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Superior Court of California  
County of Fresno  
By: C. York, Deputy

6 Attorneys for Plaintiff

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **FOR THE COUNTY OF FRESNO**  
9

10 FIDELMAR DIAZ JR., as an individual and on  
behalf of all others similarly situated,

11 Plaintiff,

12 v.

13 NALE FARMS, an unknown entity; JOHN  
14 NALE FARMS, an unknown entity; ROLAND  
NALE FARMS, an unknown entity; R & D  
15 NALE FARMS, an unknown entity; JOHN  
NALE, an individual; ROLAND NALE, an  
16 individual; DOBRA VINA, INC., a California  
corporation and DOES 1 through 100,

17 Defendants.  
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Case No.: 23CECG03930

*[Assigned for all purposes to the Honorable  
Jon M. Skiles]*

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

Date: October 10, 2024  
Time: 3:30 p.m.  
Dept.: 403

Complaint Filed: September 25, 2023  
First Amended  
Complaint Filed: December 8, 2023  
Trial Date: None Set

1 I, DANIEL J. BROWN, declare as follows:

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

7 2. I am a 2015 graduate of UCLA School of Law. I was admitted to the California  
8 State Bar in December 2015 after passing the bar exam on my first attempt. Since that time, I  
9 have practiced exclusively in the area of employment litigation. From December 2015 to June  
10 2017, I worked for the law firm Rastegar Law Group, APC, an employment litigation firm in  
11 Torrance, California. The vast majority of my work at Rastegar Law Group, APC, focused on  
12 representing employees in wage and hour class actions. I was also the lead attorney on individual  
13 claims for wrongful termination, harassment, discrimination, and retaliation. While non-  
14 exhaustive, the type of work I performed included: conducting client intakes, performing pre-  
15 filing research and analysis, drafting complaints, attending court hearings, corresponding with  
16 opposing counsel, drafting and responding to written discovery, preparing for and taking and  
17 defending depositions, analyzing payroll and timekeeping records and employee handbooks,  
18 drafting and opposing motions for remand, demurrers and motions to dismiss, motions to compel,  
19 drafting mediation briefs, attending mediations, drafting long-form settlement agreements,  
20 drafting motions for preliminary and final settlement approval, and overseeing the claims and/or  
21 opt-out processes.

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

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

9         4.         In June 2019, I started my own law firm, Stansbury Brown Law, PC focusing  
10 almost exclusively on employment litigation. Currently, over 70 percent (70%) of my practice is  
11 dedicated exclusively to the prosecution of wage and hour class actions, and I am currently  
12 responsible for prosecuting over twenty (20) wage and hour class actions. The following is a non-  
13 exhaustive list of wage and hour class actions and PAGA only actions in which I have played a  
14 significant role in prosecuting the litigation, which have received final approval: *Spinks v. Suja*  
15 *Life, LLC.*, Case No. 37-2014-00036496-CU-OE-CTL, California Superior Court, County of San  
16 Diego, Judge Richard E.L. Strauss presiding (approved as class counsel in wage and hour class  
17 action on behalf of non-exempt employees of a juice manufacture involving claims for unpaid  
18 wages, meal and rest period violations, and other claims); *Galvan v. Amvac Chemical*  
19 *Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California Superior Court, County of  
20 Orange, Judge William D. Claster presiding (granted final approval of settlement on behalf of  
21 non-exempt employees of a chemical manufacturing company involving claims for unpaid  
22 overtime and waiting time penalties); *Blank v. Coty, Inc., et al.*, Case No. BC624850, California  
23 Superior Court, County of Los Angeles, Judge William F. Highberger presiding (granting final  
24 approval of a class of employees of a beauty products manufacturer involving claims for unpaid  
25 overtime, meal period violations, and wage statement violations); *Lira v. Discus Dental, LLC, et*  
26 *al.*, Case No. CIVDS1620402, California Superior Court, County of San Bernardino, Judge David  
27 Cohn presiding (approved as class counsel in a wage and hour class action on behalf of non-  
28 exempt employees of a manufacturer of dental products involving claims for unpaid overtime,

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

1 taken, rest period violations, and derivate claims for penalties); *Alfaro v. Orange Automotive d/b/a*  
2 *Kia of Orange*, Case No, 30-2017-00945105-CU-OE-CXC, California Superior Court, County of  
3 Orange, Judge Randall J. Sherman presiding (approved as class counsel in a wage and hour class  
4 action on behalf of current and former employees of a car dealership involving claims for  
5 minimum wage violations, meal and rest period violations, failure to reimburse business  
6 expenses, wage statement violations, waiting time penalties, and PAGA penalties); *Lemus v.*  
7 *Promenade Imports, LLC*, California Superior Court, County of Orange, Judge William Claster  
8 presiding (granting final approval in a wage and hour class action on behalf of current and former  
9 non-exempt employees of a car dealership involving claims for minimum wage violations, meal  
10 and rest period violations, failure to reimburse business expenses, and claims for derivative  
11 penalties); *Garcia v. Fabrica International, Inc.*, Case No. 30-2017-00949461-CU-OE-CXC,  
12 California Superior Court, County of Orange, Judge William Claster presiding (approved as class  
13 counsel in a wage and hour class action on behalf of current and former non-exempt employees  
14 of a high-end residential carpets and custom rugs company involving claims for meal and rest  
15 period violations, regular rate miscalculation, unlawful rounding policy, and claims for derivative  
16 penalties); *Perez v. Moss Bros. Auto Group, Inc., et al.*, Case No. RIC1709905, California  
17 Superior Court, County of Riverside, Judge Craig G. Reimer presiding (granting final approval  
18 of a wage and hour class action on behalf of current and former non-exempt employees of a car  
19 dealership involving claims for minimum wage violations, failure to pay all overtime wages, meal  
20 period violations, rest period violations, wage statement violations, and civil penalties under the  
21 PAGA); *Gonzalez v. Lacey Milling Company*, Case No. 19C-0361, California Superior Court,  
22 County of Kings, Judge Kathy Cuiffini presiding (approved as class counsel in a wage and hour  
23 class action on behalf of current and former non-exempt employees of flour packing company  
24 involving claims for meal and rest period violations, unlawful rounding policy, and claims for  
25 derivate penalties); *Prelle v. The Ensign Group, Inc.*, 37-2019-00068105-CU-OE-CTL,  
26 California Superior Court, County of San Diego, Judge Richard S. Whitney presiding (granting  
27 PAGA approval on behalf of former non-exempt employees of a nursing facility involving claims  
28 for meal and rest period violations, failure to reimburse, and derivative penalties); *Alvino v.*

1 *Family Ranch, Inc., et al.*, Case No. 19CECG04356, California Superior Court, County of Fresno,  
2 Judge Kristi Culver Kapetan presiding (granting PAGA approval on behalf of former non-exempt  
3 employees of a farm labor contractor involving claims for meal and rest period violations, failure  
4 to reimburse, off the clock work, and derivative penalties); *Massey v. Louidar*, Case No.  
5 RIC1905130, California Superior Court, County of Riverside, Honorable Sunshine Sykes,  
6 presiding (approved as class counsel in a wage and hour class action on behalf of current and  
7 former non-exempt employees of a restaurant involving claims for minimum wage and overtime  
8 violations, meal and rest period violations, and claims for derivative penalties); *Jesse Alvarez v.*  
9 *Associa Developer Services, Inc., et al.*, Case No. RIC1905170, California Superior Court,  
10 County of Riverside, Honorable Sunshine S. Sykes presiding (approved as class counsel in a wage  
11 and hour class action on behalf of current and former non-exempt employees of a property  
12 management company involving claims off-the-clock work, unpaid overtime, on-duty meal and  
13 rest periods, and claims for derivative penalties); *Saul Tamayo Diaz v. Antonini Bros.*, Case No.  
14 STK-CV-UOE-2020-0000823, California Superior Court, County of San Joaquin, Honorable  
15 George J. Abdallah presiding (approved as class counsel in a wage and hour case on behalf of  
16 current and former non-exempt truck drivers for unpaid minimum wages, meal and rest period  
17 violations, and derivative wage statement, waiting time, and PAGA civil penalties); *Manuel*  
18 *Alberto Alvino v. Aguayo Contracting, Inc.*, Case No. VCU281300, Superior Court of California,  
19 County of Tulare, Honorable David C. Mathias, Dept. 01 (approved as class counsel in a wage  
20 and hour class action on behalf of current and former agricultural workers for unpaid wages, meal  
21 and rest period violations, and derivate penalties); *Nazario Martinez v. JNM Contracting, Inc., et*  
22 *al.*, Case No. VCU282822, Superior Court of California, County of Tulare, Honorable Nathan  
23 Ide presiding (approved as class counsel in a wage and hour class and representative action on  
24 behalf of current and former non-exempt agricultural workers for unpaid wages, meal and rest  
25 period violations, and derivate penalties); *Gabriel Valles v. Fresno Fab-Tech, Inc.*, Case No.  
26 19CECG04218, Superior Court of California, County of Fresno, Honorable D. Tyler Tharpe  
27 presiding (approved as class counsel in a wage and hour class action on behalf of metal fabricators  
28 for unpaid wages, meal and rest period violations, and associated penalties); *Vazquez, et al. v.*

1 *Kraft Heinz Foods Company*, Case No. 16-CV-02749-WGH (AGS), United States District Court,  
2 Southern District of California, Honorable William Q. Hayes presiding (certifying subclasses of  
3 employees for meal period violations, failure to pay for all hours worked, and a derivative waiting  
4 time class); *Maria Chavarin De Gamez v. California Fruit Basket, Inc., et al.*, Case No.  
5 20CECG02531., Honorable Jeffrey Y. Hamilton presiding (approved as class counsel at an hourly  
6 rate of \$609 in a wage and hour class action on behalf of food processors for unpaid wages, meal  
7 and rest period violations, and associated penalties).

8 5. I was also named a Southern California Super Lawyers' Rising Star in the area of  
9 employment litigation three years in a row from 2019 to 2024 by Thomson Reuters. This is an  
10 honor awarded to no more than 2.5% of attorneys under the age of forty in Southern California. I  
11 was also recognized by TopVerdict for being part of a team that secured one of the top 50 labor  
12 and employment law settlements in California in 2019. I am also active in the California  
13 employment and consumer law community. I am a member of the Consumer Attorneys  
14 Association of Los Angeles ("CAALA") and the California Employment Lawyers Association  
15 ("CELA") for which I serve on the CELA Wage and Hour Committee. I also participate in the  
16 CELA mentor program to provide mentorship and guidance to young attorneys interested in  
17 employment law.

18 6. As counsel for Plaintiff and the proposed Settlement Class, I have been intimately  
19 involved in every aspect of this case from its inception through the present, and I believe that the  
20 proposed Settlement is a reasonable result for the Settlement Class.

21 7. Defendants are primarily in the business of growing and harvesting agricultural  
22 commodities in California. Nale Farms and John Nale Farms are fictitious business names used  
23 by John Nale. A true and correct copy of the Declaration of John Nale in Support of Motion for  
24 Preliminary Approval of Settlement ("J. Nale Decl."), ¶ 2, originally filed on July 23, 2024 is  
25 attached hereto as **Exhibit K**. See also Declaration of Mark D. Kruthers in Support of Motion for  
26 Preliminary Approval of Settlement. ("Kruthers Decl."), ¶ 2, originally filed on July 23, 2024,  
27 and attached hereto as **Exhibit L**. Plaintiff Fidelmar Diaz Jr. worked as a non-exempt, farm labor  
28 employee of Defendants performing work for Defendants from approximately 2008 or 2009 to

1 October 2022 and from August 2023 to approximately October 2023 on an hourly basis.  
2 Declaration of Plaintiff Fidelmar Diaz Jr. In Support of Approval of Class Action Settlement,  
3 (“Diaz Jr. Decl.”), ¶ 2, originally filed on July 23, 2024, and attached hereto as **Exhibit M**.

4 8. Plaintiff filed a class action complaint (“Complaint”) against Defendants on  
5 September 25 2023, in Fresno County Superior Court, Case No. 23CECG03930, which alleges  
6 causes of action for: (1) minimum wage violations (2) failure to pay all overtime wages; (3) meal  
7 period violations; (4) wage statement violations; (5) waiting time penalties; (6) unfair  
8 competition; and (7) failure to reimburse for necessary business expenses. Plaintiff filed a First  
9 Amended Class and Representative Action Complaint (“FAC”) on December 8, 2023, to add an  
10 additional cause of action for civil penalties under the Private Attorneys General Act (“PAGA”)  
11 pursuant to Labor Code Sections 2698 *et seq.* based on claims asserted in the PAGA letter  
12 Plaintiff submitted to the LWDA on September 26, 2023, in Case No. LWDA-CM-983876-23.  
13 *Id.* The Complaint and FAC are referred to herein as the “Action.”

14 9. After agreeing to participate in mediation, the Parties conducted significant  
15 investigation of the facts and law through informal discovery, which included review and analysis  
16 of Defendants’ policies and putative class members’ and Aggrieved Employees’ time records  
17 and payroll records. Class Period, key class data points, and other documents and information  
18 relevant to the claims alleged in advance of mediation. After the detailed review of the payroll  
19 and time records and other documents and policies produced by Defendants, Class Counsel drew  
20 on their extensive experience in similar cases to assess strengths and weaknesses of Plaintiff’s  
21 case. This discovery allowed the Parties to assess the merits and value of Plaintiff’s claims and  
22 Defendants’ defenses thereto, if a settlement could not be reached.

23 10. On May 23, 2024, after extensive research and analysis, including my office’s  
24 detailed analysis of Defendants’ potential exposure, the Parties privately mediated the Action  
25 with respected wage and hour class action mediator Laurie Quigley Saldaña, Esq. of Mediation  
26 Central. I reviewed the time and pay data and based the exposure analysis on key data points  
27 such as: (i) the size of the various subclasses in the operative complaint, including for the four  
28 year class period, the three year waiting time class, and the 1 year PAGA and wage statement  
class, (ii) the number of pay periods and shifts worked by the class, and (iii) the average rate of



1 pay for the class. I also estimated the amount of unpaid wages and penalties for which Defendants  
2 could potentially be found liable resulting from unpaid overtime, meal period violations, failure to  
3 reimburse business expenses and derivative penalties. As well as reviewing the time and pay data,  
4 I based the exposure analysis on key data points provided by Defendants such as: (i) the size of  
5 the various subclasses in the operative complaint, including for the four-year class period, the  
6 three-year waiting time class, and the one-year PAGA and wage statement class, and (ii) the  
7 number of workweeks and pay periods worked by the various classes. Moreover, the vast  
8 majority of Plaintiff's claims do not require an analysis of the records, because the allegations  
9 primarily related to claims that are not established by the records. For example, Plaintiffs' meal  
10 period claims allege employees never received meal periods. As such, Plaintiffs' analysis  
11 assumes a violation every shift over 5.0 hours regardless of what the records state, because  
12 Plaintiff alleges the records are not accurate. Similarly, Plaintiff's minimum wage claim and  
13 overtime claim are based on Defendants' failure to record and accurately pay all work  
14 performed. Therefore, this claim also does not depend on an analysis of the records because  
15 Plaintiff alleges the records are not accurate. Lastly, the wage statement, waiting time, and  
16 PAGA claim are derivative of the above claims and therefore they also do not require a rigorous  
17 analysis of the records. Moreover, as discussed in the accompanying report by Laura Steiner of  
18 Employment Research Corporation, the sampling size and methodology were appropriate and  
19 Plaintiff could rely on the data points provided by Defendants to demonstrate damages for the  
20 whole population. A true and correct copy of Ms. Steiner's report is attached hereto as **Exhibit**  
**E.**

21 11. During mediation, the Parties vigorously debated their opposing legal positions,  
22 the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses  
23 for the claims alleged by Plaintiff. The Parties managed to reach a resolution on the mediation  
24 date and the Parties signed a Memorandum of Understanding dated May 23, 2024 memorializing  
25 said resolution. *Id.* The Parties subsequently worked diligently to negotiate and memorialize the  
26 terms on the long form Settlement Agreement, which was signed by the Parties and is now  
27 presented to this Court for preliminary approval. A true and correct copy of the Settlement  
28 Agreement is attached hereto as **Exhibit A.**

1           12. Class Members can be identified via Defendants’ personnel and employment  
2 records. According to Defendants, the Class consists of approximately 180 current and former  
3 employees, including Plaintiff. Also according to Defendants, together the Class Members  
4 worked approximately 3,400 Class Workweeks.

5           13. Plaintiff’s claims are predicated on, among other issues, Defendants’ alleged  
6 failure to timely pay all wages owed for all hours worked, their meal period policies/practices,  
7 and their failure to reimburse business expenses. The monetary terms of settlement are  
8 summarized below:

<b>Maximum Settlement Amount (“MSA”):</b>	<b>\$204,000.00</b>
Minus Court-approved attorneys’ fees (35% of MSA):	\$71,400.00
Minus Court-approved, verified costs (up to):	\$9,000.00
Minus Court-approved Class Representative Service Award:	\$5,000.00
Minus Settlement Administration costs:	\$5,990.00
Minus LWDA Payment:	\$3,750.00
<b>Net Settlement Fund (“NSF”):</b>	<b>\$108,860.00</b>

15  
16           14. Although the Parties engaged in significant investigation of the facts and the law  
17 and informal discovery in advance of mediation, the Parties still had significant discovery to  
18 complete in formal litigation had the matter not settled. This would have required expenditure of  
19 substantial time and resources by all Parties that would have very likely spanned several years.  
20 Moreover, even if Plaintiff was able to certify the classes, the Parties would incur considerably  
21 more attorneys’ fees and costs through a possible decertification motion, trial, and possible  
22 appeal. This settlement avoids those risks and the accompanying expense.

