agreement and
27 Class Notice.

28 15. Plaintiff alleges that employees are not provided with lawful rest periods. Employers have

1 an obligation to provide employees with ten (10) minute rest periods. An employer's
2 obligation to provide its employees with rest periods arises under the Industrial Welfare
3 Commission Wage Orders. Wage Order 4-2001, Section 12(A) states, "[e]very employer
4 shall authorize and permit all employees to take rest periods, which insofar as practicable
5 shall be in the middle of each work period. The authorized rest period time shall be based
6 on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
7 hours or major fraction thereof." Here, Plaintiff alleges that Defendant does not provide
8 duty-free rest periods. Plaintiff asserts that Defendant's handbook tells employees that they
9 are allowed to leave the work premises for meal periods but fails to inform employees that
10 they can leave the premises for rest periods. As such, Plaintiff contends that rest periods
11 are not duty-free as employees cannot leave the work premises.

12 16. Defendant asserts that its rest period policy is lawful and that it provides employees with
13 rest periods in compliance with California law. Defendant alleges that if litigation
14 continues it would be able to show that it advised employees that they could leave the
15 premises for rest periods and that employees did, in fact, leave the premises for rest periods.
16 Defendant further asserts that employees were provided the opportunity to take legally
17 compliant rest periods, and employees were relieved of all work duties during such rest
18 periods. Defendant also contends that if litigation were to continue, it would provide
19 declarations from employees stating that they knew they were entitled to rest periods in
20 accordance with California law and that they were able to leave the work premises during
21 rest periods.

22 17. In summary, Plaintiff contends that Defendant does not provide rest periods wherein
23 employees can leave the premises during rest periods. Defendant asserts that employees
24 can, and do, leave the premises during rest periods. Defendant contends that to resolve this
25 difference, the Court or fact finder would have to ask each employee whether they could
26 leave the premises during rest periods which would defeat certification as individual issues
27 would predominate. Plaintiff asserts that certification is proper based upon Defendant's
28 written rest period policy in its employee handbook. As such, disputes exist as to whether

1 certification is proper and as to whether Defendant provided employees with lawful rest
2 periods.

3 18. Plaintiff contends that Defendant does not provide employees with meal periods that
4 conform with California law. Employers have an obligation under California law to provide
5 employees with thirty (30) minute meal periods. Under California Labor Code § 512(a),
6 “[a]n employer may not employ an employee for a work period of more than five hours
7 per day without providing the employee with a meal period of not less than 30 minutes . .
8 . . .” Cal. Lab. Code § 512(a). An employer “satisfies this obligation [to provide meal
9 periods] if it relieves its employees of all duty, relinquishes control over their activities and
10 permits them a reasonable opportunity to take an uninterrupted 30-minute break, and does
11 not impede or discourage them from doing so.” *Brinker Restaurant Corp. v. Superior Court*
12 (2012) 53 Cal.4th 1004, 1040. Here, Plaintiff contends that Defendant’s time records show
13 non-compliant meal periods.

14 19. In *Donohue v. AMN Services, LLC*, the California Supreme Court issued a decision,
15 wherein it ruled that time records showing late, short, or missed meal periods raises a
16 rebuttable presumption that the meal periods were not provided: “If time records show
17 missed, short, or delayed meal periods with no indication of proper compensation, then a
18 rebuttable presumption arises” that the meal periods were not provided in accordance with
19 California law. *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 74. Plaintiff contends
20 that, here, the time records show non-compliant meal periods. In these shifts, under
21 *Donohue*, Plaintiff contends that it is presumed that meal period violations occurred.

22 20. Defendant asserts that its meal period policy is lawful and that it provides employees with
23 meal periods in compliance with California law. Further, Defendant alleges that if litigation
24 continues it would be able to show that it advised employees of the right to take a meal
25 period in compliance with California law. Defendant contends that employees either took
26 a lawful meal period or knowingly and voluntarily decided to skip the meal period or take
27 a late or short meal period. Defendant contends that this evidence would rebut the
28 presumption under *Donohue v. AMN Services, LLC*. Defendant also asserts that the

1 evidence in this case shows that it paid meal period premiums in shifts in which employees
2 were not provided with compliant meal periods. Thus, Defendant contends that to the
3 extent an employee was not provided the opportunity to take a legally compliant meal
4 period, they were provided a meal premium.

5 21. In summary, Plaintiff contends that because Defendant’s time records show non-compliant
6 meal periods, it is presumed that meal period violations occurred in these shifts. Defendant
7 counters that it would be able to rebut this presumption because its meal period policy is
8 lawful. Defendant also asserts that in rebutting the presumption, the Court or fact finder
9 would have to ask each employee why their time records show a non-compliant meal
10 period. This could be due to employees knowingly and voluntarily deciding to skip the
11 meal period or taking a late or short meal period. To make this determination, Defendant
12 contends the Court or fact finder would have to ask each employee about each instance
13 which would defeat certification as individual issues would predominate. Plaintiff contends
14 that this is not the case and that certification under *Donohue* is proper. As such, disputes
15 exist as to whether certification is proper and as to whether Defendant can rebut the
16 presumption under *Donohue*.

17 22. Plaintiff also pursued claims for failure to provide accurate itemized wage statements and
18 waiting time penalty claims. These claims are derivative of Plaintiff’s meal and rest period
19 claims. Should Plaintiff’s meal and rest period claims fail, these claims would also fail.

20 23. In addition, Defendant contends that even if Plaintiff were successful in her unpaid wage
21 claims, she would have to prove Defendant “willfully” failed to pay employees the
22 appropriate meal and rest period premiums due upon separation of employment. “A willful
23 failure to pay wages within the meaning of Labor Code Section 203 occurs when an
24 employer intentionally fails to pay wages to an employee when those wages are due.
25 However, a good faith dispute that any wages are due will preclude imposition of waiting
26 time penalties under Section 203.” Cal. Code Regs. Tit. 8 § 13520. “A ‘good faith dispute’
27 that any wages are due occurs when an employer presents a defense, based in law or fact,
28 which would preclude any recovery on the part of the employee. The fact that a defense is

1 ultimately unsuccessful will not preclude a finding that a good faith dispute did exist.” *Id.*
2 Defendant contends that any failure to pay wages due at the separate of employment was
3 not willful. Defendant argues that it would not be liable for waiting time penalties because
4 a “good faith dispute” exists over the payment of those wages. *See* Cal. Code Regs. Tit. 8
5 § 13520; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201. Defendant also
6 argues that Plaintiff’s meal and rest period claims cannot form the basis of her wage
7 statement claim. Defendant relies on the case *Maldonado v. Epsilon Plastics, Inc.* (2018)
8 22 Cal.App.5th 1308, for the position that employees do not suffer injury under California
9 Labor Code § 226(a) so long as the wage statements correctly reflected the hours worked
10 and the pay received even if the pay is later determined to be inaccurate.

