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15 PACIFIC AVIATION CORPORATION and
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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 COUNTY OF LOS ANGELES – SPRING STREET

19 JESENIA DONAN, individually, and on behalf
20 of all others similarly situated,

21 Plaintiff,

22 vs.

23 PACIFIC AVIATION CORPORATION, a
California corporation; PACIFIC AVIATION,
24 LLC, a limited liability company; and DOES 1
through 10, inclusive,

25 Defendants.

Case No.: 19STCV19714

CLASS ACTION

[Hon. Maren E. Nelson, Dept. SSC-17]

**FIRST AMENDED JOINT STIPULATION
OF CLASS ACTION AND PAGA ACTION
SETTLEMENT**

Complaint filed: June 6, 2019
Trial date: Not set

1 **FIRST AMENDED JOINT STIPULATION OF CLASS ACTION SETTLEMENT**

2 This First Amended Joint Stipulation of Class Action Settlement (“Joint Stipulation of Settlement”
3 or “Settlement” or “Agreement”) is made and entered into by and between Plaintiff JESENIA DONAN,
4 individually, and on behalf of all others similarly situated, (“Plaintiff” or “Class Representative”), and
5 Defendants PACIFIC AVIATION CORPORATION and PACIFIC AVIATION, LLC (“PACIFIC
6 AVIATION” or “Defendants”). Plaintiff and Defendants are collectively referred to herein as “the
7 Parties.”

8
9 THE PARTIES STIPULATE AND AGREE as follows:

10 **DEFINITIONS**

- 11 1. For purposes of this Settlement, “Complaint” refers to the operative complaint, which is
12 the Second Amended Complaint.
- 13 2. For purposes of this Settlement, this matter, entitled *Donan v. Pacific Aviation*
14 *Corporation*, Case No. 19STCV19714, is referred to herein as the “Action.”
- 15 3. For purposes of this Settlement, the “Class Period” is June 6, 2015 through the date upon
16 which the Court grants preliminary approval.
- 17 4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All non-
18 exempt employees of PACIFIC AVIATION who worked for PACIFIC AVIATION in California during
19 the Class Period. “Settlement Class Members” are those Class Members who do not submit timely
20 exclusion requests to the Settlement Administrator. Defendants’ best estimate is that the Class included
21 approximately 3,089 individuals who collectively worked approximately 175,000 workweeks between
22 June 5, 2015 and March 25, 2020.
- 23 5. For purposes of this Settlement, “Class Counsel” means MOON & YANG, APC.
- 24 6. For purposes of this Settlement, “Covered Workweeks” means the number of workweeks a
25 Class Member worked at Defendants’ locations in California during the Class Period.
- 26 7. For purposes of this Settlement, “Response Deadline” means the date sixty (60) days after
27 the Settlement Administrator mails the Notice Packets to Class Members and the last date on which Class
28 Members may submit request for exclusion or written objection to the Settlement. The Response Deadline

1 may be extended for certain Class Members only as expressly described herein.

2 8. For purposes of the Settlement, “Defendants’ Counsel” means PETTIT KOHN
3 INGRASSIA LUTZ & DOLIN PC.

4 9. For purposes of this Settlement, “PAGA Penalty Payment” means the amount that the
5 Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection
6 with the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”).
7 The Parties have agreed that \$80,000 of the Class Settlement Amount will be allocated to the resolution of
8 any Class Members’ claims arising under PAGA. Pursuant to PAGA, Seventy Five Percent (75%), or
9 \$60,000, of the PAGA Penalty Payment will be paid to the LWDA, and Twenty Five Percent (25%), or
10 \$20,000 (“PAGA Settlement Payment”), of the LWDA Payment will be included in the Net Settlement
11 Amount for PAGA Employees.

12 10. For purposes of this Settlement, “PAGA Period” means the period between June 6, 2018
13 (one year prior to the filing of the action) through the date upon which the Court grants preliminary
14 approval.