23           15. Plaintiff alleges that during the relevant time period, Defendants (i) paid Plaintiff  
24 and other non-exempt employees according to their pre-scheduled hours and/or (ii) rounded the  
25 hours worked by Plaintiff and other non-exempt employees against them, (iii) did not record the  
26 time actually worked regardless of whether they worked on an hourly or piece-rate basis, (iv) did  
27 not always pay employees at the agreed upon rate.  
28

1 Plaintiff claims that the consistent start and end times at exact hours on his timesheets  
2 will create a rebuttable presumption that he performed off-the-clock work. After Class Counsel's  
3 investigation, Plaintiff estimates 30 minutes of off-the-clock work per shift during the Class  
4 Period and calculates Defendants' potential exposure on this claim as follows: 3,400 Class  
5 Workweeks \* 5 shifts worked per week on average \* 30 minutes of off the clock work per shift  
6 \* \$15.35 average regular rate of pay = \$130,475.00 in unpaid wages.

7 16. Defendants countered that throughout the Class Period, Defendants paid  
8 employees for all hours worked. Defendants further assert that the time records accurately  
9 capture the compensable time worked. Defendants also argue that any variation in payment,  
10 including occasional failure to always pay at the agreed upon rate, was a result of sporadic payroll  
11 errors and not a company-wide policy to underpay wages. Further, to the extent this time needed  
12 to be compensated, Defendants argue that Plaintiff significantly overestimates the amount of time  
13 Class Members spent performing work off of the clock. Defendants further assert that any alleged  
14 failure to pay at the agreed upon rate was always remedied after the fact. In light of these  
15 defenses, Plaintiff discounted the maximum amount for this claim by 40% for risk of non-  
16 certification, and an additional 45% for a risk of being unsuccessful on the merits, or having the  
17 maximum exposure reduced, to arrive at an estimated exposure of \$43,057.

18 17. Plaintiff alleges that Defendants systematically failed to pay Plaintiff and other  
19 non-exempt employees for all overtime hours worked at the required overtime rate of at least 1.5  
20 times the agreed hourly rate of pay. Defendants' alleged failure to pay Class Members for all  
21 overtime owed, if established, would violate California law, which is designed to ensure full  
22 payment for all hours worked. After conducting an investigation of this claim for mediation,  
23 taking into account Defendants' potential exposure based on overtime hours compensated at the  
24 straight rate, Plaintiff estimated that the Class Members were collectively undercompensated for  
25 approximately \$75,000 of overtime hours.

26 18. Defendant countered that throughout the Class Period it paid the proper overtime  
27 rate and that any discrepancy on a paystub was resolved. In light of these defenses, Plaintiff  
28 discounted the maximum amount of \$75,000 by 40% risk for non-certification and an additional  
40% for a risk of being unsuccessful on the merits or having the amount of damages reduced due

1 to an over estimation of the amount of overtime performed to arrive at an estimated exposure of  
2 \$27,000.

3 19. During the Class Period, Plaintiff alleges that he and other Class Members almost  
4 never received a second meal period and were rarely authorized to begin their first meal periods  
5 within the first 5 hours of the day. Additionally, Plaintiff alleges that the meal period records  
6 almost always reflected a duration of exactly 30 minutes and started exactly on the hour or half  
7 hour and were pre-printed and were therefore too exact to be accurate. The fact that the meal  
8 periods were not recorded leads to an evidentiary presumption that no meal periods were  
9 provided.

10 Moreover, Plaintiff contends that a review of the Class time and pay records confirms  
11 that Defendants failed to pay any meal period premium wages per Labor Code Section 226.7,  
12 which itself is a certifiable issue. Plaintiff assumes a non-compliant meal period on  
13 approximately all shifts over 5.0 hours, calculates that approximately 90% of shifts worked were  
14 over 5 hours and calculates Defendants' exposure for meal period violations as follows: 3,400  
15 weekly pay periods \* 5 shifts worked per week on average \* 90% of total shifts over 5 hours \*  
16 \$15.35 average regular rate of pay = \$234,855.

17 20. However, Defendants maintain that they always provided legally required meal  
18 periods to Class Members and maintained and enforced lawful *verbal* meal period policies which  
19 provide for timely first and second meal periods. Defendants further argue that this claim would  
20 not be certified due to the lack of any common evidence tying together the reason that Class  
21 Members did not take a meal period. Defendants also argue that the presence of these affirmative  
22 defenses as to the voluntariness of a particular meal period decision would preclude class  
23 certification. Therefore, Plaintiff discounted the maximum amount for this claim by 45% for risk  
24 of non-certification, and an additional 55% for a risk of being unsuccessful on the merits, or  
25 having the maximum exposure reduced, to arrive at an estimated exposure of \$68,695.

26 21. Plaintiff alleges that during the relevant time period, Plaintiff, and other non-  
27 exempt employees were not reimbursed for heavy duty safety boots, gloves, safety glasses or  
28 mileage. Plaintiff conservatively estimates that every employee incurred \$100.00 in

1 unreimbursed expense and calculates Defendants' exposure for failure to reimburse as follows:  
2 180 Class Members \* \$100.00 unreimbursed expense = \$18,000.

3 22. However, Defendants argue that Class Members were provided with heavy duty  
4 safety boots, gloves, safety glasses and mileage reimbursement. Defendants also argue that this  
5 claim is not suitable for class treatment, as it would require individualized determinations as to  
6 whether each Class Member purchased heavy duty safety boots, gloves, safety glasses or used  
7 their personal vehicles for work, and if so, how much expense each Class Member incurred. In  
8 light of these defenses, Plaintiff discounted the maximum amount for this claim by 50% for risk  
9 of non-certification, and an additional 55% for a risk of being unsuccessful on the merits, or  
10 having the maximum exposure reduced, to arrive at an estimated exposure of \$4,050.

11 23. With respect to wage statement violations, Plaintiff contends that for each pay  
12 period in which there is a meal period violation, or failure to properly pay all wages owed,  
13 Plaintiff and other non-exempt employees would have received a non-compliant wage statement  
14 in violation of Labor Code Section 226.

15 24. Defendants represented that there were approximately 729 total wage statements  
16 issued during the relevant period and approximately 60 unique employees during the applicable  
17 time period. Plaintiff calculated Defendants' maximum exposure for wage statement violations  
18 at \$69,900 ([60 initial violations x \$50 for initial penalty] + [669 subsequent violations x \$100  
19 for subsequent violations]).

20 Based on Defendants' arguments that: (i) no violations occurred, (ii) any alleged  
21 violations were not "knowing and intentional" as required by Labor Code § 226(e), (iii) no injury  
22 was suffered, and (iv) the decision in *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th  
23 1308, which holds that there is no wage statement violation when the wage statements accurately  
24 reflect the compensation received by an employee, and for the reasons for a discount described  
25 above, Plaintiff discounted the maximum amount for this claim by 70% for risk of non-  
26 certification, and an additional 35% for a risk of being unsuccessful on the merits, or having the  
27 maximum exposure reduced, to arrive at an estimated exposure of \$13,630.

28 25. Plaintiff alleges that Defendants are also liable for waiting time penalties as a  
result of Defendants' failure to pay all wages and premiums owed. The estimated average waiting

1 time penalty per former employee was calculated at \$3,224 (\$15.35 average regular rate of pay  
2 \* estimate of 7 average hours per day \* 30 days), resulting in a total maximum exposure of  
3 \$493,272 (153 former employees x \$3,224).

4 26. To the extent that Plaintiff's waiting time penalty claims were derivative of his  
5 unpaid wage claims, Defendants argue that not all former employees (if any) did, in fact,  
6 experience underpayment of wages (and therefore Plaintiff's exposure was overstated).  
7 Defendants also contend that because they possessed good-faith defenses to the underlying  
8 claims, any failure to pay wages was not "willful" as a matter of law. As a result, for the reasons  
9 for a discount described above, Plaintiff discounted the maximum amount for this claim by 65%  
10 for risk of non-certification, and an additional 35% for a risk of being unsuccessful on the merits,  
11 or having the maximum exposure reduced, to arrive at an estimated exposure of \$112,219.

12 27. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing  
13 alleged Labor Code violations. The specific statutory violations upon which Plaintiff bases the  
14 claim under PAGA are: (i) Labor Code sections 1182.12, 1194, 1194.2 and 1197 for failing to  
15 pay all minimum wages owed; (ii) Labor Code sections 226.7 and 512 for meal period violations;  
16 (iii) Labor Code section 226 for failing to provide accurate, itemized wage statements; (iv) Labor  
17 Code sections 201 through 203 for failing to pay all wages owed upon termination; (v) Labor  
18 Code section 2802 for failing to reimburse employees for business expenses; (vi) Labor Code  
19 section 204 for failing to timely pay wages earned during employment on a pay period designated  
20 in advance; and (vii) Labor Code sections 558 and 1174 for failing to maintain accurate records  
21 on behalf of Plaintiff and other aggrieved employees. Based on the violations addressed above,  
22 Plaintiff contends that Defendants are liable for PAGA civil penalties for each of the 729 pay  
23 periods worked during the PAGA period. Plaintiff also alleges a stand-alone claim for failure to  
24 make the necessary disclosures in writing as required by Labor Code 2810.5. Accordingly,  
25 Plaintiff calculates Defendants' exposure at \$139,800 [60 aggrieved employees \* \$100 for initial  
violation] \* [669 subsequent violations \* \$200 for each subsequent violation].

26 28. However, Defendants assert a number of credible defenses to Plaintiff's claims.  
27 First, these penalties derive from the underlying wage and hour violations discussed above, which  
28 Defendants vigorously dispute and their defenses to those alleged violations apply with equal

1 force here. Defendants also maintain that given Defendants' good faith defenses, this Court  
2 would exercise its discretion to substantially reduce any PAGA penalties if it were to find  
3 Defendants liable for any of Plaintiff's claims. Defendants further allege that none of the  
4 violations would be deemed knowing and intentional as there is no evidence to suggest  
5 Defendants intentionally violated the Labor Code and that Defendants' policies and procedures  
6 demonstrate that it acted in good faith in regards to paying Aggrieved Employees all wages due.  
7 For these reasons, Defendants argue the Court would drastically reduce any award of PAGA  
8 penalties as "confiscatory." Therefore, Plaintiff discounted the maximum amount for this claim  
9 by 45% for risk of non-certification, and an additional 45% for a risk of being unsuccessful on  
10 the merits, or having the maximum exposure reduced, to arrive at an estimated exposure of  
\$42,289.

11           29. Using these estimated figures for each of the claims described above, Plaintiff  
12 predicted that the potential recovery for the Class would be approximately \$310,940. The  
13 proposed settlement of \$204,000 therefore represents approximately 65% of the reasonably  
14 forecasted recovery for the Class. Preliminary approval is appropriate since the settlement will  
15 provide monetary relief to Participating Members, which is consistent with what Class Counsel  
16 believe could have been recovered had the case proceeded through trial.

17           30. My firm will apply for an attorneys' fees award of approximately thirty-five  
18 percent (35%) of the MSA, which is currently estimated to be \$71,400.00 and up to \$9,000.00 in  
19 verified costs reimbursement. I believe that the requested fee is fair compensation for  
20 undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee  
21 basis. My firm's efforts in this case include conducting pre-filing investigation, legal research  
22 and analysis regarding the merits of Plaintiff's claims, Plaintiff's ability to recover penalties  
23 under the PAGA, propounding formal and informal discovery, reviewing documents and data  
24 provided by Defendants prior to mediation, drafting and filing Plaintiff's Complaint and LWDA  
25 notice letter, drafting and filing the FAC, drafting a mediation brief, preparing for and attending  
26 mediation, drafting the MOU, drafting the long-form Settlement Agreement and Notice  
27 documents, reviewing and analyzing discovery, preparing the motion for preliminary settlement  
28 approval and supporting declarations, and otherwise litigating the case. I submit that my firm's

1 request for attorneys' fees is reasonable when viewed as an overall percentage of the settlement  
2 and in light of the substantial risks and significant work undertaken, the results obtained, and the  
3 efficiency with which the litigation has been conducted. My previous experience in litigating  
4 wage and hour class and representative actions also supports the reasonableness of the fee  
5 request. I am well-versed in wage and hour class and representative action litigation. My  
6 experience in similar matters was integral in evaluating the strengths and weaknesses of this case  
7 and the reasonableness of the Settlement.

8 31. Pursuant to the widely used *Laffey Matrix*, my reasonable hourly rate is \$777  
9 (attorneys with 8-10 years of experience). Ms. Flores's reasonably hourly rate is \$878 (attorneys  
10 with 8-10 years of experience). Attached as **Exhibit F** is a true and correct copy of the *Laffey*  
11 *Matrix*. The *Laffey Matrix* is an inflation-adjusted grid of hourly rates for lawyers of varying  
12 levels of experience in Washington D.C. used for many years by the U.S. Attorney's Office for  
13 determining fees in litigation claims (especially civil rights litigation). This matrix was approved  
14 originally in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354, 371-375 (D.D.C. 1983), *aff'd*  
15 *in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C.Cir. 1984). California Courts have  
16 applied the *Laffey Matrix* with adjustments to the specific California locality where the counsel's  
17 office, or the case is located, based on the United States Office of Personnel Management's  
18 "Locality Pay Tables." *See Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 695-  
19 696 (affirming fee award based on *Laffey Matrix* with upward 9% rate adjustment from D.C. area  
20 compared to San Francisco Bay Area based on Locality Pay Tables); *In re HPL Techs., Inc.*,  
21 *Secs. Litig.* (N.D. Cal. April 22, 2005, No. C-02-3510 VRW) 365 F.Supp.2d 912, 921-922 (using  
22 *Laffey Matrix* with upward adjustment of 9 percent for San Francisco based on difference  
23 between D.C. area's +15.98 locality pay compared to San Francisco's +26.39 percent locality  
24 pay differential from the federal courts' "Judiciary Salary Plan Pay Tables.") The relevant  
25 community for determining the reasonable hourly rate is the Fresno-Madera-Hanford California  
26 area. The 2024 Locality Pay Tables (and Judiciary Salary Plan Pay Tables referred to in *In Re*  
27 *HPL Techs., Inc.*) state a -16.11% difference for the Fresno-Madera-Hanford California area as  
28 compared the D.C. area. 2024 Locality Pay Tables show +33.26% locality pay for Washington-  
Baltimore-Arlington area and +17.15% locality pay for Fresno-Madera-Hanford California. *See*



1 as **Exhibit G** (OPM Pay Adjustment Tables) and **Exhibit H** (Judicial Salary Plan Pay Tables).  
2 Based on the -16.11% adjustment, my reasonable hourly rate in the Fresno area is \$651 ( $\$777 * [1-.1611]$ ) and Ms. Flores' reasonable hourly rate in the Fresno area is \$736 ( $\$878 * [1-.1611]$ ).  
3  
4 However, my office is only requesting \$600 for all attorneys as their reasonable hourly rate.

5 32. Moreover, described below is a non-exhaustive list of cases in which my firm's  
6 hourly rate has been approved at or above the applicable *Laffey* Matrix hourly rate at the time of  
7 the issuance of the order granting attorneys' fees:

- 8 a. *Eliseo Ochoa v. Vieira Agricultural Enterprises, LLC*, Case No. 21CV-02299,  
9 California Superior Court County of Merced, Judge Brian L. McCabe presiding,  
10 granting final approval of class action settlement ("*Ochoa* Matter"). In the *Ochoa*  
11 Matter the court granted an attorney fee award in an amount constituting 35% of  
12 the maximum settlement amount, representing a 2.46 multiplier, in part on reliance  
13 of my firm's use of the *Laffey* Matrix to justify a lodestar hourly rate of \$733 for  
14 myself and \$829 for Ms. Flores.
- 15 b. *Gabriel Valles v. Fresno Fab-Tech, Inc.*, Case No. 19CECG04218, Superior Court  
16 of California, County of Fresno, Honorable D. Tyler Tharpe presiding, granting  
17 final approval of class action settlement ("*Valles* Matter"). In the *Valles* Matter,  
18 the court awarded my firm attorney fees in part on reliance of my firm's use of the  
19 *Laffey* Matrix to justify the lodestar hourly rate.
- 20 c. *Manuel Alberto Alvino v. Family Ranch, Inc. et al.*, Case No. 19CECG04356,  
21 California Superior Court, County of Fresno, Honorable Kristi Culver Kapetan  
22 presiding, granting final approval of class action settlement ("*FR* Matter"). In the  
23 *FR* Matter, the Fresno Court awarded my firm attorney fees in part on reliance of  
24 my firm's use of the *Laffey* Matrix to justify the lodestar hourly rate.
- 25 d. *Ralph Lopez v. BHJ USA, LLC*, Case No. 21C-0402, California Superior Court  
26 County of Kings, Judge Randy Edwards presiding, granting final approval of class  
27 action settlement ("*Lopez* Matter"). In the *Lopez* Matter, the Kings County Court  
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1 awarded my firm attorney fees in part on reliance of my firm's use of the *Laffey*  
2 Matrix to justify the lodestar hourly rate.

3 e. *Nora Ambris Cruz v. WMJ Farms, Incorporated*, Case No. VCU282915, Superior  
4 Court of California, County of Tulare, Honorable David C. Mathias presiding,  
5 granting final approval of class action settlement ("*Ambris Matter*"). In the *Ambris*  
6 Matter the court granted an attorney fee award in part on reliance of my firm's use  
7 of the *Laffey* Matrix to justify a lodestar hourly rate.

8 f. *Juvenal Gaona Vargas v. Cal-Citrus Labor Service, Inc.*, Case No. VCU282013,  
9 Superior Court of the County of Tulare, Honorable Nathan D. Ide presiding,  
10 granting final approval of class action settlement ("*Gaona Vargas Matter*"). In the  
11 *Gaona Vargas* Matter the court granted an attorney fee award in part on reliance  
12 of my firm's use of the *Laffey* Matrix to justify a lodestar hourly rate.