11 24. Plaintiff alleges that Defendant failed to provide employees with rest periods in accordance
12 with California law because Plaintiff asserts that employees were not provided with duty-
13 free rest periods wherein they could leave the work premises. If Plaintiff were to prevail
14 on this claim for the entire class period, Plaintiff and the Class Members would be entitled
15 to the following **maximum** potential damages: \$544,714 (32,042 shifts over 3.5 hours x
16 \$17.00 average hourly rate = \$544,714).

17 25. Plaintiff alleges that Defendant failed to provide employees with meal periods in
18 accordance with California law because Defendant’s time records show unlawful meal
19 periods. If Plaintiff were to prevail on this claim for the entire class period, Plaintiff and
20 the Class Members would be entitled to the following **maximum** potential damages:
21 \$103,921 (6,113 shifts with meal period violations x \$17.00 per hour = \$103,921).

22 26. If Plaintiff were to prevail on her meal and/or rest period claims, Plaintiff may be entitled
23 to penalties for inaccurate wage statements. The statute of limitations for Plaintiff’s wage
24 statement claim is one year. Under California Labor Code § 226(e)(1), the damages for
25 breach of this section are fifty dollars (\$50) for the initial pay period in which a violation
26 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
27 period, not to exceed an aggregate penalty of four thousand dollars (\$4,000). If Plaintiff
28 were to prevail on this claim and assume that all employees who worked within the wage

1 statement statute of limitations are entitled to the maximum penalty of \$4,000, the
2 *maximum* damages would be \$156,000 ($\$4,000 \times 39 \text{ employees} = \$156,000$).

3 27. If Plaintiff were to prevail on her meal and/or rest period claims, she and the Class
4 Members may also be entitled to waiting time penalties. Plaintiff calculates the potential
5 *maximum* exposure under her waiting time penalties cause of action as \$138,720 (34
6 former employees within the three-year statute of limitations $\times 30 \text{ days} \times 8 \text{ hour shift} \times$
7 $\$17.00 \text{ average hourly rate} = \$138,720$).

8 28. The maximum potential damages under Plaintiff's PAGA claim is: $\$100 \times 3 \text{ PAGA}$
9 $\text{violations} \times 1,404 \text{ pay periods} = \$421,200$.

10 29. Thus, not taking into account any of its defenses or arguments, Plaintiff estimated that if
11 she were successful in her core claims, Defendant's total exposure would be approximately
12 \$648,635 [$\$544,714 \text{ (rest period exposure)} + \$103,921 \text{ (meal period exposure)} =$
13 $\$648,635$]. If Plaintiff is successful in her meal and rest period claims, she may also be
14 entitled to damages for wage statements and waiting time penalties in the amount of
15 \$294,720 [$\$156,000 \text{ (wage statements)} + \$138,720 \text{ (waiting time penalties)} = \$294,720$].
16 If Plaintiff's claims are successful, she may also be entitled to PAGA penalties in the
17 amount of \$421,200.

18 30. In light of the risks Plaintiff's claims faced, Plaintiff and her Counsel believe that the
19 settlement amount of \$235,000 – with an average settlement share amount estimated at
20 \$1,187.32 – is a reasonable and fair settlement amount.

21 I hereby declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct.

23 Dated: August 31, 2023

MARA LAW FIRM, PC



David Mara, Esq.
Attorneys for Plaintiff VALERIE MAE LUNA on
behalf of herself, all others similarly situated, and on
behalf of the general public

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 Valeria Mae Luna (“Plaintiff” or “Class Representative”) and defendant Accu Bio-Chem Laboratories, LLC (“ABCL” or “Defendant”). The Agreement refers to Plaintiff and ABCL collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Actions” mean the Plaintiff’s lawsuits alleging wage and hour violations against ABCL captioned *Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC; and DOES 1-100*, Los Angeles County Superior Court Case No. 22STCV35014 (“Class Action”) initiated on November 3, 2022, and *Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC; and DOES 1-100*, Los Angeles County Superior Court Case No. 23STCV00560 (“PAGA Action”) initiated on January 1, 2023. Upon stipulation between the Parties the Court ordered the PAGA Action and the Class Action consolidated on or around March 15, 2023.
- 1.2 “Administrator” means APEX Class Action Administration, 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 individuals who worked for Defendant as non-exempt hourly employees in California during the PAGA Period.
- 1.5 “Class” or “Class Members” means all individuals who worked for ABCL as non-exempt hourly employees in California at any time during the Class Period.
- 1.6 “Class Counsel” means David Mara, Esq., and Jill Vecchi, Esq., of Mara Law Firm, 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 ABCL’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 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 November 3, 2018, to August 19, 2023.
- 1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Actions 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 “ABCL” means named Defendant Accu Bio-Chem Laboratories, LLC.
- 1.17 “Defense Counsel” means Shant H. Hagopian, Esq., of Hagopian Law Firm, APC.
- 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 \$235,000 which is the total amount ABCL agrees to pay under the Settlement except as provided in Paragraph 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 Workweeks 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 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 ABCL for at least one day during the PAGA Period.
- 1.31 “PAGA Period” means the period from October 24, 2021, to August 19, 2023.
- 1.32 “PAGA” means the Private Attorneys General Act (Lab. Code, § 2698 et seq.).
- 1.33 “PAGA Notice” means Plaintiff Valerie Mae Luna’s October 24, 2022, letter to ABCL 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 (\$25,000), allocated 25% to the Aggrieved Employees (\$6,250) and the 75% to LWDA (\$18,750) 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 Valerie Mae Luna the named plaintiff in the Actions.
- 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 ABCL and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, and assigns.
- 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 45 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 ABCL for at least one day, during the Class Period.