15 11. For purposes of this Settlement, “PAGA Employee” means all Class Members that worked
16 during the PAGA Period. It is stipulated by the Parties that, for purposes of this Settlement, all PAGA
17 Employees are “aggrieved employees” as defined pursuant to PAGA.

18 12. For purposes of this Settlement, “PAGA Pay Periods” means the number of pay periods
19 each PAGA Employee worked during the Settlement Class Period.

20 13. For purposes of this Settlement, “PAGA Representative” means Plaintiff.

21 14. For purposes of this Settlement, “Released PAGA Claims” means all claims asserted
22 through California Labor Code §§ 2698, *et seq.*, that arise out of or are related to the Released Claims, as
23 defined in Paragraph 37 below.

24 15. For purposes of this Settlement, “Released PAGA Claims Period” means the period
25 between June 6, 2018 through the date upon which the Court grants preliminary approval.

26 16. For purposes of this Settlement, “Settlement Payments” means all of the payments to
27 Settlement Class Members (the “Settlement Class Payments”) and all of the payments to PAGA
28 Employees (the “PAGA Settlement Payments”).

STIPULATED BACKGROUND

1
2 17. On June 5, 2019, Plaintiff filed a putative Class Action alleging the following labelled
3 causes of action: (1) Failure to Pay Minimum Wage and Straight Time Wages [Cal. Lab. Code §§ 204,
4 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
5 (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit
6 Rest Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Timely Pay Final Wages at Termination [Cal. Lab.
7 Code §§ 201-203]; (6) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
8 (7) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]. (The “Action.”) In the
9 Complaint, Plaintiff sought to represent all persons that worked for any of the Defendants in California as
10 an hourly-paid, non-exempt employee at any time during the period beginning four years before the filing
11 of the initial complaint and ending when notice to the Class is sent.

12 18. Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a
13 claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699,
14 *et seq.*] (“PAGA”). Plaintiff thereafter filed a First Amended Complaint adding a cause of action for Civil
15 Penalties Under PAGA [Cal. Lab. Code § 2699, *et seq.*].

16 19. Solely for purposes of settling this case, the Parties and their respective counsel stipulate
17 and agree that the requisites for establishing class certification with respect to the Class Members have
18 been met and are met. More specifically, the Parties stipulate and agree that:

- 19 (a) The Class is ascertainable and so numerous as to make it impracticable to join all
20 Class Members.
- 21 (b) There are common questions of law and fact including, but not limited to, the
22 following:
- 23 1) Whether or not Defendants paid proper wages to the Class;
24 2) Whether or not Defendants provided meal periods to the Class;
25 3) Whether or not Defendants provided rest periods to the Class;
26 4) Whether or not Defendants paid compensation timely upon separation of
27 employment to former Class Members;
28 5) Whether or not Defendants paid compensation timely throughout Class

Members' employment;

- 6) Whether or not Defendants provided accurate itemized statements to the Class;
- 7) Whether or not waiting-time penalties are available to the Class for violation of California Labor Code § 203;
- 8) Whether or not Defendants maintained requisite records;
- 9) Whether or not Defendants reimbursed all business expenses pursuant to Labor Code § 2802;
- 10) Whether or not Defendants paid proper meal period pay or rest period pay to the Class; and,
- 11) Whether or not Defendants engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code §§ 17200-17208.

(c) Plaintiff's claims are typical of the claims of the Class Members.

(d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.

(e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.

(f) With respect to the Class, questions of law and fact common to the members of the Class predominate over any questions affecting any individual member in such Class, and that a class action is superior to other available means for the fair and efficient adjudication of the controversy.

20. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or in any other lawsuit. Defendants expressly reserve the right to oppose claim or class certification in this or any other action should this Settlement not become

1 effective.