13 g. *Celerino Fernandez v. Renova Home Improvements*, Case No. 21CV-02300,  
14 Superior Court of the State of California, County of Merced, Honorable Brian L.  
15 McCabe presiding, granted an attorney fee award based on Ms. Flores' hourly rate  
16 of \$829 as part of a motion to enforce a settlement agreement.

17 h. *Manuel Alberto Alvino v. Aguayo Contracting, Inc., et al.*, Case No. VCU281300,  
18 Superior Court of the State of California, County of Tulare, Honorable David C.  
19 Mathias presiding, granting final approval of class action settlement ("*Aguayo*  
20 *Matter*"). In the *Aguayo* Matter, the court granted an attorney fee award in part on  
21 reliance of my firm's use of the *Laffey* matrix to justify a lodestar hourly rate.

22 i. *Maria Chavarin De Gamez v. California Fruit Basket, Inc., et al.*, Case No.  
23 20CECG02531, Superior Court of California, County of Fresno, Honorable  
24 Jeffrey Y. Hamilton, Jr. presiding, granting final approval of class action  
25 settlement ("*Chavarin Matter*"). In the *Chavarin* Matter, the court approved my  
26 blended hourly rate of \$609 per hour reflecting a higher hourly rate than my rate  
27 at the time according to the *Laffey* Matrix. My blended rate included my then-  
28

1 regular hourly rate of \$750 per hour, which I charged fee paying clients, and my  
2 then-hourly rate based on the *Laffey* Matrix.

3 33. Accordingly, my lodestar in this matter is \$46,380 (\$600 \* 77.3 hours). Ms. Flores’  
4 lodestar is \$32,820 (\$600 \* 54.7 hours). A true and correct copy of my billable hours are attached  
5 hereto as **Exhibit I**. Ms. Flores’ billable hours are attached to her accompanying declaration as  
6 **Exhibit A**. Our time records are comprised of both contemporaneous recording of time in one-  
7 tenth (1/10) of an hour increments and time entries made after the fact. Due to inadvertence, my  
8 firm occasionally did not input our time contemporaneously but would subsequently review the  
9 case file and email communications to approximate the hours worked. Therefore, my firm’s total  
10 lodestar is \$79,200. My firm has incurred more than \$6,007.57 in litigation costs. A true and  
11 correct copy of my firm’s itemized costs to date is attached as **Exhibit J**. My firm’s request is  
12 fair, adequate, and reasonable, as all of these costs are documented and reasonably incurred. The  
13 costs that we seek are the types of costs routinely approved by courts.

14 34. Apex’s Settlement Administration costs are a flat fee of \$5,990.00 based on  
15 approximately 180 Class Members. This request is reasonable in light of the number of Class  
16 Members and the costs and expenses associated with administering the notices and distributing  
17 the awards. Many courts have appointed Apex to administer many other complex class and  
18 PAGA settlements, and its bid to administer the settlement in this case was in line with other bids  
19 received by my office in other class action settlements. *See also*, Declaration of Sean Hartranft  
20 (“Hartranft Decl.”), ¶¶ 2, 4-6 & Exh. A, originally filed on July 23, 2024, and attached hereto as  
21 **Exhibit N**.

22 35. Plaintiff will separately apply for a Class Representative Service Award at the  
23 time of seeking final approval of the proposed class action settlement in the amount of \$5,000  
24 for his service to the Settlement Class. As will be fully briefed at the time of final approval,  
25 Plaintiff’s requested Service Award is intended to recognize the time and effort Plaintiff  
26 expended on behalf of the Settlement Class, including providing substantial factual information  
27 and documents to Class Counsel, attending multiple telephonic meetings with Class Counsel to  
28 discuss the claims and theories at issue in the litigation, actively participating in the prosecution  
of his claims, as well as the significant risks Plaintiff undertook by agreeing to serve as the named

1 plaintiff in this case. Moreover, he provided wage statements prior to filing the lawsuit, which  
2 allowed my firm to determine liability early on in this litigation which helped this case settle at  
3 a relatively early posture.

4 36. The settlement provides that Participating Members will have 180 days from the  
5 date the Settlement Administrator mails the checks to negotiate them. The funds from any  
6 uncashed checks will be transferred by the Settlement Administrator to the Boys & Girls Clubs  
7 of Fresno County, which provides kids in the City of Fresno and beyond, opportunities to succeed  
8 through programs that encourage academic success, healthy lifestyles and good character and  
9 citizenship.

10 37. Neither I nor my firm or Plaintiff have any formal relationship with the Boys and  
11 Girls Clubs of Fresno County.

12 38. The content of the proposed Class Notice satisfies California Rule of Court  
13 3.766(d) because it advises class members of the nature of the claims, basic contentions and  
14 denials of the Parties and the key terms of the settlement, the 60-day deadline to opt-out or object  
15 to the settlement and the procedures by which to do so, explains the recovery formula and  
16 expected recovery amount for each Class Member, and advises them that they will be bound by  
17 the terms of the settlement if they do not opt-out. The proposed Class Notice will also notify  
18 Class Members of the final approval hearing date and provides contact information for Class  
19 Counsel, and advises Class Members that they may enter an appearance through counsel if they  
20 wish to. Attached as **Exhibit B** is a true and correct copy of the Notice of Pendency of Class and  
21 PAGA Representative Action and Proposed Settlement (“Class Notice”).

22 39. On July 21, 2024, my office uploaded the proposed settlement to the LWDA’s  
23 website on behalf of Plaintiff. As of the date of this filing, the LWDA has not provided notice  
24 that it intends to object to the settlement. Attached as **Exhibit C**, is a true and correct copy of the  
25 confirmation of the upload of the proposed settlement to the LWDA’s website (“LWDA  
26 Proposed Settlement Confirmation”).

27 40. My firm entered into a fee sharing agreement in this case with Perez, Williams,  
28 Medina, and Rodriguez, LLP who referred this case to Stansbury Brown Law, PC. Under the  
terms of the agreement, Stansbury Brown Law, PC will receive 75% of any attorneys’ fee award

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and Perez, Williams, Medina, and Rodriguez, LLP will receive 25% of any attorneys' fee award. This fee sharing agreements was expressly agreed to in writing by Plaintiff pursuant to California Rule of Professional Conduct Rule 1.5.1 and 2-200(A). Attached here as **Exhibit D** is a true and correct copy of the fee splitting agreement executed by Plaintiff.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed on September 10, 2024 at Venice, California.



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Daniel J. Brown

## **EXHIBIT A**

## STIPULATION OF CLASS AND PAGA SETTLEMENT

This Stipulation of Class and PAGA Settlement (“**Settlement Agreement**”) is reached by and between: (i) Plaintiff Fidelmar Diaz Jr. (“**Plaintiff**”), individually and on behalf of all Aggrieved Employees, defined below, and members of the Settlement Class, defined below, on the one hand; and (ii) Defendants Nale Farms, John Nale Farms, Roland Nale Farms, R & D Nale Farms, John Nale, Roland Nale and Dobra Vina, Inc. (collectively “**Defendants**”) on the other hand (Plaintiff and Defendants are referred to herein as the “**Parties**”). Plaintiff, Aggrieved Employees, and the Settlement Class are represented by Daniel J. Brown and Jessica Flores of Stansbury Brown Law, PC (“**Class Counsel**”). Defendants are each represented by Mark Kruthers of Fennemore Dowling Aaron.

Plaintiff filed a class action complaint (“**Complaint**”) against Defendants on September 25, 2023, in Fresno County Superior Court, Case No. 23CECG03930, which alleges causes of action for: (1) minimum wage violations; (2) failure to pay all overtime wages; (3) meal period violations; (4) wage statement violations; (5) waiting time penalties; (6) unfair competition; and (7) failure to reimburse for necessary business expenses. Plaintiff filed a First Amended Class and Representative Action Complaint (“**FAC**”) on December 8, 2023, to add an additional cause of action for civil penalties under the Private Attorneys General Act (“**PAGA**”) pursuant to Labor Code section 2698 *et seq.* based on claims asserted in the PAGA letter Plaintiff submitted to the LWDA on September 26, 2023, in Case No. LWDA-CM-983876-23. The Complaint and FAC are referred to herein as the “**Action**.” The FAC is the Operative Complaint for settlement purposes.

On May 23, 2024, Plaintiff and Defendants, represented by their respective counsel of record, privately mediated the Action before Laurie Quigley Saldaña, Esq. of Mediation Central. The Parties managed to reach a resolution on the same date and the Parties signed a Memorandum of Understanding dated May 23, 2024 memorializing said resolution.

Prior to entering into settlement discussions, the Parties conducted significant investigation of the facts and law through informal discovery, which included review and analysis of Defendants’ policies and putative class members’ and Aggrieved Employees’ time records and payroll records. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff’s claims, the defenses thereto, and the damages and penalties claimed by Plaintiff in the Action. As a result of the Parties’ thorough investigation of the allegations and defenses thereto, they were able to reach an agreement for a global settlement after extensive negotiations.

Given the risks and uncertainties of litigation, the Parties have agreed to settle this Action on the terms set forth herein and subject to the approval of Court. Nothing herein shall be construed as an admission of any wrongdoing or of liability as the Settlement Agreement is intended solely to allow the Parties to buy their peace and resolve the disputed claims asserted in this Action.

### **1. Certification for Settlement Purposes.**

For the purposes of this Settlement Agreement only, the Parties stipulate to conditional certification of the following Settlement Class (hereinafter, the “**Settlement Class**” or “**Settlement Class Members**”):

All current and former non-exempt employees of Defendants who worked for Defendants (“**Class Members**”) at any time during the period of September 25, 2019, through the earlier of the date the Court grants preliminary approval or July 22, 2024 (“**Class Period**”).

**2. Aggrieved Employees.**

For the purposes of this Settlement Agreement only, the Parties stipulate that the “**Aggrieved Employees**” shall be defined as:

All current and former non-exempt employees of Defendants who worked for Defendants at any time during the period of September 25, 2022, through the earlier of the date the Court grants preliminary approval or July 22, 2024 (the “**PAGA Period**”).

**3. Releases.**

- A. **Released Parties.** As referenced herein, **Released Parties** shall collectively mean: Defendants Nale Farms, John Nale Farms, Roland Nale Farms, R & D Nale Farms, John Nale, Roland Nale and Dobra Vina, Inc., and their respective past or present officers, directors, and shareholders.
- B. **Releases Effective Upon Full Payment of the MSA.** Effective on the date when Defendants fully fund the entire Maximum Settlement Amount and fund all employer payroll taxes owed on the wage portion of the individual Participating Member Payments, Plaintiff, Settlement Class Members, and Aggrieved Employees will release claims against all Released Parties as described below.
- C. **Released Class Claims.** All Settlement Class Members who do not opt out of the settlement (collectively, “**Participating Settlement Class Members**”) on behalf of themselves and their respective past and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties, from all claims that were alleged based on the facts pled in the Action during the Class Period, including: (a) minimum wage violations; (b) failure to pay all overtime wages; (c) meal period violations; (d) waiting time penalties; (e) wage statement violations; (f) unfair competition; and (g) failure to reimburse for necessary business expenses premised on the claims pled based on the factual allegations in the Action.
- D. **Released PAGA Claims.** Aggrieved Employees, regardless of whether they opt out of the Settlement Class, will release and discharge the Released Parties from all claims for PAGA civil penalties that were alleged based on facts pled in the Action for alleged Labor Code violations that arose during the PAGA Period.
- E. **Plaintiff’s Release of Unknown Claims.** In light of his Class Representative Service Award, Plaintiff agrees to release, in addition to the Released Class and PAGA Claims described above, all claims, whether known or unknown, under federal law or state law



against the Released Parties. The Parties understand and agree that Plaintiff is not, by way of this release, releasing any workers compensation claims or any other claims which cannot be released as a matter of law. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

**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.**

4. **Settlement Payment.** In exchange for the releases set forth in this Settlement Agreement, Defendants agree to pay a common fund of Two Hundred Four Thousand Dollars and Zero Cents (\$204,000.00) (“**Maximum Settlement Amount**” or “**MSA**”) in full and complete settlement of this matter. Besides the triggering of the escalator clause pursuant to paragraphs 4(D) and/or 4(E) of this Settlement Agreement and Defendants’ payment of their share of payroll taxes pursuant to paragraph 4(C) of this Settlement Agreement, in no event shall Defendants be required to pay more than the MSA. The MSA shall be paid as follows:

A. **Funding of the Maximum Settlement Amount.** The MSA shall be deposited with the Settlement Administrator within ten (10) business days after the Effective Settlement Date (defined below).

B. **Non-revisionary.** This is a non-reversionary settlement. The Maximum Settlement Amount includes:

i. All payments to the Aggrieved Employees and Settlement Class;

ii. **Settlement Administrator.** All fees and expenses of the settlement administrator associated with the administration of the settlement, which are anticipated to be no greater than Five Thousand Nine Hundred Ninety Dollars and Zero Cents (\$5,990.00). The Parties agree to the appointment of Apex Class Action LLC as the settlement administrator (“**Settlement Administrator**”) and to Class Counsel seeking Court approval to pay up to Five Thousand Nine Hundred Ninety Dollars and Zero Cents (\$5,990.00) from the Maximum Settlement Amount for the Settlement Administrator’s services. The Settlement Administrator shall be responsible for sending all required notices in both English and Spanish, providing written reports to Class Counsel and Defense Counsel that, among other things, tally the number of Notices mailed or re-mailed, Notices returned undelivered, Requests for Exclusion, objections and disputes received from Settlement Class Members, calculating the Net Settlement Fund, calculating each Settlement Class Member’s and Aggrieved Employees’ Participating Member Payment, defined below, amount, preparing all checks and mailings and disbursing all residuals resulting from uncashed settlement checks as set forth in Paragraph 5(C), and providing declarations

regarding the Settlement Administrator's background and services for Preliminary Approval, attesting to its due diligence and compliance with all of its obligations under this Agreement for Final Approval, and a final report detailing disbursement of the Maximum Settlement Amount in compliance with the Final Approval Order. The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after checks have been mailed to all Aggrieved Employees and Participating Settlement Class Members (collectively "**Participating Members**");

- iii. Class Representative Service Award. Up to Five Thousand Dollars (\$5,000) for a class representative service award to Plaintiff subject to Court approval, in recognition of Plaintiff's general release of claims, contributions to the Action, and service to the Settlement Class. Defendants will not object to a request for a Class Representative Service Award for Plaintiff in exchange for the general release of his claims and waiver of Civil Code Section 1542, his time and risks in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Participating Member Payment (defined below) as a Participating Member and shall be reported on an IRS Form 1099 by the Settlement Administrator. It is the intent of the Parties that the Class Representative Service Award to the Plaintiff is for his services in connection with this Action and is not wages, therefore the Settlement Administrator shall not withhold any taxes from the Class Representative Service Award and shall report it on an IRS Form 1099, which shall be provided to Plaintiff and to the pertinent taxing authorities as required by law. Although it is the contemplation of the Parties that the Class Representative Service Award does not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Class Representative Service Award constitutes wages for income tax and withholding purposes. Plaintiff agrees to assume all responsibility for remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld by Defendants from the Class Representative Service Award paid under this Settlement Agreement, and all liability associated therewith. In the event that the Court reduces or does not approve the requested Class Representative Service Award, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding;
- iv. Class Counsel Fees and Costs. Up to thirty-five percent (35%) of the Maximum Settlement Amount in attorneys' fees, which is currently estimated to be Seventy-One Thousand, Four Hundred Dollars (\$71,400.00), plus up to Nine Thousand Dollars (\$9,000.00) in verified costs and expenses related to the Action as supported by declaration. In the event that the Court reduces or does not approve Class Counsel's requested fees and costs, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, and it shall remain binding. If the

Maximum Settlement Amount increases pursuant to Paragraph 4(D) and/or 4(E), the amount of fees requested by Class Counsel will increase proportionally such that the requested award is thirty-five percent of the MSA. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when it pays the fee award as approved by the Court; and

- v. **PAGA Penalties.** Five Thousand Dollars (\$5,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) will be payable to the Labor & Workforce Development Agency ("**LWDA Payment**"), and the remaining twenty-five percent (25%), or One Thousand Two Hundred Fifty Dollars (\$1,250.00) will be payable to the Aggrieved Employees as the "**PAGA Amount.**" The LWDA Payment and PAGA Amount are collectively referred to herein as the "**PAGA Penalties.**"

C. **Payroll Tax Payments.** Defendants' share of payroll taxes shall be paid by Defendants separately from, and in addition to, the Maximum Settlement Amount.

D. **Class Escalator Clause.** Defendants represent that as of May 23, 2024, there are approximately 180 Settlement Class Members and approximately 3,400 Class Workweeks within the Class Period. If, the actual number of Settlement Class Members or the number of Class Workweeks released by this Settlement increases by more than 10% (i.e., increase by more than 18 Settlement Class Members or 340 Class Workweeks), then Defendants shall increase the Maximum Settlement Amount on a pro-rata basis equal to the increase in the number of Class Members or workweeks above 10% (e.g., if the number of Settlement Class Members or Class Workweeks increases by 25%, Defendants will increase the MSA by 15%).

E. **Effective Date of Settlement.** The Effective Settlement Date of this settlement shall be the date on which the Court enters an Order granting Final Approval, if there are no objections or solely in the event that there are any objections to the settlement, the filing of an objection being a prerequisite to the filing of an appeal, the later of: (i) the last date on which any appeal might be filed or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review). ("**Effective Settlement Date**").

F. **Disbursement of Maximum Settlement Amount.** Within ten (10) calendar days following the funding of the Maximum Settlement Amount with the Settlement Administrator by Defendants, the Settlement Administrator will calculate Participating

Member Payments (defined below) and mail individual Participating Member Payments to Participating Settlement Class Members and Aggrieved Employees and transfer to Class Counsel its attorney's fees and verified costs.