2. RECITALS.

- 2.1 On November 3, 2022, Plaintiff commenced the Class Action by filing a Complaint alleging causes of action against ABCL for 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Rest Periods; 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; 6) Waiting Time Penalties; 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and 8) Failure to adopt a compliant sick pay/paid time off policy (Lab. Code §§233, 234, 246). On January 1, 2023, Plaintiff filed the PAGA Action which seeks civil penalties pursuant to Cal. Lab. Code 2699 *et seq.* for violations of all claims in the Class Action. The PAGA Action was consolidated with the Class Action on March 15, 2023. ABCL denies the allegations in the complaints, denies any failure to comply with the laws identified in the complaints 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 ABCL and the LWDA by sending the PAGA Notice.
- 2.3 On June 20, 2023, the Parties participated in an all-day mediation presided over by Honorable Amy Hogue (Ret.) which led to this Agreement to settle the Actions.

- 2.4 Prior to mediation, Plaintiff obtained, through informal discovery, all relevant wage and hour policies that applied to Class Members. ABCL also produced time and pay records for a twenty percent (20%) sampling of the Class Members. ABCL further produced Plaintiff's time and pay records and personnel file. 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 Paragraph 8 below, ABCL promises to pay \$235,000 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. ABCL 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 ABCL.
- 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 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). ABCL 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 33.33%, which is currently estimated to be \$78,325.50, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. ABCL will not oppose requests for these payments provided that 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 Plaintiffs Counsel arising from any claim to any portion any 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 ABCL harmless, and indemnifies ABCL, 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 \$10,000 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 \$10,000, 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. 50% 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 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for (e.g., 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 Payments. Any amounts allocated to Non-Participating Class Members' Individual Class Payments will be added to the Net Settlement Amount for distribution to Participating Class Members.
- 3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000 to be paid from the Gross Settlement Amount, with 75% (\$18,750), allocated to the LWDA PAGA Payment and 25% (\$6,250) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250) 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.

3.2.5.2 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, ABCL estimates there are 73 Class Members who collectively worked a total of 8,432 Workweeks, and 39 Aggrieved Employees who worked a total of 1,404 PAGA Pay Periods.
- 4.2 Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, ABCL will simultaneously 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. ABCL 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 ABCL 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. ABCL shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay ABCL's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4 Payments from the Gross Settlement Amount. Within 14 days after ABCL 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 United Way ("Cy Pres Recipient"). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.
- 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate ABCL 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 ABCL fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff and Class Members will release claims against all Released Parties as follows:

- 5.1 Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally, release and discharge Released Parties from all claims, transactions or

occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaints and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaints, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2, below ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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 the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaints, including, e.g., 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay All Overtime Wages; 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 4-2001(11); Cal. Code Regs., tit. 8 § 11090); 4) Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 4-2001(12); Cal. Code Regs. tit. 8 § 11040); 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175); 6) Waiting Time Penalties; 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and 8) Failure to adopt a compliant sick pay/paid time off policy (Lab. Code §§233, 234, 246). This release will be for the Class Period. 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 Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaints, and the PAGA Notice. This release will be for the PAGA Period.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly 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 ABCL’s Declaration in Support of Preliminary Approval. Within 10 business days of the full execution of this Agreement, ABCL will prepare and deliver to Class Counsel a signed Declaration from ABCL and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and ABCL 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 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/or the proposed Cy Pres; 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, the Administrator and/or the proposed Cy Pres; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), 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, the Administrator and/ or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration 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.
- 6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than September 1, 2023, per the Court’s Order, in advance of the October 2, 2023, preliminary approval hearing date; 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.

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

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected APEX Class Action Administration to serve as the Administrator and verified that, as a condition of appointment, APEX Class Action Administration 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 the purposes of calculating payroll tax withholdings and providing reports to the 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 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 45 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, ABCL, 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, which ever 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 45 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. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

- 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 45 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 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 45 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 include providing 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 7 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 attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. Based on its records, ABCL estimates that, as of the date of this Settlement Agreement, (1) there are 73 Class Members and 8,432 Total Workweeks during the Class period and (2) there were 39 Aggrieved Employees who worked 1,404 Pay Periods during the PAGA Period.

8.1 Escalator Clause. At the mediation, there were approximately 73 Class Members. If by the time the administrator receives the class data, the Class Members increase by more than 10%, Plaintiff shall have the right to demand a pro-rata increase from ABCL to the GSA and the right, but not obligation, to terminate the Settlement if ABCL refuses to such an increase in the GSA.

9. ABCL'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, ABCL may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if ABCL 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, ABCL will remain responsible for paying all Settlement Administration Expenses incurred to that point. ABCL 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 (1), 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 via Zoom 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 material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. 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 modification 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 shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse or modify the Court's award of the Class Representative Service 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 the Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and 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 ABCL that any of the allegations in the Operative Complaint have merit or that ABCL has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that ABCL's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, ABCL reserves the right to contest certification of any class for any reasons, and ABCL 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 ABCL's defenses. The Settlement, this Agreement and 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, ABCL 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, ABCL and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. 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 ABCL, 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, 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, ABCL 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 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 ABCL 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 ABCL unless, prior to the Court's discharge of the Administrator's obligation, ABCL 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:

David Mara, Esq.

Jill Vecchi, Esq.

MARA LAW FIRM, PC

2650 Camino Del Rio North, Suite 302

San Diego, California 92108

Email: dmara@maralawfirm.com; jvecchi@maralawfirm.com

To ABCL:

Shant H. Hagopian, Esq.

HAGOPIAN LAW FIRM

15760 Ventura Blvd., Suite 700

Encino, California 91436

Email: shant@hagopianlawfirm.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.

VALERIE MAE LUNA

8/23/2023

By:

DocuSigned by:

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Plaintiff

ACCU BIO-CHEM LABORATORIES, LLC

By:


Defendant

By: _____

MARA LAW FIRM, PC

8/23/2023

By:

DocuSigned by:

4579A5166C10447...