2 21. Defendants deny any liability or wrongdoing of any kind whatsoever associated with the
3 claims alleged in the Complaint, and Defendants further deny that, for any purpose other than settling this
4 lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiff's claims,
5 Defendants contend, among other things, that Plaintiff and the Class Members have been paid proper
6 wages, have been provided meal periods, have been provided rest periods, have been paid timely wages
7 upon separation of employment, have been reimbursed all business expenses to the extent they exist, and
8 have been provided with accurate itemized wage statements. Defendants contend, among other things,
9 that they complied at all times with the California Labor Code and the applicable Wage Orders of the
10 Industrial Welfare Commission. Furthermore, with respect to all claims, Defendants contend that they
11 have complied at all times with the California Business and Professions Code.

12 22. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge
13 all disputes and claims arising from or related to the Complaint.

14 23. Class Counsel has conducted a thorough investigation into the facts of this class action
15 case, including an extensive review of relevant documents, and has diligently pursued an investigation of
16 the claims of the Class against Defendants. Based on its own independent investigation and evaluation,
17 Class Counsel is of the opinion that the Settlement with Defendants for the consideration and on the terms
18 set forth in this Joint Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of
19 the Class in light of all known facts and circumstances, including the risk of significant delay, the risk the
20 Class will not be certified by the Court, defenses asserted by Defendants, and numerous potential appellate
21 issues. Defendants and Defendants' Counsel also agree that the Settlement is fair and in the best interest
22 of the Class. The Parties also agree that the virus known as COVID-19 has impacted the economy in such
23 a substantial way that further litigation would impose further risks to the Parties and weighs heavily in
24 favor of approval of this Settlement as a fair and reasonable compromise of the risks caused by this
25 exceedingly unusual occurrence.

26 24. The Parties agree to cooperate and take all steps necessary and appropriate to obtain
27 preliminary and final approval of this Settlement.

28 25. The Parties agree to stay all proceedings in the Action, except such proceedings necessary

1 to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the
2 Court.

3 **CORE TERMS OF SETTLEMENT**

4 26. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements
5 set forth herein, the Parties agree, subject to the Court's approval, as follows:

6 (a) It is agreed by and among the Class and Defendants that this case and any claims,
7 damages, or causes of action arising out of the disputes which are the subject of
8 this case, be settled and compromised as between the Class and Defendants,
9 subject to the terms and conditions set forth in this Settlement and the approval of
10 the Court.

11 (b) Effective Date: The terms of settlement embodied in this Settlement shall become
12 effective when all of the following events have occurred: (i) this Joint Stipulation
13 of Class Action and PAGA Action Settlement has been executed by all Parties and
14 their respective counsel; (ii) the Court has given preliminary approval to the
15 Settlement; (iii) the notice has been given to the Class, providing them with an
16 opportunity to dispute information contained in the Notices of Settlement Payment,
17 to opt out of the Settlement, or to object to the Settlement; (iv) the Court has held a
18 final approval hearing and entered a final order and judgment certifying the Class
19 and approving this Settlement; and (v) the later of the following events: (a) seven
20 (7) calendar days have passed since final approval is granted and judgment is
21 entered if there are no objections to the settlement; (b) sixty-five (65) days
22 following entry of the Court's final order approving the Settlement if there are any
23 objections by any Class Member; (c) or if any appeal, writ or other appellate
24 proceeding opposing this Settlement has been filed within sixty-five (65) days
25 following notice of entry of the Court's final order approving the Settlement, then
26 twenty (20) days after when any appeal, writ or other appellate proceeding
27 opposing the Settlement has been resolved finally and conclusively with no right to
28 pursue further remedies or relief. In this regard, it is the intention of the Parties that

1 the Settlement shall not become effective until the Court's order approving the
2 Settlement is completely final, and there is no further recourse by an appellant or
3 objector who seeks to contest the Settlement.

4 (c) Gross Settlement Amount: Defendants' maximum total payment under the
5 Settlement, including all attorney's fees and costs, the service payment to the
6 named Plaintiff, the costs of settlement administration, the amount attributable to
7 payment pursuant to PAGA, and any other payments provided by this Settlement,
8 is \$875,000.00 ("Gross Settlement Amount"), subject to the Escalator Clause and
9 except that, to the extent that any portions of the Class Members' settlement
10 proceeds constitute wages, Defendants will be separately responsible for any
11 employer payroll taxes required by law, including the employer FICA, FUTA, and
12 SDI contributions.