5. **Participating Member Payment Procedures.** Participating Settlement Class Members and Aggrieved Employees (collectively, "**Participating Members**") are not required to submit a claim form to receive their share of the Settlement ("**Participating Member Payment**"). Participating Member Payments will be determined and paid as follows:

A. **Net Settlement Fund:** The Net Settlement Fund is the Maximum Settlement Amount after the following deductions are made: (a) all costs of settlement administration; (b) Class Representative Service Award to Plaintiff; (c) the LWDA Payment; and (d) costs and attorneys' fees for Class Counsel. The Net Settlement Fund shall be available for Participating Members. From the Net Settlement Fund, the Settlement Administrator will calculate each Participating Member Payment based on the following formula:

- i. **PAGA Amount.** Each Aggrieved Employee shall receive a portion of the One Thousand Two Hundred Fifty Dollars (\$1,250.00) that has been designated as the PAGA Amount based on their proportionate share of PAGA Pay Periods (i.e., any calendar week in which the Aggrieved Employee worked at least one shift performing work for Defendants during the PAGA Period based on Defendants' records), by multiplying the PAGA Amount by a fraction, the numerator of which is the Aggrieved Employee's PAGA Pay Periods, and the denominator of which is the total PAGA Pay Periods of all Aggrieved Employees.
- ii. **Remainder.** The remainder of the Net Settlement Fund shall be distributed to each Participating Settlement Class Member based on their proportionate share of Class Workweeks, by multiplying the remaining Net Settlement Fund by a fraction, the numerator of which is the Participating Settlement Class Member's Class Workweeks, and the denominator of which is the total Class Workweeks of all Participating Settlement Class Members.

B. **Participating Member Payment Tax Treatment.** For purposes of calculating applicable taxes and withholdings for the payment to Participating Members described in Paragraph 5(A)(ii), twenty percent (20%) of each such payment shall be designated as wages subject to W-2 reporting and normal payroll withholdings; the remaining eighty percent (80%) of each such payment shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. Additionally, 100% of the PAGA Amount paid to Aggrieved Employees shall be designated as penalties and interest subject to IRS Form 1099 reporting with no withholdings. Notwithstanding the treatment of these payments to each Participating Member above, none of the Participating Member Payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

C. **Deadline to Negotiate Participating Member Payment.** Each Participating Member who receives a Participating Member Payment must negotiate the settlement check within one hundred eighty (180) days from the date of issuance. The one hundred eighty (180) day expiration of the settlement checks will be pre-printed on the front of the settlement check. Any funds payable to Participating Members whose checks are not negotiated within one hundred eighty (180) days period will not be reissued, except for good cause and as mutually agreed by the Parties in writing. If a Participating Member does not cash his or her settlement check within 180 days, the uncashed funds, subject to Court approval, shall be transferred by the Settlement Administrator to the Boys & Girls Clubs of Fresno County, as the designated *cy pres*.

D. Defendants shall be deemed to have fully discharged their obligations to each Participating Member when the Settlement Administrator mails each Participating Member a settlement check, regardless of whether such checks are actually received and/or negotiated by Participating Members. Neither Plaintiff, Defendants, nor their respective counsel shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by his, her, or its own acts of omission or commission, the same is true for the Settlement Administrator.

6. **Preliminary Approval.** Plaintiff shall apply to the Court for the entry of an Order:

A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;

B. Appointing Daniel J. Brown and Jessica Flores of Stansbury Brown Law, PC as Class Counsel;

C. Appointing Fidelmar Diaz Jr. as the Class Representative for the Settlement Class;

D. Approving Apex Class Action LLC as Settlement Administrator;

E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;

F. Approving the form and content of the Class Notice Packet and directing the mailing of same in English and Spanish (the form and content of the Class Notice Packet will be approved by all parties prior to submission to the Court for approval);

G. Scheduling a Final Approval hearing;

H. Plaintiff shall submit the proposed settlement to the Labor Workforce Development Agency (“LWDA”) pursuant to Labor Code § 2699(1)(2). Proof of this submission will be provided to the Court and to Defendants’ counsel; and

- I. If Final Approval is granted, Plaintiff shall submit a copy of the Superior Court's judgment to the LWDA after entry of the judgment or order, pursuant to Labor Code § 2699(1)(3).

7. **Notice Procedures.** Following preliminary approval, Settlement Class Members and Aggrieved Employees shall be notified as follows:

- A. Within fourteen (14) days after entry of an order preliminarily approving this Settlement Agreement, Defendants will provide the Settlement Administrator with a class list (in electronic format) including the full names, last known addresses, social security numbers, dates of employment, the number of Class Workweeks and PAGA Pay Periods worked by each Aggrieved Employee and Settlement Class Member.

A “**Class Workweek**” shall be any calendar week in which the Settlement Class Member worked at least one shift performing work for Defendants during the Class Period based on Defendants’ records.

A “**PAGA Pay Period**” shall be any calendar week in which Aggrieved Employees worked at least one shift performing work for Defendants during the PAGA Period based on Defendants’ records.

- B. Within seven (7) days from receipt of the class list information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members and Aggrieved Employees through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members and Aggrieved Employees; (ii) update the addresses of any Settlement Class Member or Aggrieved Employee for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet to each Settlement Class Member or Aggrieved Employee in English and Spanish at their last known address or at the updated address found through the NCOA search, and retain proof of mailing.

- C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline (defined below) shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member or Aggrieved Employee immediately, and in any event within three (3) business days of obtaining the updated address.

- D. **Opt-Out/Request for Exclusion Procedures.** Any Settlement Class Member who wishes to opt-out of the Settlement must complete and mail or fax a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Request for Exclusion must: (1) contain the name, address, telephone number of the Settlement Class Member; (2) contain a statement that the Settlement Class Member wishes to be excluded from the class settlement; (3) be signed by the Settlement Class Member; and (4) be faxed or postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion fails to comply with items (1), (2), or (4), it will not be deemed a valid Request for Exclusion from this settlement, except a Request for Exclusion not containing a Settlement Class Member's telephone number will be deemed valid. The date of the postmark on the Request for Exclusion, shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement (although the PAGA settlement and release provisions will apply to each such individual, and such individual shall be entitled to their share of the PAGA Amount) or have any right to object, intervene, appeal, or comment thereon. Any Settlement Class Member who does not submit a Request for Exclusion is automatically deemed a Participating Settlement Class Member.
- E. Objections.** Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendants' counsel as well as filing them with the Court). Defendants' counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendants' counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Settlement Class Member's full name and current address; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) objections must be postmarked on or before the Response Deadline.
- F. Challenges to Participating Member Payment Calculations.** Each Notice Packet mailed to a Settlement Class Member or Aggrieved Employee shall disclose the amount of the Settlement Class Member's or Aggrieved Employee's estimated Participating Member Payment as well as all of the information that was used from Defendants' records in order to calculate the Participating Member Payment, including the number of Class Workweeks and the number of PAGA Pay Periods. Settlement Class Members and Aggrieved Employees will have the opportunity, should they disagree with Defendants' records regarding the number of Class Workweeks and PAGA Pay Periods stated in their Notice Packet, to challenge the data provided. In order to challenge Defendants' data, the Settlement Class Member or Aggrieved Employee must provide documentation and/or an explanation demonstrating that Defendants' data is incorrect and evidencing the correct number of Class Workweeks and/or PAGA Pay Periods that the Settlement Class Member or Aggrieved Employee believes they should have been

credited with and/or evidence of the correct date their employment ended. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. The Settlement Administrator shall provide a copy of the challenge and any supporting documentation to counsel for the Parties within five (5) days of receipt.

**G. Dispute Resolution.** The Settlement Administrator shall have the responsibility of resolving all disputes that arise during the settlement administration process, including, without limitation, disputes (if any) regarding the calculation of Settlement Class Member's or Aggrieved Employee's Participating Member Payment, the allocation of W-2 wages, and the number of Class Workweeks and PAGA Pay Periods. Where the information submitted by Defendants from their records differ from the information submitted by the Settlement Class Member or Aggrieved Employee, the Settlement Administrator shall request a conference call between the Settlement Administrator, Class Counsel, and Defendants' counsel to discuss and resolve the dispute. In advance of the conference call, the Settlement Administrator shall email copies of all available information to all counsel. After consulting with the Parties to determine whether an adjustment is warranted, the Settlement Administrator will finally determine the eligibility for an amount of any Participating Member Payment. Such determination shall be binding upon the Settlement Class Member, Aggrieved Employee, and the Parties.

8. **Final Approval Process.** Following preliminary approval and the close of the Response Deadline under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
  - A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
  - B. Approving Plaintiff's application for Settlement Administrator's fees and expenses, Plaintiff's Class Representative Service Award, Class Counsel's attorneys' fees, Class Counsel's costs and expenses, and the PAGA Penalties; and
  - C. Entering judgment pursuant to California Rule of Court 3.769.
9. **Non-Admission.** Defendants deny that they have engaged in any unlawful activity, that they have failed to comply with the law in any respect, that they have any liability to anyone under the claims asserted in the Action, and that but for this settlement a class should not be certified in this Action. Nothing in this Settlement Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendants. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement.





memorandum, which shall include but not be limited to, all funds paid by Defendants shall be returned to Defendants, with the exception that if any settlement administration costs are due and payable, Plaintiff and Defendants agree to split those costs.

16. **Jurisdiction of the Court.** The Parties agree that the Court shall retain jurisdiction under Code of Civil Procedure section 664.6 with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their respective counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.
17. **Governing Law.** This Agreement shall be governed by and interpreted according to the laws of the State of California.
18. **Mutual Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the terms of this Agreement. Such cooperation shall include, but is not limited to, the execution of such other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms of this Agreement or as requested by the Court. The Parties shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by Court Order, or otherwise, to effectuate this Agreement and the terms set forth herein.

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[SIGNATURES ON FOLLOWING PAGE]

**EXECUTION BY PARTIES AND COUNSEL**

Date: 7/3/2024

DocuSigned by:  
Fidelmar Diaz Jr.  
FE62044E0F5747D

Fidelmar Diaz Jr., Plaintiff

Date: 7-8-24

[Signature]

John Nale, individually and dba Nale Farms  
And John Nale Farms

Date: 7-8-24

Roland Nale

Roland Nale, individually and dba R & D  
Nale Farms and Roland Nale Farms

Date: 7-8-24

[Signature]

, on behalf of  
Defendant Dobra Vina, Inc.

**Approved As to Form:**

Date: 7/0/24

FENNEMORE DOWLING AARON

[Signature]

Mark Kruthers  
Counsel for Defendants

Date: July 3, 2024

STANSBURY BROWN LAW, PC

[Signature]

Daniel J. Brown  
Counsel for Plaintiff and the Settlement  
Class

## **EXHIBIT B**

**NOTICE OF PENDENCY OF CLASS AND PAGA REPRESENTATIVE ACTION AND PROPOSED SETTLEMENT**

***Fidelmar Diaz Jr. v. Nale Farms, et al.***  
**Fresno County Superior Court**  
**Case No.: 23CECG03930**

To: All current and former non-exempt employees of Defendants Nale Farms, John Nale Farms, Roland Nale Farms, R & D Nale Farms, John Nale, Roland Nale and Dobra Vina, Inc. who worked for Defendants at any time during the period of September 25, 2019, through July 22, 2024.

**PLEASE READ CAREFULLY**  
**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

***Why should you read this Notice?***

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in the matter of *Fidelmar Diaz Jr. v. Nale Farms, et al.*, Fresno County Superior Court, Case No. 23CECG03930 (the “Action”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. The records of Defendants John Nale, Nale Farms, John Nale Farms (John Nale, Nale Farms and John Nale Farms are referred to herein collectively as “John Nale”), Roland Nale, Roland Nale Farms, R & D Nale Farms (Roland Nale, Roland Nale Farms, and R & D Nale Farms are collectively referred to herein as “Roland Nale”) and Dobra Vina, Inc. (“DBI”) (John Nale, Roland Nale, and DBI are collectively referred to herein as “Defendants”), show that you were employed by Defendants as a non-exempt employee in California at any time between September 25, 2019, and July 22, 2024. The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

***What is this case about?***

Plaintiff Fidelmar Diaz Jr. (“Plaintiff”) brought this Action against Defendants on behalf of himself, the State of California, and Defendants’ other current and former non-exempt employees who have worked at least one shift for Defendants at any time during the period of September 25, 2019, through July 22, 2024. Plaintiff is known as the “Class Representative” and his attorneys, who also represent the interests of all Class Members, are known as “Class Counsel.”

The Action alleges that Defendants: (i) failed to pay employees all earned wages; (ii) failed to provide all legally required meal periods; (iii) failed to provide accurate and itemized wage statements; (iv) failed to timely pay all wages due or final wages due upon separation of employment; (v) failed to reimburse for all necessary business expenses; and (vi) engaged in unfair competition as a result of the above-mentioned alleged violations. The Action further alleges that Defendants are liable for civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”) to Plaintiff, the State of California, and all of their non-exempt employees who worked for Defendants during the PAGA Period (defined below) (“Aggrieved Employees”).

Defendants deny they have done anything wrong and no judge or other trier of fact has ruled that any member of Defendants has violated any law. Defendants also deny that they owe Class Members or Aggrieved Employees any wages, restitution, statutory or civil penalties, damages, or any other remedies. Accordingly, the Settlement is a compromise of disputed claims and should not be considered an admission of liability on the part of Defendants, by whom all liability is expressly denied. Defendants have indicated that Nale Farms and John Nale Farms are fictitious business names used by John Nale and Roland Nale Farms and R & D Nale Farms are fictitious business names used by Roland Nale. Accordingly, Defendants contend that John Nale, Roland Nale, and Dobra Vina, Inc. are the only members of Defendants that employed any individuals.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendants, the risk of the Court not allowing the case to proceed as a class action, the risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

The Court has not ruled on the merits of the claims alleged in the Action. In granting preliminary approval of the Settlement, the Court has determined only that there is sufficient evidence to suggest that the Settlement might be fair, adequate, and reasonable. A final determination on whether the Settlement is fair, adequate, and reasonable will be made at the Final Approval hearing.

**Your decision about whether to participate in the Settlement will not affect your employment. California law and Defendants' policies strictly prohibit unlawful retaliation.** Defendants will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member or Aggrieved Employees because of his or her decision to either participate or not participate in the Settlement.

***Who are the Attorneys?***

<p>Attorneys for Defendants Nale Farms, John Nale Farms, Roland Nale Farms, R &amp; D Nale Farms, John Nale, Roland Nale and Dobra Vina, Inc.:</p> <p><b>FENNEMORE DOWLING AARON</b> Mark Kruthers mkruthers@fennemorelaw.com 8080 North Palm Avenue, Third Floor Fresno, CA 93711 www.fennemorelaw.com</p>	<p>Attorneys for the Plaintiff, Class, and Aggrieved Employees:</p> <p><b>STANSBURY BROWN LAW, PC</b> Daniel J. Brown dbrown@stansburybrownlaw.com Jessica Flores jflores@stansburybrownlaw.com 2610 ½ Abbot Kinney Blvd. Venice, California 90291 www.stansburybrownlaw.com</p>
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***What are the terms of the Settlement?***

Defendants agree to pay \$204,000.00 (the “Maximum Settlement Amount”) to fully resolve all claims in the Action, including payments to Class Members who do not opt-out of the Settlement (“Settlement Class Members”) as described below, Aggrieved Employees, the State of California, Class Counsel’s attorneys’ fees and expenses, Settlement administration costs, and the Class Representative Service Award.

The following deductions from the Maximum Settlement Amount will be requested by the Parties:

Attorneys’ Fees and Expenses. Class Counsel has been prosecuting the Action on behalf of Class Members and Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Class Members and Aggrieved Employees are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for up to thirty-five percent (35%) of the Maximum Settlement Amount, which is currently estimated at \$71,400.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$9,000.00 in verified costs incurred in connection with the Action.

Settlement Administration Costs. The Court has approved Apex Class Action LLC to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$5,990.00 from the Maximum Settlement Amount to pay the

settlement administration costs. Additionally, the Settlement Administrator will calculate Defendants' share of the payroll taxes that will be paid in addition to the Maximum Settlement Amount.

Class Representative Service Award. Class Counsel will ask the Court to award the Class Representative Service Award in the amount of \$5,000.00, to compensate Plaintiff for his service and extra work provided on behalf of the Class Members and Aggrieved Employees.

Payment to State of California. The Parties have agreed to allocate \$5,000.00 towards the Settlement of the PAGA claims in the Action. \$3,750.00 will be paid to the State of California Labor and Workforce Development Agency ("LWDA"), representing its 75% share of the PAGA civil penalties ("LWDA Payment"). The remaining \$1,250.00 will be allocated to Aggrieved Employees who worked at least one shift during the PAGA Period (the "PAGA Amount").

Calculation of Participating Member Payments. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the "Net Settlement Fund," which will be distributed to all Settlement Class Members and Aggrieved Employees (collectively "Participating Members"). The Net Settlement Fund is estimated at approximately \$108,860.00, and will be divided as follows:

- (i) PAGA Amount. Each Aggrieved Employee shall receive a portion of the \$1,250.00 that has been designated as the PAGA Amount based on their proportionate share of PAGA Pay Periods by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. A "PAGA Pay Period" is any calendar week in which an Aggrieved Employee worked at least one shift for Defendants during the PAGA Period between September 25, 2022, and July 22, 2024 based on Defendants' records.
- (ii) The remainder of the Net Settlement Fund shall be distributed to each Participating Settlement Class Member based on their proportionate share of Class Workweeks by multiplying the remaining Net Settlement Fund by a fraction, the numerator of which is the Participating Settlement Class Member's Class Workweeks, and the denominator of which is the total Class Workweeks of all Participating Settlement Class Members. A "Class Workweek" is any is any calendar week in which a Settlement Class Member worked at least one shift for Defendants during the Class Period based on Defendants' records.