David Mara

Jill Vecchi

Attorneys for Plaintiff and the Class Members/Aggrieved Employees

HAGOPIAN LAW FIRM

By:

Shant H. Hagopian, Esq.

Attorneys for Defendant

- 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.

VALERIE MAE LUNA

By:

Plaintiff

ACCU BIO-CHEM LABORATORIES, LLC

By:

Vano Baghdasarian
Vano Baghdasarian (Aug 27, 2023 21:41 PDT)

Defendant

By: Vano Baghdasarian, CEO
ACCU Bio-Chem Laboratories, LLC

MARA LAW FIRM, PC

By:

David Mara

Jill Vecchi

Attorneys for Plaintiff and the Class Members/Aggrieved Employees

HAGOPIAN LAW FIRM

By:

Shant H. Hagopian, Esq.

Attorneys for Defendant

EXHIBIT A

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

Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC; and DOES 1-100, Los Angeles County Superior Court Case Nos. 22STCV35014 and 23STCV00560

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 Accu Bio-Chem Laboratories, LLC (herein referred to as "ABCL") for alleged wage and hour violations. The Action was filed by a former ABCL employee Valerie Mae Luna (referred to as the "Plaintiff") and seeks payment of (1) back wages and penalties for a class of non-exempt hourly employees who worked for ABCL in California during the Class Period of November 3, 2018, to August 19, 2023, (these individuals are referred to as the "Class Members") and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt hourly employees who worked for ABCL in California during the PAGA Period of October 24, 2021 to August 19, 2023 (these individuals are referred to as the "Aggrieved Employees").

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

Based on ABCL'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 ABCL'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 ABCL's records showing that you worked _____ workweeks during the Class Period and you worked _____ workweeks during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for ABCL 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 ABCL.
- 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 ABCL, 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.

ABCL 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 ABCL 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. ABCL 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 Plaintiff if you think they are unreasonable. See Section 7 of this Notice.</p>

<p>You Can Participate in the _____ The Final Approval Hearing</p>	<p>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.</p>
<p>You Can Challenge the Calculation of Your Workweeks/Pay Periods</p> <p>Written Challenges Must be Submitted by _____</p>	<p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to ABCL’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.</p>

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former ABCL employee. The Action accuses ABCL of violating California labor laws by failing to pay straight and overtime wages, wages due upon termination, failing to provide meal periods, rest breaks, compliant sick pay/time off policies, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted 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:

David Mara, Esq.
 Jill Vecchi, Esq.
MARA LAW FIRM, PC
 2650 Camino Del Rio North, Suite 302
 San Diego, California 92108
 Telephone: (619) 234-2833
 Email: dmara@maralawfirm.com; jvecchi@maralawfirm.com

(Plaintiff’s attorneys are referred to as “Class Counsel.”)

ABCL 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 ABCL or Plaintiff is correct on the merits.

In the meantime, Plaintiff and ABCL hired an experienced, neutral mediator who is a retired judge in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing

to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and ABCL 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, ABCL 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) ABCL 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. ABCL Will Pay \$235,000 as the Gross Settlement Amount (Gross Settlement). ABCL 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, ABCL will fund the Gross Settlement not more than 14 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 \$78,325.50 (33.33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 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 \$10,000 to the Administrator for services administering the Settlement.
 - D. Up to \$25,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) 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 ABCL are asking the Court to approve an allocation of 50% of each Individual Class Payment to taxable wages (Wage Portion) and 50% to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. ABCL will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and ABCL 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 irrevocably lost to you because they will be paid to a non-profit organization or foundation the United Way (“Cy Pres”).
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 ABCL.

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 ABCL based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and ABCL have agreed that, in either case, the Settlement will be void: ABCL will not pay any money and Class Members will not release any claims against ABCL.
8. Administrator. The Court has appointed a neutral company, APEX Class Action Administration (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 ABCL 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 ABCL 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 the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including, e.g., 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay All Overtime Wages; 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 4- 2001(11); Cal. Code Regs., tit. 8 § 11090); 4) Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 4-2001(12); Cal. Code Regs. tit. 8 § 11040); 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175); 6) Waiting Time Penalties; 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and 8) Failure to adopt a compliant sick pay/paid time off policy (Lab. Code §§233, 234, 246). This release will be for the Class Period. Except as set forth in Section 5.3 of the Settlement 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 ABCL has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against ABCL, 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 ABCL or its related entities based on the PAGA Period 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 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, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice. This release will be for the PAGA Period.

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 \$_____ 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 ABCL'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 ABCL's calculation of Workweeks and/or Pay Periods based on ABCL'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 ABCL'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 *Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC* 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 ABCL are asking the Court to approve. At least 16 court 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 at: _____ URL or the Court's website by searching for Case Number "22STCV35014" at: https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil_

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 *Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC* and include your name, current address, telephone number and approximate dates of employment for ABCL 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 6 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 comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything ABCL 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 settlement 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 <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil> and entering the Case Number for the Action, Case No. 22STCV35014. 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:

David Mara, Esq.
Jill Vecchi, Esq.
MARA LAW FIRM, PC
2650 Camino Del Rio North, Suite 302
San Diego, California 92108
Telephone: (619) 234-2833
Email: dmara@maralawfirm.com; jvecchi@maralawfirm.com

Settlement Administrator:

Name of Company: APEX Class Action Administration
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit 2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Valeria Mae Luna (“Plaintiff” or “Class Representative”) and defendant Accu Bio-Chem Laboratories, LLC (“ABCL” or “Defendant”). The Agreement refers to Plaintiff and ABCL collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Actions” mean the Plaintiff’s lawsuits alleging wage and hour violations against ABCL captioned Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC; and DOES 1-100, Los Angeles County Superior Court Case No. 22STCV35014 (“Class Action”) initiated on November 3, 2022, and Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC; and DOES 1-100, Los Angeles County Superior Court Case No. 23STCV00560 (“PAGA Action”) initiated on January 1, 2023. Upon stipulation between the Parties, the Court ordered the PAGA Action, and the Class Action consolidated on or around March 15, 2023.
- 1.2 “Administrator” means APEX Class Action Administration, 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 individuals who worked for Defendant as non-exempt hourly employees in California during the PAGA Period.
- 1.5 “Class” or “Class Members” means all individuals who worked for ABCL as non-exempt hourly employees in California at any time during the Class Period.
- 1.6 “Class Counsel” means David Mara, Esq., and Jill Vecchi, Esq., of Mara Law Firm, 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 ABCL’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).