13 (d) Escalator Clause: If it is later determined that the number of workweeks through
14 March 25, 2020 is more than 10% greater than the 175,000 estimated by
15 Defendants, Defendants may elect to increase the Gross Settlement Amount by one
16 percent for each percentage point over the 10% threshold that the actual number of
17 workweeks exceeds the estimated number on the date of settlement. If Defendants
18 decline to increase the Gross Settlement Amount, Plaintiff has the option of
19 voiding the agreement by notifying Defendants' counsel in writing of the election.
20 The Gross Settlement Amount will not be reduced due to Defendants' estimate.
21 The Parties both expect that the number of workweeks will increase pro rata
22 through preliminary approval, and this Escalator Clause does not apply to that
23 natural increase between the time this Settlement was reached and Preliminary
24 Approval is entered.

25 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will
26 revert to Defendant.

27 (f) No Claims Required: Class Members will not be required to submit a claim to
28 receive their Settlement payment.

1 (g) Net Settlement Amount: The Net Settlement Amount shall be calculated by
2 deducting from the Gross Settlement Amount (\$875,000.00) the following sums,
3 subject to approval by the Court: (1) attorney’s fees (not to exceed 33 1/3% of the
4 Gross Settlement Amount, or \$291,666.66); (2) reasonable litigation costs (not to
5 exceed \$12,000.00); (3) service payments for the named Plaintiff and Class
6 Representative (not to exceed \$5,000.00 to the named Plaintiff); (4) PAGA
7 penalties paid to the Labor and Workforce Development Agency (“LWDA”) in the
8 amount of \$60,000.00 (which is 75% of the \$80,000.00 allocated to the PAGA
9 penalty claim); and (5) actual costs of settlement administration (estimated not to
10 exceed \$25,000, and bid by Phoenix at \$22,000 in a “will not exceed” bid).
11 Settlement payments to the Class Members will be calculated by the Settlement
12 Administrator and paid out of the Net Settlement Amount as set forth below.

13 (h) Payroll Taxes and Required Withholdings: To the extent that any portions of the
14 Settlement Class Members’ settlement proceeds constitute wages, Defendants will
15 be separately responsible for any **employer** payroll taxes required by law,
16 including the employer FICA, FUTA, and SDI contributions. Except for any
17 employer payroll taxes, it is understood and agreed that Defendants’ maximum
18 total liability under this Settlement shall not exceed the Gross Settlement Amount.
19 The Settlement Administrator will calculate and submit the Defendants’ employer
20 share of payroll taxes after advising Defendants of the total amount owed, in
21 aggregate, as employer-side payroll taxes and receiving a lump sum payment from
22 Defendants in that amount when the Gross Settlement Amount is delivered to the
23 Settlement Administrator.

24 (i) Settlement Class Payments (Excludes PAGA Payments): Settlement Class
25 Payments will be paid out of the Net Settlement Amount. Each Settlement Class
26 Member will be paid a pro-rata share of the Net Settlement Amount (less the
27 \$20,000 amount allocated for PAGA penalties to aggrieved employees), as
28 calculated by the Settlement Administrator. The pro-rata share will be determined

1 by comparing the individual Settlement Class Member's Covered Workweeks
2 employed during the Class Period in California to the total Covered Workweeks of
3 all the Settlement Class Members during the Class Period as follows: [Workweeks
4 worked by a Settlement Class Member] ÷ [Sum of all Covered Workweeks worked
5 by all Settlement Class Members] × [Net Settlement Amount - \$20,000] =
6 individual Settlement Payment for a Settlement Class Member. Settlement Class
7 Payments in the appropriate amounts will be distributed by the Settlement
8 Administrator by mail to the Settlement Class Members. Un-cashed, unclaimed or
9 abandoned checks, shall be transmitted to the California Controller's Office, as set
10 forth below.