Payment of the Settlement. If the Court grants final approval of the Settlement, Participating Member Payments will be mailed to all Aggrieved Employees for their portion of the PAGA Amount regardless of whether they make a request for exclusion from the class portion of the settlement. In addition, Settlement Class Members will receive additional compensation as part of their Participating Member Payments comprised of their portion of the Net Settlement Fund as described above.

Allocation and Taxes. For tax purposes, each Participating Member Payment shall be treated as follows: 20% as "wages" subject to normal payroll withholdings, for which an IRS Form W-2 will be issued; and 80% as penalties and interest with no withholdings, for which an IRS Form 1099 will be issued. For Aggrieved Employees who opt out of the class portion of the settlement they would otherwise be entitled to, and receive only their portion of the PAGA Amount, 100% of the PAGA Amount shall be treated as penalties with no withholdings, for which an IRS Form 1099 will be issued. Participating Members are responsible for the proper income tax treatment of the Participating Member Payments. The Settlement Administrator, Defendants and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Participating Members should consult with their tax advisors concerning the tax consequences and treatment of awards they receive under the Settlement.

Released Parties. As referenced herein, Released Parties shall collectively mean: Defendants Nale Farms, John Nale Farms, Roland Nale Farms, R & D Nale Farms, John Nale, Roland Nale and Dobra Vina, Inc., and their respective past or present officers, directors, and shareholders.

Class Release. All Participating Settlement Class Members on behalf of themselves and their respective past and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties, from all claims that were alleged based on the facts pled in the Action during the Class Period, including: (a) minimum wage violations; (b) failure to pay all overtime wages; (c) meal period violations; (d) waiting time penalties; (e) wage statement violations; (f) unfair competition; and (g) failure to reimburse for necessary business expenses premised on the claims pled based on the factual allegations in the Action.

PAGA Release. Aggrieved Employees who worked for Defendants at any time during the period of September 25, 2022, through July 22, 2024 (the “PAGA Period”) on behalf of themselves and their respective past and present representatives, and regardless of whether they opt out of the Settlement Class, will release and discharge the Released Parties from all claims for PAGA civil penalties that were alleged based on facts pled in the Action for alleged Labor Code violations that arose during the PAGA Period.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

#### ***How can I claim money from the Settlement?***

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of Class Workweeks worked during the Class Period, and the proportionate number of PAGA Pay Periods you worked during the PAGA Period, as stated in this Notice. You also will be bound by the Settlement, including the release of claims stated above.

#### ***What other options do I have?***

Dispute Information In This Notice. Your Participating Member Payment is based on the proportionate number of Class Workweeks you worked during the Class Period, and the proportionate number of PAGA Pay Periods you worked during the PAGA Period. The information contained in Defendants’ records regarding each of these factors, along with your estimated Participating Member Payment, is listed below. If you disagree with the information listed below, you may submit a dispute, along with any supporting documentation, to <<SETTLEMENT ADMINISTRATOR ADDRESS>>. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Settlement Administrator will determine whether any adjustments are warranted, and if so, will consult with the Parties and make a determination as to whether an adjustment will be made.

According to Defendants’ records:

- (a) you worked for Defendants in California from [REDACTED] to [REDACTED];
- (b) you worked [REDACTED] Class Workweeks during the Class Period; and
- (c) you worked [REDACTED] PAGA Pay Periods during the PAGA Period.

Based on the above, your Participating Member Payment is estimated at \$ [REDACTED].

Exclude Yourself from the Class Portion of the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself from the class portion of the settlement by sending a Request for Exclusion to the Settlement Administrator postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, and your signature.

Send the Request for Exclusion directly to the Settlement Administrator <<SETTLEMENT ADMINISTRATOR ADDRESS>>. Any person who submits a timely Request for Exclusion, shall, upon receipt by the Settlement Administrator, not be a Settlement Class Member and will not receive any portion of the class settlement. However, the person may not opt out of the PAGA portion of the settlement and release as described above. Settlement Class



Members who also qualify as Aggrieved Employees will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may timely submit a written objection directly to the Settlement Administrator at <<SETTLEMENT ADMINISTRATOR ADDRESS>>. Your written objection must: (1) contain the objecting Class Member's full name and current address; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) objections must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also object by appearing at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 403 of Fresno County Superior Court, located at 1130 "O" Street, Fresno, California 93724. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. All objections or other correspondence must state the name and number of the case, which is *Fidelmar Diaz Jr. v. Nale Farms, et al.*, Fresno County Superior Court, Case No. 23CECG03930.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

#### ***What is the next step?***

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 403 of the Fresno County Superior Court, located at 1130 "O" Street, Fresno, California 93724. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, Settlement Administrator costs, and the Class Representative's Service Award. **You are not required to attend the Final Approval Hearing, although any Class Member or Aggrieved Employee is welcome to attend the hearing.**

#### ***How can I get additional information?***

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Fresno County Superior Court, located at 1130 "O" Street, Fresno, California 93724, during regular court hours. You may also view the case file online at <https://publicportal.fresno.courts.ca.gov/FRESNOPORTAL/Home/Dashboard/29> and entering the case number information. The Settlement Agreement is attached as Exhibit A to the Declaration of Daniel J. Brown In Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed on <<PRELIMINARY APPROVAL MOTION FILING DATE>>. You may also view the Settlement Agreement, complaint and other relevant documents by going to the Settlement Administrator's website: <<<SETTLEMENT ADMINISTRATOR URL >>>>, or contact the Settlement Administrator at <<<SETTLEMENT ADMINISTRATOR PHONE NUMBER >>>>. You may also contact Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

#### ***REMINDER AS TO TIME LIMITS***

The deadline for submitting a Request for Exclusion, a written objection, or any dispute is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

**BY ORDER OF THE COURT ENTERED ON <<PRELIMINARY APPROVAL DATE>>.**

## **EXHIBIT C**



Daniel Brown <[dbrown@stansburybrownlaw.com](mailto:dbrown@stansburybrownlaw.com)>

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## Thank you for your Proposed Settlement Submission

1 message

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**DIR PAGA Unit** <[no-reply@formassembly.com](mailto:no-reply@formassembly.com)>  
To: [dbrown@stansburybrownlaw.com](mailto:dbrown@stansburybrownlaw.com)

Sun, Jul 21, 2024 at 12:21 PM

07/21/2024 12:21:20 PM

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

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

## **EXHIBIT D**

Re: Client Name: FIDELMAR DIAZ JR.

**Rules 1.5.1 Agreement and Consent/Authorization Regarding Fee Sharing Agreement**

California Rules of Professional Conduct, Rule 1.5.1 requires that any fee sharing agreement between attorneys be agreed to in writing by the attorneys and consented to in writing by the client. The purpose of this document is to disclose and obtain authorization regarding the fee sharing agreement reached between **Perez, Williams, Medina & Rodriguez LLP** and **Stansbury Brown Law, PC**.

**Perez, Williams, Medina & Rodriguez LLP** and **Stansbury Brown Law, PC** have agreed that the attorney's fees in this case will be shared as follows: Twenty-five percent (25%) to **Perez, Williams, Medina & Rodriguez LLP**; and Seventy-five percent (75%) to **Stansbury Brown Law, PC**. All case costs will be advanced/paid by **Stansbury Brown Law, PC**. By signing below, Client consents to this agreement and acknowledges the Client understands that this agreement will not increase the total amount of attorney's fees owed to Attorney by Client.

In providing this consent, Client has been fully informed of California Rule of Professional Conduct, Rule 1.5.1, which provides as follows: (a) Lawyers who are not in the same law firm shall not divide a fee for legal services unless: (1) the lawyers enter into a written agreement to divide the fee; (2) the client has consented in writing, either at the time the lawyers enter into the agreement to divide the fee or as soon thereafter as reasonably practicable, after a full written disclosure to the client of: (i) the fact that a division of fees will be made; (ii) the identity of the lawyers or law firms that are parties to the division; and (iii) the terms of the division; and (3) the total fee charged by all lawyers is not increased solely by reason of the agreement to divide fees.

By signing below, Client consents to the fee-sharing agreement set forth above between **Perez, Williams, Medina & Rodriguez LLP** and **Stansbury Brown Law, PC**.

Fidelmar Diaz Jr. 

Dated: 10-7-22

Fidelmar Diaz Jr. 

Dated: \_\_\_\_\_

Stansbury Brown Law, PC 

Dated: 12-7-2022

Perez, Williams, Medina & Rodriguez LLP

## **EXHIBIT E**

September 9, 2024

Daniel J. Brown  
Stansbury Brown Law, PC  
2610 1/2 Abbot Kinney Blvd.  
Venice, CA 90291

Re: Fidelmar Diaz, Jr. vs. Nale Farms

Dear Mr. Brown,

I was asked to opine on the methodology used to estimate damages based on a sample of records, as well as other information sources, in the above-mentioned matter.

## **I. My Background**

I am the President of Employment Research Corporation, a firm located in Ann Arbor, Michigan, that specializes in employment and wage and hour research. I obtained my Master of Business Administration degree from Yale University. I have over 30 years' experience in project management, research design, data analysis, survey research, and consulting. I have designed and conducted surveys and analyzed statistical data and records in numerous matters, including consumer market research projects, user interface design projects, and in class action employment matters for plaintiffs and defendants. My curriculum vitae is attached as Appendix A.

## **II. Documents reviewed**

I reviewed the following information in preparing my report:

- 1) Mediation Brief from Daniel J. Brown at Stansbury Brown Law, PC, dated May 22, 2024.
- 2) Fidelmar Diaz Jr.'s Notice of Motion and Motion for Preliminary Approval of Class Action and Page Settlement, e-filed July 23, 2024.
- 3) Minute Order and Tentative Ruling to deny without prejudice the Motion by Fidelmar Diaz Jr. for Preliminary Class Settlement Approval, dated August 26, 2024, from the hearing on August 20, 2024.
- 4) Dobra Vina, Inc.'s Ziveli Winery Personnel Handbook and Policies, updated January 2024.
- 5) John Roland Nale's Nale Farm Personnel Handbook and Policies, updated October 2023.
- 6) John Nale's mediation data from redacted employees, including payroll records and work logs with dates, hours worked, descriptions of labor, and locations, marked JN1 through JN21.
- 7) Dobra Vina's mediation data from redacted employees, including payroll records and work logs with dates, hours worked, descriptions of labor, locations, and tips acquired, marked DV1 through DV10.

- 8) Roland Nale's mediation data from redacted employees, including payroll records and work logs with dates, hours worked, descriptions of labor, and locations, marked RN1 through RN12.
- 9) Email from Mark D. Kruthers to Daniel Brown dated April 8, 2024 regarding sampling of records.

### **III. Background**

It is my understanding that an analysis of records has been completed in the above-mentioned case and that the settlement class members in this matter consist of current and former non-exempt employees of the Defendant in the State of California from September 25, 2019 through July 22, 2024 ("Class Period").<sup>1</sup>

### **IV. Sample Size, Confidence Level and Margin of Error**

It is my understanding that the data from which the sample was drawn include time and pay records for an approximately 20% sample of class members during the relevant time period. From a universe of 164 employees, records were drawn for 43 randomly selected employees.

It is also my understanding that the method used to draw the sample involved randomizing the employees and selecting every 5th record from each of the employer subgroups. This is a simple form of probability sampling that is commonly used to create an easy-to-administer and unbiased method for selecting records. Examining the data, it appears that there were 12 Roland Nale employees, 21 John Nale employees, and 10 Dobra Vina employees selected.

In evaluating the confidence interval of the estimate, we determine the confidence level desired, margin of error, and the variation in the underlying data. These three factors are described below.

The confidence level is the percentage of times you would expect to get close to the same estimate in repeated trials. When we specify a 95 percent confidence level, the estimate that we make will fall within the stated range 95 percent of the time.<sup>2</sup> As described by Kaye & Freedman in the Reference Guide on Statistics, published in the Reference Manual on Scientific Evidence, "the 95% confidence level is the most popular, but some authors use 99%, and 90% is seen on occasion."<sup>3</sup>

The margin of error describes the range or error around an estimate at a given confidence level. The larger the sample, the smaller the margin of error. For example, if 50% of class members have meal break violations and we sample 115 class members, the margin of error would be +/- 5%. The estimated range would be between 45% and 55%. If we sample 79 people in the above scenario, the margin of error would be +/- 8% with a range of 42% to 58%. Assuming a 95 percent confidence interval, the formula for the margin of error is:

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<sup>1</sup> Plaintiff's Notice of Motion and Motion for Preliminary Approval of Class Action and PAGA Settlement.

<sup>2</sup> A 95% confidence level is comparable to 1.96 standard deviations using a two-tailed test and a normal distribution.

<sup>3</sup> See David H. Kaye & David A. Freedman, Reference Guide on Statistics which is published in the Reference Manual on Scientific Evidence, Third Edition Federal Judicial Center, National Research Council, p.245 state that "the 95% confidence level is the most popular, but some authors use 99%, and 90% is seen on occasion."



$$1.96 \times \sqrt{\frac{p \times (1-p)}{n_0}},$$

where  $(p \times (1 - p))/n_0$  is the variance of the underlying proportion.

Decisions regarding number of employees to analyze also depend on the variation in the underlying data. For example, if the proportion of employees with a meal break violation is close to 100% or close to 0%, we would need fewer observations because there is little variation. If the proportion is closer to 50% (a coin toss), we would need more observations to achieve the same margin of error at a given confidence level.

When the review of relevant evidence leads us to believe that the incidence of measures of interest will be very high or very low, we can use a smaller sample size. If we expect that closer to 10% of the employees are affected, and we desire a confidence level of 95 percent with a +/-10% margin of error, we would need to analyze the records of 29 employees. For questions that affect approximately 20 or 80 percent of employees, we would need to analyze the records of 45 employees. The following table illustrates additional scenarios for sample sizes at a 95 percent confidence level and varying the margin of error. As shown in the table below, as the reported percentages approach 50%, a larger sample size is required, or we must accept a larger margin of error in our estimates.

Table 1 – Sample sizes at the 95 Percent Confidence Level by Margin of Error, assuming a total population size of 164 class members.

Margin of Error	Sample size assuming 50% Incidence	Sample Size assuming 20%/80% Incidence	Sample Size assuming 10%/90% Incidence
+/- 5%	115	99	75
+/- 8%	79	61	41
+/- 10%	61	45	29
+/- 15%	35	24	14

## V. Other Data Points Provided by Defendant

It is also my understanding that many of the calculations made in determining the estimated damages were based on statistics received from the Defendant. To the extent that these numbers were derived from information from the entire class, no margin of error needs to be applied. Specifically, it is my understanding that the numbers used and analyzed for the Size of the Putative Class, Number of employees in the Waiting Time Class, Total Number of Workweeks, and Number of PAGA / Wage statement Weekly Pay Periods were provided by the Defendant in addition to the 20 percent sampling.

## **VI. Conclusion**

The above analysis reflects my review of the sampling methods and damages calculations made in the above-mentioned matter. The sampling methodology used was a form of probability sampling commonly used to select records. The margin of error on various measurements will vary. However, for percentage-based estimates based on the sample of records, the margin of error ranges are illustrated in this report. In addition, to the extent that information or statistics were provided by the Defendant for all class members, no calculations of margin of error are necessary.

The contents of this report represent my opinion to a reasonable degree of professional certainty. This report is based on analysis conducted by me or by members of the staff of Employment Research Corporation under my direction. I reserve the right to alter my opinion should additional information become available.

Sincerely,



Laura R. Steiner, MBA  
President, Employment Research Corporation

**APPENDIX A**

**1 – CURRICULUM VITAE OF Ms. LAURA STEINER**

**2 – CASES TESTIFIED**

**3 – RATES**

## 1 — Curriculum Vitae

### Laura R. Steiner

**Employment Research Corporation**  
2661 Emerald Ave  
Ann Arbor, Michigan 48104  
Office: (734) 477-9040  
Direct: (734) 395-4223  
lauras@employmentresearch.com

#### **Current Position**

President, Employment Research Corporation, 2023-present  
Vice President, Employment Research Corporation, 2002-2023  
Member, Forensic JobStats, 2010-present

#### **Previous Positions**

Director, Marketing Consulting, User Interfaces, 2000-2002  
Senior Consultant, Employment Research Corporation, 1997-1999  
Account Executive/Group Manager, PERT Survey Research (now MetrixLab), 1993-1997  
Manager, Analysis Group, PERT Survey Research (now MetrixLab), 1992-1993  
Coordinator, Ethnic Advertising and Customer Satisfaction Programs, United States Postal Service, Northeast Regional Headquarters, 1990-1992

#### **Education**

MBA, Yale School of Management, 1991  
BA, Comparative Literature, Magna Cum Laude, with high distinction, University of Michigan, 1987

#### **Legal and Economic Consulting**

Managed full-scale employment audits for large corporations in various industries. Audits included analysis of issues such as workforce, promotions, terminations, compensation and hiring. Worked with clients to design surveys and prepare instructions to collect internal company feedback from various regional offices.

Managed review, coding and analysis of human resources documents including job applications and personnel files in OFCCP and EEOC audits and other legal matters. Participated in negotiations with corporate, legal, and government representatives.

Prepared analyses of economic loss in cases involving premature death, injury, termination from work, and age, race, and gender discrimination. Worked on analyses for plaintiffs and defendants.

Conducted studies of employment mitigation including labor market analyses and evaluations of job market opportunities for given time periods and geographic areas.

Performed occupational analyses to determine overtime exemptions under the FLSA. Studies were based on interviews, observations, surveys, and in-depth review of documents such as job descriptions, personnel files, job postings, and performance evaluations.

Calculated damages in wage and hour cases under the FLSA and other state and local labor regulations. Conducted surveys to estimate time worked, and relied on payroll data, timekeeping data, and other information to estimate unpaid wages and penalties owed to plaintiffs.