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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 in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

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1.12 “Class Period” means the period from November 3, 2018, to August 19, 2023,

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1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Actions 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 “ABCL” means named Defendant Accu Bio-Chem Laboratories, LLC,

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1.17 “Defense Counsel” means, Shant H. Hagopian, Esq., of Hagopian Law Firm, APC.

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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 \$235,000, which is the total amount ABCL agrees to pay under the Settlement except as provided in Paragraph 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.
- 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 Workweeks 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 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 ABCL for at least one day during the PAGA Period.
- 1.31 “PAGA Period” means the period from October 24, 2021, to August 19, 2023.
- 1.32 “PAGA” means the Private Attorneys General Act (Lab. Code, § 2698 et seq.).
- 1.33 “PAGA Notice” means Plaintiff Valerie Mae Luna’s October 24, 2022, letter to ABCL 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 (\$25,000), allocated 25% to the Aggrieved Employees (\$6,250) and the 75% to LWDA (\$18,750) 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 Valerie Mae Luna the named plaintiff in the Actions.
- 1.37 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

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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 ABCL and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, and assigns.

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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 45 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.

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

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2. RECITALS.

2.1 On November 3, 2022, Plaintiff commenced the Class Action by filing a Complaint alleging causes of action against ABCL for 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay Overtime Wages; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Rest Periods; 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; 6) Waiting Time Penalties; 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and 8) Failure to adopt a compliant sick pay/paid time off policy (Lab. Code §§233, 234, 246). On January 1, 2023, Plaintiff filed the PAGA Action which seeks civil penalties pursuant to Cal. Lab. Code 2699 et seq. for violations of all claims in the Class Action. The PAGA Action was consolidated with the Class Action on March 15, 2023. ABCL denies the allegations in the complaints, denies any failure to comply with the laws identified in the complaints and denies any and all liability for the causes of action alleged.

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

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2.3 On June 20, 2023, the Parties participated in an all-day mediation presided over by Honorable Amy Hogue (Ret.) which led to this Agreement to settle the Actions.

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2.4 Prior to mediation, Plaintiff obtained, through informal discovery, all relevant wage and hour policies that applied to Class Members. ABCL also produced time and pay records for a twenty percent (20%) sampling of the Class Members. ABCL further produced Plaintiff's time and pay records and personnel file, 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*").

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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.

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3. MONETARY TERMS.

3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, ABCL promises to pay \$235,000 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. ABCL 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 ABCL.

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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 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). ABCL 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.

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3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$78,325.50, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. ABCL will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel

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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 Plaintiffs Counsel arising from any claim to any portion any 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 ABCL harmless, and indemnifies ABCL, from any dispute or controversy regarding any division or sharing of any of these Payments.

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3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$10,000 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 \$10,000, the Administrator will retain the remainder in the Net Settlement Amount.

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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. 50% 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 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for (e.g., 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 Payments. Any amounts allocated to Non-Participating Class Members' Individual Class Payments will be added to the Net Settlement Amount for distribution to Participating Class Members.

3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000 to be paid from the Gross Settlement Amount, with 75% (\$18,750), allocated to the LWDA PAGA Payment and 25% (\$6,250), allocated to the Individual PAGA Payments.

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3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250) 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.

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3.2.5.2 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, ABCL estimates there are 73 Class Members who collectively worked a total of 8,432 Workweeks, and 39 Aggrieved Employees who worked a total of 1,404 PAGA Pay Periods.

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4.2 Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, ABCL will simultaneously 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. ABCL 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 ABCL 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. ABCL shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay ABCL's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

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4.4 Payments from the Gross Settlement Amount. Within 14 days after ABCL 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 United Way](#) ("Cy Pres Recipient"). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate [ABCL](#) 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 [ABCL](#) fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff [and](#) Class Members will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally, release and discharge Released Parties from all claims, transactions or

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occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaints and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaints, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2, below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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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 the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaints, including, e.g., 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay All Overtime Wages; 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 4-2001(11); Cal. Code Regs., tit. 8 § 11090); 4) Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 4-2001(12); Cal. Code Regs. tit. 8 § 11040); 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175); 6) Waiting Time Penalties; 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and 8) Failure to adopt a compliant sick pay/paid time off policy (Lab. Code §§ 233, 234, 246). This release will be for the Class Period. 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 Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaints, and the PAGA Notice. This release will be for the PAGA Period.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly 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 ABCL’s Declaration in Support of Preliminary Approval. Within 10 business days of the full execution of this Agreement, ABCL will prepare and deliver to Class Counsel a signed Declaration from ABCL and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and ABCL 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 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/or the proposed Cy Pres; 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, the Administrator and/or the proposed Cy Pres; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), 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, the Administrator and/ or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration 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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6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than September 1, 2023, per the Court’s Order, in advance of the October 2, 2023, preliminary approval hearing date; 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.

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

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7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected APEX Class Action Administration to serve as the Administrator and verified that, as a condition of appointment, APEX Class Action Administration 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.

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

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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

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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 45 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, ABCL, 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, which ever are later.

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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 45 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. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

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 45 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 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 45 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 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 include providing 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 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the

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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 attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. Based on its records, ABCL estimates that, as of the date of this Settlement Agreement, (1) there are 73 Class Members and 8,432 Total Workweeks during the Class period and (2) there were 39 Aggrieved Employees who worked 1,404 Pay Periods during the PAGA Period.

8.1 Escalator Clause. At the mediation, there were approximately 73 Class Members. If by the time the administrator receives the class data, the Class Members increase by more than 10%, Plaintiff shall have the right to demand a pro-rata increase from ABCL to the GSA and the right, but not obligation, to terminate the Settlement if ABCL refuses to such an increase in the GSA.