Conducted studies of route assignments and account assignments. Analyzed all routes nationwide across multiple years of data. Benchmarked results to census population data to measure employee assignments into neighborhoods of various demographic compositions. Co-directed study for the Corporation for Public Broadcasting to assess the training needs of Public Broadcasting employees through the year 2000. This study addressed a variety of issues relating to diversity including staffing, programming, and audience demographics. Study completed in 1995.

### **Other Professional Experience**

Presenter of "Using Help Wanted Ads to Assess Failure to Mitigate" with Malcolm Cohen at the National Association of Forensic Economics Association Western Meetings, held in conjunction with the Western Economic Association International Virtual 96th Annual conference June 27, 2021.

Author of "Using Online Help - Wanted Advertising as a Tool in Vocational Assessments" by Malcolm S. Cohen, Ph.D., and Laura R. Steiner, MBA and Carrie Fried Thorpe, Journal of Forensic Vocational Analysis, Vol. 16, No 2, Winter 2016: 27-36, co-authored Malcolm S. Cohen, Ph.D. and Carrie Fried Thorpe.

Author of "WANTED Technologies: One Billion Help Wanted Advertisements Database: Uses & Limitations." presented by Malcolm Cohen, Ph.D. and Laura R. Steiner, MBA at: American Board of Vocational Experts (ABVE) 2015 Annual Conference, San Antonio, TX, March 21, 2015, co-authored with Malcolm S. Cohen.

Author of "Using Online Help-Wanted Advertising Data and Other Indicators to Access Whether a Plaintiff's Job Search was Sufficient to Mitigate Damages" by Malcolm Cohen, Ph.D. and Laura R. Steiner, MBA at: The Earnings Analyst, Official Journal of the American Rehabilitation Economics Association, vol. 13, 2013: 13-34, co-authored with Malcolm S. Cohen.

Author of "A Scientific Approach to Mitigation of Economic Damages in Discrimination and Wrongful Discharge" Presented by Malcolm Cohen, Ph.D. at: National Association of Forensic Economists (NAFE) Forensic Economics II Session at the 2012 ASSA Meeting, Chicago, IL, January 7, 2012, co-authored with Malcolm Cohen, Ph.D.

Author of "How Economic Research Can Provide a Scientific Basis for Measuring Compensation Loss and Failure to Mitigate Damages" 29th Annual Labor and Employment Law Institute, sponsored by the Institute for Continuing Legal Education, the Michigan Law Schools, the Michigan State Bar Association and the FMCS, April 1, 2004, co-authored with Malcolm Cohen, Ph.D. and Teresa Fulimeni, MA.

Member of the research team for a study of the impact of the 'New Economy' on the overtime provisions of the Fair Labor Standards Act for the U.S. Department of Labor, 2001.

Conducted usability testing and surveyed consumer perceptions of products including mobile internet, industry-specific search engines, web-based e-mail, and other high-tech consumer products among consumers in the United States, Israel, and Singapore.

# Employment Research Corporation

Conducted small- and large-scale survey research products including customer satisfaction, internal employee surveys, new product introduction, advertising awareness, and customer tracking studies. Analyzed results and presented recommendations. Projects were completed for clients in a variety of industries including consumer products, healthcare, financial services, and technology companies.

While at the U.S. Postal Service, worked with advertising agencies on regional marketing campaigns for the Express Mail product line.

Coordinated efforts to increase customer satisfaction ratings with the Postal Service through employee training and employee interviewing. Tracked performance through survey research and large database analysis. Coordinated region-wide *Dale Carnegie* training of window clerks. Guided divisional training coordinators in implementation of training and customer satisfaction measurement issues.

## **Professional Affiliations**

American Association for Public Opinion Research (AAPOR)

National Association of Forensic Economics (NAFE)

Society for Human Resource Management (SHRM)

**2 — CASES TESTIFIED**

Cite	Deposition Date	Trial Date	Court	Case Number
Santana and Amescua et al v Lion Raisins, Inc	08/15/2024		Superior Court of the State of California for the County of Fresno	19CECG01344
Carroll v Northwest Pallet Services, LLC	08/07/2024		Superior Court of the State of California for the county or San Bernardino	CIV-DS-1932541
Grandberry v Northwest Pallet Services, LLC	08/07/2024		Superior Court of the State of California for the County of Kern	BCV-19101284
Adriana Cruz v Nike Retail Services, Inc.	06/20/2024		USDC Southern District of California	23-cv-874-L-KSC
Manzaneth v Digital Currency Services	02/20/2024		Superior Court of the State of California County of Los Angeles	20STCV19393
Kenneth Raschke v Trapper Mining Inc	01/31/2024		USDC for The District of Colorado	1:23-cv-00671-RMR-SBP
Gilbert Soto v Domino's Pizza	12/05/2023	12/14/23	American Arbitration Association	01-22-0000-9431
Conrad Reloj v GEICO	12/06/2023		USDC Southern District of California	3:21-cv-01751-L-AGS
Allison v Dignity Health	10/27/2023		Superior Court of the State of California for the County of San Francisco	CGC-18-566922
Benitez v Marromac, Inc	08/14/2023		Superior Court of the State of California County of Los Angeles	20STCV19312
Hernandez v Wal-Mart Associates, Inc.	06/29/2023		USDC Central District of California	5:21-cv-00166-FLA-KK
Zamora v Overhill Farms Inc.	05/04/2023		Superior Court of the State of California for the County of Los Angeles	19STCV10854
Cook v Saks Fifth Avenue LLC et al	04/19/2023	05/11/2023	Court of Common Pleas, Franklin County, Ohio	21-cv-003401
Fogo de Chao Wage and Hour Cases	01/25/2023		Superior Court of the State of California County of Santa Clara	17CV318072
Padilla v Walt Disney Parks and Resorts U.S. Inc.	01/18/2023		Superior Court of the State of California County of Orange	30-2019-01077209-CU-OECXC
Williams v Amazon	11/29/2022		USDC Northern District of California, San Francisco Division	3:22-cv-01892-VC
Frakes v McLane Foodservice Distribution	11/11/2022		Superior Court of the State of California for the County of San Bernardino	CIVDS2022117
Maldonado v World Class Distribution Inc	09/27/2022		Superior Court of the State of California for the County of Los Angeles	BC680208

Cite	Deposition Date	Trial Date	Court	Case Number
Jimmy Lee Bynum Jr. v CSL Behring et al	07/27/2022		In the Circuit Court of Kankakee County, Illinois	2020L107
Fredeen v California Cemetery & Funeral Services	04/20/2022 03/17/2022		Superior Court of the State of California for the County of Los Angeles	BC706930
Morgan et al v Rohr Inc. et al	10/26/2021		USDC, Southern District of California	3:20-CV-00574-GPC-AHG
Torrez v Del Taco LLC	10/11/2021		Superior Court of The State of California for The County of Alameda	JCCP4904
Zibdea v Jones Ontario Acquisition		08/19/2021	In Re Arbitration ADR Services Inc.	19-6557
Escamilla v Ono Hawaiian BBQ, Inc.	08/02/2021		Superior Court of The State of California for The County of Los Angeles	BC651992
Guzman v Marriott	07/28/2021		Superior Court of The State of California for The County of Riverside	PSC1601106
Alvarado v Wal-mart	07/21/2021		USDC Central District of California	2:20-cv-01926-AB-KK
Bucio v ABM Industries	01/29/2021		Superior Court of The State of California for The County of San Francisco	CJC-07-004502
Christian Koszka v California State Assembly	03/20/2019		Superior Court of The State of California for The County of Sacramento	34-2016-00199407
Zuniga v Alexandria Care Center	11/19/2018		Superior Court of the State of California County of Los Angeles	BC529776
Walden v The State of Nevada, NDOC	12/01/2017		USDC District of Nevada	3:14-cv-00320-LRH-WGC
Lynda Howard v Michigan Bell	05/26/2016		David Kotzian, Arbitrator	
Hostetler v Johnson Controls	09/16/2015		USDC Northern District of Indiana, South Bend Division	3:15-cv-00226-JD



**3 — RATES**

	<u>Research Rate</u>	<u>Testimony Rate</u>
Ms. Laura Steiner	\$425 per hour	\$500 per hour
Ms. Teresa Fulimeni	\$425 per hour	\$500 per hour
Senior Analyst	\$350 per hour	\$400 per hour
Analyst	\$300 per hour	
Research Associate	\$175 per hour	

## **EXHIBIT F**

# LAFFEY MATRIX

[History](#)
[Case Law](#)
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Year	Adjustmt Factor**	Paralegal/ Law Clerk	Years Out of Law School *				
			1-3	4-7	8-10	11-19	20 +
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363
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The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

\*  $\frac{1}{2}$  Years Out of Law School  $\frac{1}{2}$  is calculated from June 1 of each year, when most law students graduate.  $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1).  $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier  $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier  $\frac{1}{2}$ 4-7" on June 1, 1999, and tier  $\frac{1}{2}$ 8-10" on June 1, 2003.

\*\* The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

## **EXHIBIT G**

**Salary Table 2024-FN**  
**Incorporating the 4.7% General Schedule Increase and a Locality Payment of 17.15%**  
**For the Locality Pay Area of Fresno-Madera-Hanford, CA**  
**Total Increase: 5.28%**  
**Effective January 2024**

*Hourly Basic (B) Rates by Grade and Step*  
*Hourly Title 5 Overtime (O) Rates for FLSA-Exempt Employees by Grade and Step*

Grade	B/O	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
1	B	\$ 12.34	\$ 12.76	\$ 13.17	\$ 13.57	\$ 13.98	\$ 14.22	\$ 14.63	\$ 15.04	\$ 15.06	\$ 15.44
	O	18.51	19.14	19.76	20.36	20.97	21.33	21.95	22.56	22.59	23.16
2	B	13.88	14.21	14.67	15.06	15.23	15.67	16.12	16.57	17.02	17.47
	O	20.82	21.32	22.01	22.59	22.85	23.51	24.18	24.86	25.53	26.21
3	B	15.14	15.65	16.15	16.66	17.16	17.67	18.17	18.67	19.18	19.68
	O	22.71	23.48	24.23	24.99	25.74	26.51	27.26	28.01	28.77	29.52
4	B	17.00	17.56	18.13	18.70	19.26	19.83	20.40	20.96	21.53	22.09
	O	25.50	26.34	27.20	28.05	28.89	29.75	30.60	31.44	32.30	33.14
5	B	19.02	19.65	20.28	20.92	21.55	22.19	22.82	23.45	24.09	24.72
	O	28.53	29.48	30.42	31.38	32.33	33.29	34.23	35.18	36.14	37.08
6	B	21.20	21.91	22.61	23.32	24.03	24.73	25.44	26.15	26.85	27.56
	O	31.80	32.87	33.92	34.98	36.05	37.10	38.16	39.23	40.28	41.34
7	B	23.56	24.34	25.13	25.91	26.70	27.48	28.27	29.05	29.84	30.62
	O	35.34	36.51	37.70	38.87	40.05	41.22	42.41	43.58	44.76	45.93
8	B	26.09	26.96	27.83	28.70	29.57	30.44	31.30	32.17	33.04	33.91
	O	39.14	40.44	41.75	43.05	44.36	45.66	46.95	47.60	47.60	47.60
9	B	28.81	29.77	30.74	31.70	32.66	33.62	34.58	35.54	36.50	37.46
	O	43.22	44.66	46.11	47.55	47.60	47.60	47.60	47.60	47.60	47.60
10	B	31.73	32.79	33.85	34.90	35.96	37.02	38.08	39.13	40.19	41.25
	O	47.60	47.60	47.60	47.60	47.60	47.60	47.60	47.60	47.60	47.60
11	B	34.86	36.02	37.19	38.35	39.51	40.67	41.83	43.00	44.16	45.32
	O	47.60	47.60	47.60	47.60	47.60	47.60	47.60	47.60	47.60	47.60
12	B	41.79	43.18	44.57	45.96	47.36	48.75	50.14	51.53	52.93	54.32
	O	47.60	47.60	47.60	47.60	47.60	48.75	50.14	51.53	52.93	54.32
13	B	49.69	51.35	53.00	54.66	56.32	57.97	59.63	61.28	62.94	64.60
	O	49.69	51.35	53.00	54.66	56.32	57.97	59.63	61.28	62.94	64.60
14	B	58.72	60.68	62.63	64.59	66.55	68.50	70.46	72.42	74.38	76.33
	O	58.72	60.68	62.63	64.59	66.55	68.50	70.46	72.42	74.38	76.33
15	B	69.07	71.37	73.67	75.97	78.28	80.58	82.88	85.18	87.48	89.78
	O	69.07	71.37	73.67	75.97	78.28	80.58	82.88	85.18	87.48	89.78

Applicable locations are shown on the 2024 Locality Pay Area Definitions page:

<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2024/locality-pay-area-definitions/>

**Salary Table 2024-DCB**  
**Incorporating the 4.7% General Schedule Increase and a Locality Payment of 33.26%**  
**For the Locality Pay Area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA**  
**Total Increase: 5.31%**  
**Effective January 2024**

*Hourly Basic (B) Rates by Grade and Step*  
*Hourly Title 5 Overtime (O) Rates for FLSA-Exempt Employees by Grade and Step*

Grade	B/O	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
1	B	\$ 14.04	\$ 14.51	\$ 14.98	\$ 15.44	\$ 15.91	\$ 16.18	\$ 16.64	\$ 17.11	\$ 17.13	\$ 17.56
	O	21.06	21.77	22.47	23.16	23.87	24.27	24.96	25.67	25.70	26.34
2	B	15.79	16.16	16.68	17.13	17.32	17.83	18.34	18.85	19.36	19.87
	O	23.69	24.24	25.02	25.70	25.98	26.75	27.51	28.28	29.04	29.81
3	B	17.22	17.80	18.37	18.95	19.52	20.09	20.67	21.24	21.82	22.39
	O	25.83	26.70	27.56	28.43	29.28	30.14	31.01	31.86	32.73	33.59
4	B	19.33	19.98	20.62	21.27	21.91	22.56	23.20	23.84	24.49	25.13
	O	29.00	29.97	30.93	31.91	32.87	33.84	34.80	35.76	36.74	37.70
5	B	21.63	22.35	23.07	23.79	24.52	25.24	25.96	26.68	27.40	28.12
	O	32.45	33.53	34.61	35.69	36.78	37.86	38.94	40.02	41.10	42.18
6	B	24.11	24.92	25.72	26.53	27.33	28.13	28.94	29.74	30.55	31.35
	O	36.17	37.38	38.58	39.80	41.00	42.20	43.41	44.61	45.83	47.03
7	B	26.80	27.69	28.58	29.48	30.37	31.26	32.16	33.05	33.94	34.84
	O	40.20	41.54	42.87	44.22	45.56	46.89	48.24	49.58	50.91	52.26
8	B	29.68	30.66	31.65	32.64	33.63	34.62	35.61	36.60	37.59	38.58
	O	44.52	45.99	47.48	48.96	50.45	51.93	53.42	54.14	54.14	54.14
9	B	32.78	33.87	34.96	36.05	37.15	38.24	39.33	40.42	41.52	42.61
	O	49.17	50.81	52.44	54.08	54.14	54.14	54.14	54.14	54.14	54.14
10	B	36.09	37.30	38.50	39.70	40.91	42.11	43.31	44.52	45.72	46.92
	O	54.14	54.14	54.14	54.14	54.14	54.14	54.14	54.14	54.14	54.14
11	B	39.66	40.98	42.30	43.62	44.94	46.27	47.59	48.91	50.23	51.55
	O	54.14	54.14	54.14	54.14	54.14	54.14	54.14	54.14	54.14	54.14
12	B	47.53	49.12	50.70	52.29	53.87	55.45	57.04	58.62	60.21	61.79
	O	54.14	54.14	54.14	54.14	54.14	55.45	57.04	58.62	60.21	61.79
13	B	56.52	58.41	60.29	62.17	64.06	65.94	67.83	69.71	71.60	73.48
	O	56.52	58.41	60.29	62.17	64.06	65.94	67.83	69.71	71.60	73.48
14	B	66.79	69.02	71.25	73.47	75.70	77.92	80.15	82.38	84.60	86.83
	O	66.79	69.02	71.25	73.47	75.70	77.92	80.15	82.38	84.60	86.83
15	B	78.56	81.18	83.80	86.42	89.04	91.66	91.95	91.95	91.95	91.95
	O	78.56	81.18	83.80	86.42	89.04	91.66	91.95	91.95	91.95	91.95

\* Rate limited to the rate for level IV of the Executive Schedule (5 U.S.C. 5304 (g)(1)).

Applicable locations are shown on the 2024 Locality Pay Area Definitions page:

<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2024/locality-pay-area-definitions/>

## **Exhibit H**



**JUDICIARY SALARY PLAN**  
**Fresno-Madera-Hanford, CA - Table FN**  
**17.15% Locality Payment Included**  
**Effective January 1, 2024**

<b>Grade</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>1</b>	\$25,757	\$26,621	\$27,476	\$28,330	\$29,184	\$29,685	\$30,533	\$31,387	\$31,421	\$32,219
<b>2</b>	\$28,962	\$29,651	\$30,610	\$31,421	\$31,776	\$32,711	\$33,645	\$34,580	\$35,515	\$36,450
<b>3</b>	\$31,601	\$32,654	\$33,708	\$34,761	\$35,814	\$36,867	\$37,920	\$38,973	\$40,027	\$41,080
<b>4</b>	\$35,473	\$36,655	\$37,837	\$39,019	\$40,201	\$41,383	\$42,565	\$43,747	\$44,929	\$46,111
<b>5</b>	\$39,688	\$41,011	\$42,333	\$43,656	\$44,979	\$46,301	\$47,624	\$48,946	\$50,269	\$51,592
<b>6</b>	\$44,242	\$45,717	\$47,192	\$48,666	\$50,141	\$51,616	\$53,091	\$54,566	\$56,041	\$57,516
<b>7</b>	\$49,163	\$50,802	\$52,441	\$54,080	\$55,719	\$57,358	\$58,997	\$60,636	\$62,275	\$63,914
<b>8</b>	\$54,445	\$56,260	\$58,075	\$59,889	\$61,704	\$63,519	\$65,333	\$67,148	\$68,963	\$70,777
<b>9</b>	\$60,135	\$62,140	\$64,144	\$66,149	\$68,153	\$70,158	\$72,162	\$74,166	\$76,171	\$78,175
<b>10</b>	\$66,223	\$68,430	\$70,637	\$72,844	\$75,051	\$77,258	\$79,465	\$81,672	\$83,879	\$86,087
<b>11</b>	\$72,758	\$75,183	\$77,608	\$80,033	\$82,458	\$84,883	\$87,308	\$89,733	\$92,158	\$94,583
<b>12</b>	\$87,208	\$90,114	\$93,021	\$95,927	\$98,834	\$101,740	\$104,647	\$107,553	\$110,460	\$113,366
<b>13</b>	\$103,701	\$107,158	\$110,615	\$114,072	\$117,530	\$120,987	\$124,444	\$127,901	\$131,358	\$134,815
<b>14</b>	\$122,544	\$126,629	\$130,714	\$134,799	\$138,884	\$142,969	\$147,054	\$151,139	\$155,224	\$159,309
<b>15</b>	\$144,143	\$148,947	\$153,751	\$158,555	\$163,360	\$168,164	\$172,968	\$177,773	\$182,577	\$187,381
<b>16</b>	\$169,053	\$174,688	\$180,323	\$185,958	\$191,593	\$197,228	\$202,863	\$204,000 *	\$204,000 *	\$204,000 *
<b>17</b>	\$194,154	\$200,625	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *
<b>18</b>	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *

\* Rate limited to the rate for Level III of the Executive Schedule.

**JUDICIARY SALARY PLAN**  
**Washington-Baltimore-Arlington, DC-MD-VA-WV-PA - Table DCB**  
**33.26% Locality Payment Included**  
**Effective January 1, 2024**

<b>Grade</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
<b>1</b>	\$29,299	\$30,282	\$31,255	\$32,226	\$33,198	\$33,767	\$34,732	\$35,703	\$35,742	\$36,649
<b>2</b>	\$32,945	\$33,728	\$34,820	\$35,742	\$36,145	\$37,209	\$38,272	\$39,336	\$40,399	\$41,463
<b>3</b>	\$35,947	\$37,145	\$38,343	\$39,541	\$40,739	\$41,937	\$43,135	\$44,333	\$45,531	\$46,729
<b>4</b>	\$40,351	\$41,696	\$43,040	\$44,385	\$45,730	\$47,074	\$48,419	\$49,763	\$51,108	\$52,452
<b>5</b>	\$45,146	\$46,650	\$48,155	\$49,659	\$51,164	\$52,668	\$54,173	\$55,677	\$57,182	\$58,686
<b>6</b>	\$50,326	\$52,003	\$53,681	\$55,359	\$57,037	\$58,714	\$60,392	\$62,070	\$63,748	\$65,425
<b>7</b>	\$55,924	\$57,788	\$59,653	\$61,517	\$63,381	\$65,245	\$67,110	\$68,974	\$70,838	\$72,703
<b>8</b>	\$61,933	\$63,997	\$66,061	\$68,125	\$70,189	\$72,254	\$74,318	\$76,382	\$78,446	\$80,510
<b>9</b>	\$68,405	\$70,685	\$72,965	\$75,245	\$77,525	\$79,805	\$82,085	\$84,366	\$86,646	\$88,926
<b>10</b>	\$75,329	\$77,840	\$80,350	\$82,861	\$85,372	\$87,882	\$90,393	\$92,904	\$95,414	\$97,925
<b>11</b>	\$82,764	\$85,522	\$88,281	\$91,039	\$93,798	\$96,556	\$99,315	\$102,073	\$104,832	\$107,590
<b>12</b>	\$99,200	\$102,506	\$105,812	\$109,119	\$112,425	\$115,731	\$119,037	\$122,343	\$125,650	\$128,956
<b>13</b>	\$117,962	\$121,894	\$125,827	\$129,759	\$133,692	\$137,624	\$141,557	\$145,489	\$149,422	\$153,354
<b>14</b>	\$139,395	\$144,042	\$148,689	\$153,336	\$157,982	\$162,629	\$167,276	\$171,923	\$176,570	\$181,216
<b>15</b>	\$163,964	\$169,429	\$174,894	\$180,359	\$185,824	\$191,289	\$191,900 **	\$191,900 **	\$191,900 **	\$191,900 **
<b>16</b>	\$192,301	\$198,711	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *
<b>17</b>	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *
<b>18</b>	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *	\$204,000 *

\* Rate limited to the rate for Level III of the Executive Schedule.

\*\* Rate limited to the rate for Level IV of the Executive Schedule.

## **Exhibit I**

CASE	DATE	TIME	ACTIVITY
Diaz v. John Nales	12-7-22	4.8	Review Record, Due Initial Intake
	1-18-23	2.6	Legal research: independent 204 penalties
	9-15-23	1.2	Review/Revised Draft Complaint
	09-15-23	.7	Reviewed Local Rules and Complex Designations
	09-18-23	1.5	Researched Proper Defendants
	09-26-23	.9	Reviewed PAGA Ltr
	11-08-23	.8	Spoke with Client re: case update and next steps
	11-09-23	2.8	Review and revised 1 <sup>st</sup> Set of Discovery
	11-15-23	.7	Spoke with client and wife re: case update
	11-15-23	.4	Review email from OC
	11-15-23	.6	Emailed OC
	11-16-23	.5	Emails with OC re: next steps
	12-01-23	.2	Emails with OC
	12-02-23	1.1	Emails with OC re: discovery issues
	12-02-23	.1	Email mediator
	12-06-23	1.8	Prepared for and had call with OC
	12-07-23	.6	Reviewed FAC
	12-08-23	.2	Email to OC
	12-08-23	.7	Reviewed Belaire West Stip and Ntc
	12-17-23	1.3	Reviewed revised mediation information requests
	1-11-24	.3	Email with OC re: sampling
	01-23-24	1.8	Draft Jnt CMC and ADR Stip
	01-29-24	.8	Reviewed/revised stip from OC sent back to OC
	01-29-24	.4	Email with OC re: Belaire West and Mediation
	01-30-24	.3	Email OC re: Stip rejected
	02-02-24	.2	Email w/OC re: stip
	03-13-24	.5	Call with Client re: Update
	04-06-24	.3	Email with OC re: sample for mediation
	05-03-24	.8	Reviewed email with OC re: mediation data points
	05-10-24	.4	Call with OC re: related entities
	5-19-24	7.9	Reviewed & analyzed mediation data

	5-20-24	3.4	Further reviewed and analyzed mediation data
	5-21-24	6.9	Drafted mediation brief
	5-22-24	2.8	Finalized and sent mediator mediation brief
	5-23-24	8.6	Prepared for and Attended Mediation
	6-05-24	.2	Emailed Settlement Admin
	6-11-24	2.5	Reviewed/Revised long form settlement agreement
	6-13-24	.6	Reviewed/revised page length stip
	6-21-24	5.8	Reviewed/revised PA mtn docs
	6-27-24	.7	Reviewed OC revisions to Settlement
	6-29-24	.5	Email OC items needed for PA mtn
	7-15-24	.6	Reviewed Decls from OC
	8-19-24	1.6	Reviewed PA tentative and researched PA requirements
	8-20-24	.7	Prepared for and had call with OC re: Revised PA
	8-27-24	4.3	Revised PA mtn and supplemental docs
	9-3-24	.5	Call with data expert
	9-6-24	.4	Call with Sampling Expert
	<b>TOTAL</b>	<b>77.3</b>	<b>Hourly Fees = \$600 * 77.3 hrs = \$38,383.80</b>

## **Exhibit J**

# Stansbury Brown Law, PC

## Unbilled Charges

All Dates

DATE	TRANSACTION TYPE	NUM	POSTING	MEMO/DESCRIPTION	AMOUNT	BALANCE
0159 Diaz Jr., Fidelmor v John Nale Farms dba Nale Farms						
09/26/2023	Billable Expense Charge		No	PAGA Filing Fee	75.00	75.00
09/30/2023	Billable Expense Charge		No	File documents Fresno	51.28	126.28
09/30/2023	Billable Expense Charge		No	Filing Fee Fresno	1,435.00	1,561.28
10/10/2023	Billable Expense Charge		No	Certified Mail	52.15	1,613.43
10/18/2023	Billable Expense Charge		No	File Proof of Service Fresno	12.27	1,625.70
10/19/2023	Billable Expense Charge		No	File Proof of Service Fresno	11.82	1,637.52
10/25/2023	Billable Expense Charge		No	File Proof of Service Fresno	11.82	1,649.34
10/27/2023	Billable Expense Charge		No	Printing PAGA Ltr	12.25	1,661.59
10/30/2023	Billable Expense Charge		No	Printing PAGA ltr	3.50	1,665.09
10/30/2023	Billable Expense Charge		No	Printing POS Summons	27.50	1,692.59
10/30/2023	Billable Expense Charge		No	Printing POS Summons	17.50	1,710.09
10/30/2023	Billable Expense Charge		No	Printing Amended POS	17.50	1,727.59
11/05/2023	Billable Expense Charge		No	Legal Research/Westlaw	4.98	1,732.57
11/11/2023	Billable Expense Charge		No	Serve documents , 7 individuals	446.75	2,179.32
11/15/2023	Billable Expense Charge		No	Certified Mail	14.90	2,194.22
11/30/2023	Billable Expense Charge		No	Printing Discovery	14.00	2,208.22
12/13/2023	Billable Expense Charge		No	File Complaint Fresno	11.82	2,220.04
02/01/2024	Billable Expense Charge		No	File Notice and Order Fresno	11.82	2,231.86
04/05/2024	Billable Expense Charge		No	Legal Research/Westlaw	14.69	2,246.55
05/09/2024	Billable Expense Charge		No	Mediation #159	3,500.00	5,746.55
05/09/2024	Billable Expense Charge		No	FedX	9.75	5,756.30
05/15/2024	Billable Expense Charge		No	FEDEX608471125	9.75	5,766.05
05/28/2024	Billable Expense Charge		No	Printing Med Brief	33.75	5,799.80
06/20/2024	Billable Expense Charge		No	File Notice and Order Fresno	11.82	5,811.62
07/17/2024	Billable Expense Charge		No	File Stipulation Fresno	32.37	5,843.99
07/23/2024	Billable Expense Charge		No	File Declarations Fresno	73.47	5,917.46
07/24/2024	Billable Expense Charge		No	Legal Research/Westlaw	78.29	5,995.75
08/02/2024	Billable Expense Charge		No	File Notice and Order Fresno	11.82	6,007.57
<b>Total for 0159 Diaz Jr., Fidelmor v John Nale Farms dba Nale Farms</b>					<b>\$6,007.57</b>	
<b>TOTAL</b>					<b>\$6,007.57</b>	

## **Exhibit K**



1 Mark Kruthers (SBN 179750)  
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3 **FENEMORE DOWLING AARON**  
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9 Attorneys for Defendants

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF FRESNO**

12 FIDELMAR DIAZ JR., as an individual, and  
13 on behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 NALE FARMS, an unknown entity; JOHN  
17 NALE FARMS, an unknown entity;  
18 ROLAND NALE FARMS, an unknown  
19 entity; R & D NALE FARMS, an unknown  
20 entity; JOHN NALE, an individual; ROLAND  
21 NALE, an individual; DOBRA VINA, INC., a  
22 California corporation; and DOES 1 through  
23 100, inclusive,

24 Defendants.

Case No.: 23CECG03930

*[Assigned for all purposes to the Hon. Jon  
M. Skiles]*

**DECLARATION OF JOHN NALE IN  
SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF  
SETTLEMENT**

25 I, JOHN NALE, declare:

26 1. I am a named defendant in the above-captioned action. If called as a witness  
27 in this matter, I would be competent to testify to the truth of the following facts, each of which is  
28 within my personal knowledge or believed by me to be true based on information provided to me.

2. NALE FARMS, JOHN NALE FARMS are fictitious business names used  
by me and ROLAND NALE FARMS and R & D NALE FARMS are fictitious business names  
used by ROLAND NALE. DOBRA VINA, INC. is a separate corporation. Accordingly, only

1 JOHN NALE, ROLAND NALE, and DOBRA VINA, INC. had any employees. ROLAND NALE  
2 is my father and I am involved in the operation of DOBRA VINA, INC.

3 3. The relevant time periods at issue in the above-captioned action are  
4 September 25, 2019 through July 22, 2024 (the “Purported Class Period”) and September 25, 2022  
5 through July 22, 2024 (the “PAGA Period”). The information detailed below is based on data I  
6 collected in late March of 2024 in advance of the mediation which took place in the above-  
7 captioned action. As such, I believe the information to be accurate through late March of 2024  
8 and references to the Purported Class Period and PAGA Period include information up through  
9 late March of 2024.

10 4. During the Purported Class Period, I had had 98 employees who worked a  
11 total of 1,342 workweeks. Approximately 89 of the 98 are former employees. The estimated  
12 number of total pay periods worked by my employees during the PAGA Period is 147.

13 5. During the Purported Class Period, ROLAND NALE had 64 employees  
14 who worked a total of 712 workweeks. All 64 are former employees. The estimated number of  
15 total pay periods worked by ROLAND NALE’s employees during the PAGA Period is 66. A  
16 number of ROLAND NALE’s employees also performed services for me. Accordingly, there is  
17 some duplication between the individuals employed by those two employes that reduces the actual  
18 settlement class size.


19 6. During the Purported Class Period, DOBRA VINA, INC. had 50 employees  
20 who worked a total of 1,325 workweeks. Approximately 32 of the 50 are former employees. The  
21 estimated number of total pay periods worked by DOBRA VINA, INC. employees during PAGA  
22 Period is 516.

23 7. In advance of the mediation, we provided opposing counsel with the above  
24 information and a 20% random sampling of each employer’s (me, ROLAND NALE, and DOBRA  
25 VINA, INC.) employees including redacted copies of timecards and paystubs. The random sample  
26 was created by randomly sorting the list of individuals employed by each employer and selecting  
27 the first name and every fifth name after that from each list.

1           9.       I am not associated with the Boys & Girls Club of Fresno County and, to  
2 the best of my knowledge, are any of the defendants.

3           I declare under penalty of perjury under the laws of the State of California that the  
4 foregoing is true and correct to the best of my knowledge and belief.

5 Dated: July 15, 2024

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7 \_\_\_\_\_  
8 John Nale

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27  
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**Exhibit L**

1 Mark Kruthers (SBN 179750)  
2 mkruthers@fennemorelaw.com  
3 **FENNEMORE DOWLING AARON**  
4 8080 N. Palm Ave.  
5 Third Floor  
6 Fresno, CA 93711  
7 Telephone: (559) 432-4500  
8 Facsimile: (559) 432-4590

9 Attorneys for Defendants

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF FRESNO**

12 FIDELMAR DIAZ JR., as an individual, and  
13 on behalf of all others similarly situated,  
14 Plaintiff,

15 vs.

16 NALE FARMS, an unknown entity; JOHN  
17 NALE FARMS, an unknown entity;  
18 ROLAND NALE FARMS, an unknown  
19 entity; R & D NALE FARMS, an unknown  
20 entity; JOHN NALE, an individual; ROLAND  
21 NALE, an individual; DOBRA VINA, INC., a  
22 California corporation; and DOES 1 through  
23 100, inclusive,  
24 Defendants.

Case No.: 23CECG03930

*[Assigned for all purposes to the Hon. Jon M. Skiles]*

**DECLARATION OF MARK D.  
KRUTHERS IN SUPPORT OF MOTION  
FOR PRELIMINARY APPROVAL OF  
SETTLEMENT**

25 I, MARK D. KRUTHERS, declare:

26 1. I am a Director in the law firm of Fennemore Dowling Aaron, legal counsel  
27 for Defendants NALE FARMS, JOHN NALE FARMS, ROLAND NALE FARMS, R & D NALE  
28 FARMS, JOHN NALE, ROLAND NALE, DOBRA VINA, INC. in the above-captioned action.  
If called as a witness in this matter, I would be competent to testify to the truth of the following  
facts, each of which is within my personal knowledge or believed by me to be true based on  
information provided to me.



1           2.       Based on information provided to me, it is my understanding that NALE  
2 FARMS, JOHN NALE FARMS are fictitious business names used by JOHN NALE and  
3 ROLAND NALE FARMS and R & D NALE FARMS are fictitious business names used by  
4 ROLAND NALE. DOBRA VINA, INC. is a separate corporation. Accordingly, only JOHN  
5 NALE, ROLAND NALE, and DOBRA VINA, INC. had any employees.

6           3.       The relevant time periods at issue in the above-captioned action are  
7 September 25, 2019 through July 22, 2024 (the “Purported Class Period”) and September 25, 2022  
8 through July 22, 2024 (the “PAGA Period”). The information detailed below is based on data  
9 provided to me in late March of 2024 in advance of the mediation which took place in the above-  
10 captioned action. As such, I believe the information to be accurate through late March of 2024  
11 and references to the Purported Class Period and PAGA Period include information up through  
12 late March of 2024.

13           4.       During the Purported Class Period, JOHN NALE had 98 employees who  
14 worked a total of 1,342 workweeks. Approximately 89 of the 98 are former employees. The  
15 estimated number of total pay periods worked by JOHN NALE’s employees during the PAGA  
16 Period is 147.

17           5.       During the Purported Class Period, ROLAND NALE had 64 employees  
18 who worked a total of 712 workweeks. All 64 are former employees. The estimated number of  
19 total pay periods worked by ROLAND NALE’s employees during the PAGA Period is 66. A  
20 number of ROLAND NALE’s employees also performed services for JOHN NALE. Accordingly,  
21 there is some duplication between the individuals employed by those two employes that reduces  
22 the actual settlement class size.