9. ABCL'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, ABCL may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if ABCL 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, ABCL will remain responsible for paying all Settlement Administration Expenses incurred to that point. ABCL 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 (1), 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

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than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer via Zoom 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 material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. 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 modification 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 shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse or modify the Court's award of the Class Representative Service 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 the Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and 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 ABCL that any of the allegations in the Operative Complaint have merit or that ABCL has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that ABCL's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, ABCL reserves the right to contest certification of any class for any reasons, and ABCL 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 ABCL's defenses. The Settlement, this Agreement and 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, ABCL 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, ABCL and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. 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

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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 ABCL, 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, 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, ABCL 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.

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

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 ABCL 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 ABCL unless, prior to the Court's discharge of the Administrator's obligation, ABCL 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.

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:

[David Mara, Esq.](#)

[Jill Vecchi, Esq.](#)

[MARA LAW FIRM, PC](#)

[2650 Camino Del Rio North, Suite 302](#)

[San Diego, California 92108](#)

[Email: dmara@maralawfirm.com](mailto:dmara@maralawfirm.com); jvecchi@maralawfirm.com

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To ABCL:

[Shant H. Hagopian, Esq.](#)

[HAGOPIAN LAW FIRM](#)

[15760 Ventura Blvd., Suite 700](#)

[Encino, California 91436](#)

[Email: shant@hagopianlawfirm.com](mailto:shant@hagopianlawfirm.com)

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EXHIBIT A

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

Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC; and DOES 1-100, Los Angeles County Superior Court Case Nos. 22STCV35014 and 23STCV00560.

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 Accu Bio-Chem Laboratories, LLC (herein referred to as "ABCL") for alleged wage and hour violations. The Action was filed by a former ABCL employee Valerie Mae Luna (referred to as the "Plaintiff") and seeks payment of (1) back wages and penalties for a class of non-exempt hourly employees who worked for ABCL in California during the Class Period of November 3, 2018, to August 19, 2023, (these individuals are referred to as the "Class Members") and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt hourly employees who worked for ABCL in California during the PAGA Period of October 24, 2021, to August 19, 2023, (these individuals are referred to as the "Aggrieved Employees").

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

Based on ABCL'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 ABCL'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 ABCL's records showing that you worked _____ workweeks during the Class Period and you worked _____ workweeks during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for ABCL 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 [ABCL](#).
- 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 [ABCL](#), 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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[ABCL](#) 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 ABCL 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> <hr/>	<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. ABCL 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> <hr/>	<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 Plaintiff if you think they are unreasonable. See Section 7 of this Notice.</p>

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<p>You Can Participate in the Final Approval Hearing</p>	<p>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.</p>
<p>You Can Challenge the Calculation of Your Workweeks/Pay Periods</p> <p>Written Challenges Must be Submitted by _____</p>	<p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to <u>ABCL’s</u> 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.</p>

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1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former ABCL employee. The Action accuses ABCL of violating California labor laws by failing to pay straight and overtime wages, wages due upon termination, failing to provide meal periods, rest breaks, compliant sick pay/time off policies, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted 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:

David Mara, Esq.
Jill Vecchi, Esq.
MARA LAW FIRM, PC
2650 Camino Del Rio North, Suite 302
San Diego, California 92108
Telephone: (619) 234-2833
Email: dmara@maralawfirm.com; jvecchi@maralawfirm.com

(Plaintiff’s attorneys are referred to as “Class Counsel.”)

ABCL 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 ABCL or Plaintiff is correct on the merits.

In the meantime, Plaintiff and ABCL hired an experienced, neutral mediator who is a retired judge in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing

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to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and ABCL 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, ABCL does not admit any violations or concede the merit of any claims.

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Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) ABCL 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. ABCL Will Pay \$235,000 as the Gross Settlement Amount (Gross Settlement). ABCL 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, ABCL will fund the Gross Settlement not more than 14 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:

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A. Up to \$78,325.50 (33.33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

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B. Up to \$10,000 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 \$10,000 to the Administrator for services administering the Settlement.

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

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

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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 ABCL are asking the Court to approve an allocation of 50% of each Individual Class Payment to taxable wages (Wage Portion) and 50% to penalties and interest ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. ABCL will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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Although Plaintiff and ABCL 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 irrevocably lost to you because they will be paid to a non-profit organization or foundation the United Way ("Cy Pres").

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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 ABCL.

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[] will be deposited with the California Controller's Unclaimed Property Fund in your name. ¶
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[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.] ¶

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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 ABCL based on the PAGA Period 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 enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and ABCL have agreed that, in either case, the Settlement will be void: ABCL will not pay any money and Class Members will not release any claims against ABCL.

8. Administrator. The Court has appointed a neutral company, APEX Class Action Administration (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 ABCL 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 ABCL 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 the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including, e.g., 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay All Overtime Wages; 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 4- 2001(11); Cal. Code Regs., tit. 8 § 11090); 4) Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 4-2001(12); Cal. Code Regs. tit. 8 § 11040); 5) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175); 6) Waiting Time Penalties; 7) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and 8) Failure to adopt a compliant sick pay/paid time off policy (Lab. Code §§233, 234, 246). This release will be for the Class Period. Except as set forth in Section 5.3 of the Settlement 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 ABCL has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against ABCL, 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 ABCL or its related entities based on the PAGA Period 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 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, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice. This release will be for the PAGA Period.

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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 \$ _____ 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.

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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 ABCL'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.

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You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept ABCL's calculation of Workweeks and/or Pay Periods based on ABCL'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

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based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and [ABCL](#)'s Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

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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 *Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC* 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 [ABCL](#) are asking the Court to approve. At least 16 court 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 at: _____ URL or the Court's website by searching for Case Number "22STCV35014" at: <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

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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 *Valerie Mae Luna v. Accu Bio-Chem Laboratories, LLC* and include your name, current address, telephone number and approximate dates of employment for *ABCL*, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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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 6 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 comments 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 _____ 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 *ABCL* 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 settlement](#) 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 <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>, and entering the Case Number for the Action, Case No. *22STCV35014*. 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:

[David Mara, Esq.](#)

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[Jill Vecchi, Esq.](#)
MARA LAW FIRM, PC
[2650 Camino Del Rio North, Suite 302](#)
[San Diego, California 92108](#)
[Telephone: \(619\) 234-2833](#)
[Email: \[dmara@maralawfirm.com\]\(mailto:dmara@maralawfirm.com\); \[jvecchi@maralawfirm.com\]\(mailto:jvecchi@maralawfirm.com\)](#)

Settlement Administrator:

Name of Company: [APEX Class Action Administration](#)
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

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

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[] you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds
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David Mara
Grace Campbell
Taylor Hanks
Jill Vecchi
Joann B. Gerrity
Matthew Crawford
Taylor Getman



2650 Camino Del Rio North
Suite 205, San Diego, CA 92108
Phone: (619) 234-2833
Fax: (619) 234-4048
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October 24, 2022

Via Upload to the LWDA Website and U.S. Certified Mail

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

TO: California Labor and Workforce Development Agency; ACCU Bio-Chem Laboratories, LLC

*Valerie Mae Luna, on behalf of herself, others similarly situated, and the general public v.
ACCU Bio-Chem Laboratories, LLC*

Factual Statement and Theories of Labor Code Violations

Valerie Mae Luna was employed by ACCU Bio-Chem Laboratories, LLC (“Defendant”) as a non-exempt hourly employee. Ms. Luna worked as a Lab Technician in California. Non-exempt hourly employees, such as Ms. Luna, performed services for Defendant. Ms. Luna has worked for Defendant from approximately May 31, 2022 through September 9, 2022.

Ms. Luna gives notice of her intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 (“PAGA”) for Defendant’s failure to comply with California’s wage and hour requirements on behalf of herself and similarly aggrieved employees.

Defendant is an independent analytical lab. Defendant is based in California and operates out of a location in Glendale, California. Defendant employs hourly, non-exempt employees to work in their lab.

I. Defendant Has an Unlawful Sick Pay Policy

Section 246(a) of the *Labor Code* requires “an employee who, on or after July 1, 2015, works in California for the same employer for thirty (30) or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section. *California Labor Code* section 246, subdivision (b)(4), provides, “[a]n employer may satisfy the accrual requirements of this section by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of the employees 120th calendar day of employment.”

California Labor Code 246(k) provides that, “[a]n employee may determine how much paid sick

leave they need to use, provided that an employer may set a renamable minimum increment, not to exceed two hours, for the use of paid sick leave.”

Under *California Labor Code* § 246(i), “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Pursuant to *Labor Code* § 248.5, when an employer fails to provide paid sick days in accordance with § 246, and when an employer fails to maintain any records documenting hours worked and paid sick days accrued in accordance with section 247.5, the person acting “on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and reasonable attorney’s fees and costs.”

Defendant’s sick pay policy does not comply with these sections. Defendant’s sick pay policy requires employees to use sick pay in minimum increments of four hours. This is in direct violation to *California Labor Code* § 246(k).

In addition, Defendant does not provide employees with written notice that sets forth the amount of sick leave available for use, either in employee’s itemized wage statements or in a separate writing provided to employees on the designated pay date.

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of section 246 and 247.5.

II. Defendant Failed to Pay Wages Due at Termination of Employment

Defendant willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left Defendant’s employ or who were terminated.

The aggrieved employees who ended their employment with Defendant during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours’ notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, Defendant intentionally and willfully failed to pay the aggrieved employees who are no longer employed by Defendant their wages, that were earned and unpaid, at the time of their termination and/or within seventy-two (72) hours of their leaving Defendant's employ. Defendant failed to pay all straight time wages, overtime wages, and meal and rest period premiums as alleged herein within seventy-two hours of the aggrieved employees' separation from Defendant's employ. Defendant failed to ever pay all wages as alleged herein, thereby triggering the maximum penalties allowable under *Labor Code* § 203.

Defendant's failure to pay the aggrieved employees who are no longer employed by Defendant their wages, that were earned and unpaid, at the time of their termination and/or within seventy-two (72) hours of their leaving Defendant's employ, is in violation of *California Labor Code* §§ 201 and 202.

California Labor Code § 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until action is commenced; but the wages shall not continue for more than thirty (30) days.

Plaintiff's employment with Defendant was terminated on or about September 9, 2022. Yet, Plaintiff did not receive her final paycheck until the next regularly schedule pay date which was on or about September 16, 2022.

Throughout the statutory period, Defendant has a policy and practice of willfully failing to pay wages in accordance with *California Labor Code* § 203 by paying terminated employees their final wages on the next regularly scheduled pay date.

In addition, as outlined herein, Defendant failed to pay all wages owed during Plaintiff's and the aggrieved employees' employment. Defendant failed to pay the aggrieved employees for time during which they were under Defendant's control. Defendant also failed to pay the aggrieved employees for time spent performing work duties while off the clock. The aggrieved employees have not received these wages to date.

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

III. Defendant Fails to Pay All Straight Time Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* §§ 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* § 222 prohibits the withholding of part of a wage. *California Labor Code* § 223 prohibits the

payment of less than a statutory or contractual wage scale. *California Labor Code* § 1197 prohibits the payment of less than the minimum wage. *California Labor Code* § 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* § 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* § 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

Defendant has a continuous policy of not paying Ms. Luna and similarly aggrieved employees for all hours worked. Defendant has not paid for all the time Ms. Luna and similarly aggrieved employees worked throughout the day and/or were subject to Defendant's control.

Ms. Luna and the aggrieved employees are not paid for the time it takes them before clocking in to buzz in at the security door and wait for someone to open the door and let them in.

Defendant committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Ms. Luna and the aggrieved employees. Defendant acted with malice or in conscious disregard of Ms. Luna's and the aggrieved employees' rights.

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 510 and 1194.

IV. Defendant Failed to Pay Overtime

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* § 510 states that eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

California Labor Code § 510 dictates that any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Defendant has a continuous policy of not paying Ms. Luna and similarly aggrieved employees for all overtime hours worked. Specifically, Defendant fails to pay Ms. Luna and the aggrieved employees at an overtime rate for all reported hours worked over eight hours of work per day or

forty hours of work per week.

Defendant fails to pay for all time during which Ms. Luna and similarly aggrieved hourly employees work throughout their shift and/or are subject to Defendant's control. Ms. Luna and the aggrieved employees are not paid for the time it takes them before clocking in to buzz in at the security door and wait for someone to open the door and let them in. In shifts that are more than eight hours in length, this time should be, but was not, paid at the applicable overtime rate.