23           6.       During the Purported Class Period, DOBRA VINA, INC. had 50 employees  
24 who worked a total of 1,325 workweeks. Approximately 32 of the 50 are former employees. The  
25 estimated number of total pay periods worked by DOBRA VINA, INC. employees during PAGA  
26 Period is 516.

27 ///

28

1           7.     In advance of the mediation, we provided opposing counsel with the above  
2 information and a 20% random sampling of each employer's (JOHN NALE, ROLAND NALE,  
3 and DOBRA VINA, INC.) employees including redacted copies of timecards and paystubs. The  
4 random sample was created by randomly sorting the list of individuals employed by each employer  
5 and selecting the first name and every fifth name after that from each list.

6           9.     I am not associated with the Boys & Girls Club of Fresno County and, to  
7 the best of my knowledge, neither is my law firm or any of the defendants.

8           I declare under penalty of perjury under the laws of the State of California that the  
9 foregoing is true and correct to the best of my knowledge and belief.

10 Dated: July 15, 2024

11   
12 Mark D. Kruthers

## **Exhibit M**



E-FILED  
7/23/2024 1:22 PM  
Superior Court of California  
County of Fresno  
By: Estela Gonzalez, Deputy

**STANSBURY BROWN LAW, PC**  
DANIEL J. BROWN (SBN 307604)  
dbrown@stansburybrownlaw.com  
JESSICA FLORES (SBN 282669)  
jflores@stansburybrownlaw.com  
2610 1/2 Abbot Kinney Blvd.  
Venice, CA 90291  
Tel: 323-204-3124

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF FRESNO**

FIDELMAR DIAZ JR., as an individual, and  
on behalf of all others similarly situated,

Plaintiff,

vs.

NALE FARMS, an unknown entity; JOHN  
NALE FARMS, an unknown entity;  
ROLAND NALE FARMS, an unknown  
entity; R & D NALE FARMS, an unknown  
entity; JOHN NALE, an individual; ROLAND  
NALE, an individual; DOBRA VINA, INC., a  
California corporation; and DOES 1 through  
100, inclusive,

Defendants.

Case No.: 23CECG03930

**DECLARATION OF PLAINTIFF  
FIDELMAR DIAZ JR. IN SUPPORT OF  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

1 **DECLARATION OF FIDELMAR DIAZ JR.**

2 I, Fidelmar Diaz Jr. declare as follows:

3 1. I am an individual over the age of 18 and am the class representative in this  
4 matter. This declaration is submitted in support of approval of the proposed class action  
5 settlement (“Settlement”) reached in this case. I have personal knowledge of the facts stated in  
6 this declaration and could testify competently to them if called upon to do so.

7 2. I worked for Nale Farms, John Nale Farms, Roland Nale Farms, R & D Nale  
8 Farms, John Nale, Roland Nale and Dobra Vina, Inc (“Defendants”) as a non-exempt farm labor  
9 employee from approximately 2008 or 2009 and continued working for Defendants through  
10 approximately October 2022. My primary job duties revolved performing general farm labor  
11 work such as picking almonds, grapes, spraying pesticides, and driving a shockwave machine  
12 for the benefit of Defendants. While working for Defendants, I was subject to Defendants’ wage  
13 and hour policies. Defendants did not accurately record my work time and underreported my  
14 hours resulting in me not being paid all wages I was owed. Also, I was not paid all overtime I  
15 was owed and I was not always paid at the agreed upon hourly rate. I was rarely allowed to  
16 take a duty-free meal break prior to the end of the fifth hour of work. I also rarely received  
17 second meal breaks when I worked shifts over 10.0 hours. I also do not believe I received extra  
18 pay when I was not authorized to take legally required meal breaks. I was also not reimbursed  
19 for my necessary business expenses, including the purchase of heavy-duty boots and gloves,  
20 and safety glasses. As a result of these violations, I believe that I did not receive accurate and  
21 complete wage statements and was not paid all wages owed to me when I stopped working for  
22 Defendants. Lastly, I was not provided necessary written information regarding my pay when  
23 I first started working for Defendants.

24 3. At the time of filing a lawsuit against Defendants, I understood that the lawsuit  
25 had the chance to benefit my former co-workers and Defendants’ current employees by helping  
26 them recover their unpaid wages and penalties. I knew that there was a risk that I could be  
27 liable for Defendants’ costs if we lost the case. I accepted this risk because I wanted Defendants  
28

1 to compensate their current and former employees for all unpaid wages. Even though I  
2 understood that joining a lawsuit is a public record, I accepted that burden for the benefit of  
3 Defendants' other employees.

4 4. I have been actively involved in this case since joining this lawsuit. Among  
5 other things, I gathered various employment and non-employment related documents for use in  
6 the lawsuit, I reviewed and analyzed documents related to the claims in this case, and had a  
7 number of telephone calls with my attorneys to discuss the facts of this case, case strategy, and  
8 Defendants' wage and hour practices and policies. I estimate that the combined time I spent on  
9 this case from the time I first researched obtaining an attorney for this case to the present to be  
10 approximately 12 hours.

11 5. As part of the proposed Settlement, I have also agreed to a full release of claims  
12 related to my work for Defendants.

13 6. I understand that my attorneys will request that the Court award me a Service  
14 Award of \$5,000.00 for my service and efforts on the case. In addition to the time I spent  
15 assisting my attorneys in this case, this award is also justified because I took the initiative to  
16 hire representation to seek unpaid wages and penalties for the alleged violations I suffered and  
17 the alleged violations suffered by Defendants' other current and former employees. I also took  
18 significant risk by serving as the class representative in this case as this is a public lawsuit and  
19 other potential employers may become aware of my involvement and therefore decide not to  
20 hire me. Moreover, as stated, I have entered into a general release releasing all claims against  
21 Defendants, as opposed to the other class members who are just releasing claims alleged in the  
22 lawsuit and my release is therefore of greater value to Defendants. However, this proposed  
23 \$5,000.00 Service Award is not contingent upon me supporting the proposed Settlement.

24 Executed on 7/3/2024, 2024 at Fresno California

25 DocuSigned by:  
*Fidelmar Diaz Jr.*  
FE52011E0F5747D...

26 FIDELMAR DIAZ JR.  
27  
28

**Exhibit N**

1 **STANSBURY BROWN LAW, PC**  
2 DANIEL J. BROWN (SBN 307604)  
3 dbrown@stansburybrownlaw.com  
4 JESSICA FLORES (SBN 282669)  
5 jflores@stansburybrownlaw.com  
6 2610 ½ Abbot Kinney Blvd.  
7 Venice, CA 90291  
8 Tel: 323-204-3124

E-FILED  
7/23/2024 1:22 PM  
Superior Court of California  
County of Fresno  
By: Estela Gonzalez, Deputy

9 Attorneys for Plaintiff

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

11 **FOR THE COUNTY OF FRESNO**

12 FIDELMAR DIAZ JR., as an individual  
13 and on behalf of all others similarly  
14 situated,

15 Plaintiff,

16 v.

17 NALE FARMS, an unknown entity; JOHN  
18 NALE FARMS, an unknown entity;  
19 ROLAND NALE FARMS, an unknown  
20 entity; R & D NALE FARMS, an unknown  
21 entity; JOHN NALE, an individual;  
22 ROLAND NALE, an individual; DOBRA  
23 VINA, INC., a California corporation; and  
24 DOES 1 through 100,

25 Defendants.

Case No.: 23CECG03930

*[Assigned for all purposes to the Honorable  
Jon M. Skiles]*

**DECLARATION OF SEAN HARTRANFT  
IN SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION AND PAGA SETTLEMENT**

**DECLARATION OF SEAN HARTRANFT**

I, Sean Hartranft, declare as follows:

1. I am the Chief Executive Officer of Apex Class Action LLC., a class action settlement administration company headquartered in Irvine, California. I have personal knowledge of the facts outlined in this declaration and, if called as a witness, I could and would competently testify thereto.

2. Apex Class Action’s team has been directly involved with class action administration for a combined 65 years and has successfully managed numerous class action cases during that time. Our team comprises experienced professionals with extensive knowledge of class action settlement administration. In addition, Apex Class Action has the necessary technology and infrastructure to efficiently manage large-scale class action cases. We utilize state-of-the-art software and systems to ensure that all aspects of the administration process are executed accurately and efficiently.

3. The legal practitioners or parties involved do not possess any form of ownership stake or affiliation with Apex Class Action.

4. Apex Class Action has extensive expertise in the dissemination of class action notices and administration of class action settlements. Our range of services includes first-class mail via the United States Postal Service, a bilingual toll-free call center, interactive & static website development and support, enterprise database management, response processing, and Qualified Settlement Fund (QSF) distribution for class actions of various sizes. We uphold the highest level of confidentiality in all our operations, and any class data and communication received by us will be treated with the utmost confidentiality and will not be disclosed to any unauthorized party. Attached is our current CV as **Exhibit A**, highlighting our primary competencies in class action administration.

5. Apex Class Action ensures that Client and Class Member Information is only used for the purposes specified in the relevant agreements or court orders governing the provision of its legal services. To safeguard class member information, Apex Class Action has implemented a comprehensive process to identify, assess, and mitigate risks in all areas of its operations, regularly evaluating the effectiveness of its security measures. Access to class member information is limited to employees, agents, or subcontractors who require it to perform their duties, and Apex Class Action conducts background checks on all personnel with access to sensitive personal information, to ensure they do not pose a threat to the

1 security of client or class member information. To guarantee the security of the settlement administration  
2 process, Apex Class Action maintains Professional Liability and Cyber Liability Insurance coverage, as  
3 required by legal standards and best practices in the legal profession.

4 6. Apex Class Action disbursement process involves (i) obtaining a Federal Employer  
5 Identification Number (FEIN) from the Internal Revenue Service (IRS) under the name of the settlement  
6 case; (ii) establishing a QSF to manage the distribution of settlement funds; (iii) conducting preliminary  
7 and final calculations to determine the individual settlement amounts, including attorneys' fees, costs,  
8 enhancement awards, and any other court-approved designees; (iv) calculating and reporting state and  
9 federal taxes as applicable; (v) and disseminating approved settlement funds and tax forms via First-Class  
10 USPS mail.

11 7. The administration fees for Apex Class Action's management of this settlement will not  
12 exceed \$5,990.00, as specified in **Exhibit B**. This document presents a comprehensive plan detailing the  
13 specific administration services that will be provided.

14  
15 I declare under penalty of perjury under the laws of the state of California that the foregoing is  
16 true and correct. Executed this 16<sup>th</sup> day of July 2024, in Irvine, California.

17  
18   
19 \_\_\_\_\_  
20 Sean Hartranft

# **EXHIBIT A**





## CASE TYPES

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- Consumer
- Data Breach
- Mass Tort Disbursement
- Wage & Hour
- Private Attorneys  
General Act (PAGA)
- Belaire West
- Class Certification
- Fair Labor Standards  
Act (FLSA)
- Telephone Consumer  
Protection Act (TCPA)
- Employee Retirement  
Income Security Act  
(ERISA)
- Product Liability

## SUMMARY

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Apex Class Action brings together a seasoned team of professionals adept at navigating the intricate landscape of legal processes and settlement administration. Armed with extensive expertise, we offer a comprehensive understanding of the nuances inherent in settlement procedures. Our organization excels in communication and organization, leveraging cutting-edge technology to streamline project management and adhere to rigorous timelines with precision and efficiency.

From initial pre-settlement consultation to the final stages of disbursement and tax reporting, our technology platform and stringent data security protocols revolve around integration, automation, and observability. This ensures swift and precise payment for class members, bolstering efficiency and accuracy throughout the process.

## PRELIMINARY CONSULTATION

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Our complimentary preliminary consultation serves as the cornerstone for establishing a comprehensive framework. This framework ensures that all stakeholders grasp the project's scope, timeline, and budget parameters effectively. Following the alignment of objectives and expectations between plaintiff and defense counsel, our team diligently explores additional avenues to identify potential class members. We go the extra mile by offering detailed interactive banner ad campaigns and print media options, maximizing outreach and engagement to achieve optimal results.

## CASE MANAGEMENT

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At Apex Class Action, our expert Case Managers and Data Managers take charge of overseeing all aspects of the settlement administration process. Their role is pivotal in ensuring strict adherence to court orders, settlement agreements, and industry benchmarks. Working hand in hand with both plaintiff and defense counsel, we meticulously manage every aspect of the settlement administration process.

Our comprehensive mailing and notification services commence with meticulous data scrubbing and the establishment of a class database, guaranteeing the accuracy of contact information. Subsequently, the database undergoes validation using the USPS National Change of Address (NCOA) database to ensure precision and reliability. Additionally, we provide court-certified translation services covering over 65 languages, facilitating effective communication across diverse demographics. In instances where mail is returned as undeliverable, we undertake skip tracing to obtain updated addresses for class members, ensuring that all notices reach their intended recipients without delay.



To ensure transparency throughout the entire process, a steady cadence of reports, as defined during the preliminary consultation, is generated throughout the administration process for both the plaintiff and defense counsel.

Our capability to provide cost-effective pricing is rooted in our adept utilization of cutting-edge technology, a team of highly skilled professionals, and an optimized process. Should the courts approve the utilization of modern electronic notification methods like email and banner ads, we ensure both certainty and cost-effectiveness. Through electronic disbursement, we offer a highly efficient strategy wherein settlement awards are directly delivered to class members, mitigating potential drawbacks associated with traditional mail delivery and enhancing overall efficiency.

## **TAX COMPLIANCE & CASE RESOLUTION**

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Apex leverages its proprietary technology to efficiently manage all necessary state and federal tax reporting requirements. This includes establishing a Settlement Federal Tax Identification Number (FIEN) with the IRS and Qualified Settlement Fund (QSF) EDD accounts where applicable. We handle taxes associated with settlements involving multiple state tax filings, as well as manage all payroll tax filings such as Form 940, 941, and state filings. Additionally, our services encompass the preparation of information returns (Forms W-2, 1099, and 1042-S) for reportable payments and the preparation of the annual Federal income tax return (Form 1120-SF). Moreover, we provide comprehensive management of qualified settlement funds (QSF), ensuring that all accounts are FDIC-insured bank accounts. Our full suite of comprehensive tax management services includes:

- Prepare and fill all applicable returns (Forms W-2, 1099, and 1042-S)
- FID-Insured QSF Bank Accounts
- IRS Federal Tax Identification Number
- Prepare And File 1120-SF Tax Returns with Quarterly Tax Obligations
- Payroll tax filings, including Form 940, 941, and state filings
- State and Federal Tax Reporting
- QSF Audit Reports

## **CONTACT**

---

**Address**  
18 Technology Dr. Ste. 164  
Irvine, CA 92618

**Email**  
[Info@apexclassaction.com](mailto:Info@apexclassaction.com)

**Phone**  
1.800.355.0700

# **EXHIBIT B**



**Quotation Request:**  
 Jessica Flores  
 Stansbury Brown Law, PC  
 jflores@stansburybrownlaw.com  
 323.204.3124

**Case Name:** Fidelmar Diaz Jr. v. Nale Farms, et al.  
**Date:** Tuesday, June 11, 2024  
**RFP Number:** 14350007

**Prepared By:**  
 Sean Hartranft  
 Apex Class Action LLC  
 Sean@apexclassaction.com  
 949.878.3676

Settlement Specifications	
Estimated Class Size:	180
Certified Language Translation:	Yes
Static Settlement Website	Yes
Percentage of Undeliverable Mail	20%

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	\$125.00	1	\$125.00
Data Analyst	Per Hour	\$150.00	1	\$150.00
*Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr.				
			Sub Total:	\$275.00

Mailing of Class Notice				
Form Set Up	Per Hour	\$120.00	1	\$120.00
Print & Mail Class Notice	Per Piece	\$1.50	180	\$270.00
USPS First Class Postage	Per Piece	\$0.66	180	\$118.80
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.00	36	\$72.00
Receive and Process Undeliverable Mail	Per Hour	\$75.00	0	\$0.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	1	\$75.00
NCOA Address Update (USPS)	Static Rate	\$40.00	1	\$40.00
Certified Language Translation: Spanish	Static Rate	\$1,200.00	1	\$1,200.00
			Sub Total:	\$1,895.80

Project Management				
Project Management	Per Hour	\$150.00	2	\$300.00
Project Coordinator	Per Hour	\$90.00	1	\$90.00
Data Analyst and Reporting	Per Hour	\$140.00	1	\$140.00
			Sub Total:	\$530.00



Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$37.40	1	\$37.40
Settlement Website: Static Apex URL	Static Rate	\$350.00	1	\$350.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
			Sub Total:	\$387.40

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	2	\$240.00
Account Management and Reconciliation	Per Hour	\$140.00	2	\$280.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.40	180	\$252.00
USPS First Class Postage	Per Piece	\$0.66	180	\$118.80
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$2.00	18	\$36.00
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	5	\$500.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,000.00	1	\$1,000.00
			Sub Total:	\$2,426.80

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	1	\$135.00
Project Management Reconciliation	Per Hour	\$100.00	1	\$100.00
Declarations	Per Hour	\$120.00	2	\$240.00
			Sub Total:	\$475.00

<b>WILL NOT EXCEED:</b>				<b>\$5,990.00</b>
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Thank you for your business!



## Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").
2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.
3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.
4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.
5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.
6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.
7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.
8. **Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services.** It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.
9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.
10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.
11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.
12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex.** It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.
13. **Apex may derive financial benefits from financial institutions in connection with the deposit and investment of funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.**
14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.
15. **This provision outlines the requirements for providing notice or other communication under this agreement.** All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.
16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.
17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions.** No choice of law or conflict of laws provisions shall affect this governing law provision.
18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.
19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.