Ms. Luna and the aggrieved employees have suffered, and continue to suffer, substantial unpaid overtime wages, and lost interest on such wages, and expenses.

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

V. **Defendant's Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions**

Section 226(a) of the *California Labor Code* requires Defendant to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Ms. Luna and the aggrieved employees.

California Labor Code § 226 subdivision (a) requires that Defendant, at the time of each payment of wages, "furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer... (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee..."

Labor Code § 226, subdivision (a) also requires that "deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California" to itemize in wage statements and to accurately report the total hours worked and total wages earned.

In addition, *Labor Code* § 204(b) requires that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” An employer complies with § 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in the subsequently issue paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

Defendant has knowingly and intentionally failed to comply with *Labor Code* § 226(a) on each and every wage statement provided to Ms. Luna and the other aggrieved employees.

In every pay period during the period of the relevant statute of limitations, Defendant knowingly and intentionally did not itemize the amount of sick pay accrued on wage statements.

In every pay period during the period of the relevant statute of limitations, Defendant knowingly and intentionally did not itemize the total hours worked on wage statements as *Labor Code* § 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, Defendant knowingly and intentionally did not include the total hours worked on wage statements. Ms. Luna and the aggrieved employees are not paid for the time it takes them before clocking in to buzz in at the security door and wait for someone to open the door and let them in. The hours worked do not include time Ms. Luna and the aggrieved employees spent performing work duties while off the clock. Defendant therefore knowingly and intentionally failed to itemize the total hours worked on Ms. Luna’s and the aggrieved employees’ wage statements.

Throughout the statutory period, as a result of the knowing and intentional failure by Defendant to comply with itemized employee wage statement provisions, Ms. Luna and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Defendant has also failed to correctly provide the name of the legal entity that is the employer by citing the employer as “ACCU BIO-CHEM LABORATORIES LLC” whereas the Defendant’s legal name is “ACCU BIO-CHEM LABORATORIES, LLC”.

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a non-exempt employee who Defendant failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Ms. Luna has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 226.

VI. Defendant Failed to Provide Lawful Meal Periods

Under *California Labor Code* § 512 no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free

of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

In addition, an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with another meal period of not less than thirty (30) minutes.

Defendant breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, Defendant failed to provide Ms. Luna and the aggrieved employees with meal periods within the first five continuous hours of work.

Further, Defendant breached the legal duty to provide meal periods to employees by imposing a continuous and consistent policy requiring Ms. Luna and the aggrieved employees to work through their meal periods to satisfy the demanding workload duties imposed by Defendant, thereby denying Ms. Luna and the aggrieved employees of the right to be completely free from employer control under California law. Ms. Luna and the aggrieved employees were not free of all work duties and/or employer control during meal periods.

Additionally, Defendant instituted a consistent policy/practice of not providing second meal periods to Ms. Luna and all aggrieved employees and/or providing compensation in lieu thereof. Specifically, Ms. Luna and the aggrieved employees are required to work over ten hour shifts but never received second meal periods.

By failing to provide statutory first, and/or second meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, Defendant willfully violated the provisions of *Labor Code* sections 226.7 and 512.

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a non-exempt employee who unlawfully was deprived of lawful first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Ms. Luna has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

VII. Defendant Failed to Provide Lawful Rest Periods

Defendant has a consistent policy and/or practice of not providing duty free net ten (10) minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Ms. Luna and the aggrieved employees. Industrial Welfare Commission Order No. 4-2001 section 12(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. The authorized rest period time shall

be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Defendant has a consistent policy and/or practice of not providing net ten-minute rest periods to Ms. Luna and all aggrieved employees and/or providing compensation in lieu thereof.

Specifically, Ms. Luna and the aggrieved employees are required to work over ten hour shifts but never received first, second, third, or fourth rest breaks.

Furthermore, Defendant breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring Ms. Luna and the aggrieved employees to work through their rest periods to satisfy the demanding workload duties imposed by Defendant, thereby denying Ms. Luna and the aggrieved employees of the right to be completely free from employer control under California law. Additionally, Ms. Luna and the aggrieved employees were not free of all work duties and/or employer control during rest periods.

By failing to provide lawful rest periods for every four (4) hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, Defendant willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 4-2001 section 12(A).

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a non-exempt employee who was unlawfully deprived of paid ten (10)-minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Ms. Luna has satisfied all prerequisites to serve as a representative of the general public to enforce California’s labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 4-2001 section 20 for violations of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 4-2001 section 12(A).

VIII. Defendant Underpaid Employees Every Pay Period

Section 558(a) of the *California Labor Code* subjects any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty for every pay period for which the employee was underpaid, which includes the underpaid wages related to each violation.

Every pay period, Defendant failed to pay employees the legal minimum wage in violation of *California Labor Code* section 1197.1, and employees are entitled to underpaid wages pursuant to Section 558(a).

Defendant has had a continuous policy of not paying Ms. Luna and similarly aggrieved employees for all hours worked, as outlined above.

Every pay period, Defendant failed to pay overtime when employees worked over eight (8) hours per day and over forty (40) hours per week in violation of *California Labor Code* section 510, and employees are entitled to underpaid overtime wages pursuant to Section 558(a).

Every pay period, Defendant has had a consistent policy and/or practice of not providing lawful meal periods to Ms. Luna and all aggrieved employees and/or providing compensation in lieu thereof in violation of *California Labor Code* section 512, and employees are entitled to underpaid meal period premium wages pursuant to Section 558(a).

Every pay period, Defendant has had a consistent policy and/or practice of not providing lawful rest periods to Ms. Luna and the aggrieved employees and/or providing compensation in lieu thereof, and employees are entitled to underpaid rest period premium wages pursuant to Section 558(a).

Ms. Luna and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Ms. Luna and all similarly situated non-exempt, hourly employees who worked for Defendant in California.

Ms. Luna, as a non-exempt employee who unlawfully was underpaid every pay period during her employment, is an aggrieved employee with standing to bring an action under the PAGA. Ms. Luna has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 558(a) for violations of *Labor Code* sections 510 and 512 and California's labor laws.

IX. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Ms. Luna will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,
MARA LAW FIRM, PC



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