11 (j) PAGA Payments: PAGA Settlement Payments will be paid out of the Net
12 Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the
13 \$20,000 amount allocated for PAGA Employees' PAGA Penalty Payment Share,
14 as calculated by the Settlement Administrator. Class Members will not be
15 permitted to exclude themselves from this portion of the Settlement. The pro-rata
16 share will be determined by comparing the individual PAGA Employee's PAGA
17 Pay Periods during the PAGA Period to the total PAGA Pay Periods of all the
18 Class Members during the PAGA Period as follows: [PAGA Pay Periods worked
19 by a PAGA Employee] ÷ [Sum of all PAGA Pay Periods worked by all PAGA
20 Employees] × [\$20,000] = individual PAGA Employee's portion of the PAGA
21 Employees' PAGA Penalty Payment Share. PAGA penalty payments to PAGA
22 Employees in the appropriate amounts will be distributed by the Settlement
23 Administrator by mail to the Class Members. Un-cashed, unclaimed or abandoned
24 checks, shall be transmitted to the California Controller's Office, as set forth
25 below.

26 (k) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
27 Payments will be allocated as follows: 40% to wages, 30% to penalties, and 30% to
28 interest. The \$20,000 amount allocated to the PAGA Settlement Payments will be

1 entirely allocated to penalties. Appropriate federal, state and local withholding
2 taxes will be taken out of the wage allocations, and each Class Member will
3 receive an IRS Form W-2 with respect to this portion of the Settlement Payment.
4 The employer's share of payroll taxes and other required withholdings will be paid
5 as set forth above, including but not limited to the Defendants' FICA and FUTA
6 contributions, based on the payment of claims to the Class Members. IRS Forms
7 1099 will be issued to each Class Member reflecting the payments for penalties and
8 interest. Class Members are responsible to pay appropriate taxes due on the
9 Settlement Payments they receive. To the extent required by law, IRS Forms 1099
10 and W-2 will be issued to each Class Member with respect to such payments.

11 (l) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
12 Payments to individual Class Members shall be deemed to be paid to such Class
13 Member solely in the year in which such payments actually are received by the
14 Class Member. It is expressly understood and agreed that the receipt of such
15 Settlement Payments will not entitle any Class Member to additional compensation
16 or benefits under any company bonus, contest or other compensation or benefit
17 plan or agreement in place during the period covered by the Settlement, nor will it
18 entitle any Class Member to any increased retirement, 401(k) benefits or matching
19 benefits or deferred compensation benefits. It is the intent that the Settlement
20 Payments provided for in this Settlement are the sole payments to be made by
21 Defendants to the Class Members, and that the Class Members are not entitled to
22 any new or additional compensation or benefits as a result of having received the
23 Settlement Payments (notwithstanding any contrary language or agreement in any
24 benefit or compensation plan document that might have been in effect during the
25 period covered by this Settlement).

26 (m) Attorney's Fees and Costs: Subject to approval by the Court, Defendants will not
27 object to Class Counsel's application for attorney's fees not to exceed 33 1/3% of
28 the Gross Settlement Amount (\$291,666.66) and litigation costs not to exceed

1 \$12,000.00.

2 (n) Service Payment for Service as a Class Representative: Subject to Court approval,
3 and in exchange for a general release, Defendants will not object to Class
4 Counsel's application for a Service Payment of up to \$5,000.00 to Plaintiff for
5 service as a Class Representative. It is understood that the Service Payment is in
6 addition to the individual Settlement Payment to which each Class Representative
7 is entitled to along with the other Class Members. In exchange, Plaintiff has
8 agreed to release all claims, whether known or unknown, under federal law or
9 state law against the Releasees, to the extent permitted by law, through the
10 Class Period ("Plaintiff's Released Claims"). Plaintiff understands that this
11 release includes unknown claims and that she is, as a result, waiving all rights
12 and benefits afforded by Section 1542 of the California Civil Code, which
13 provides:

14 **A general release does not extend to claims which the**
15 **creditor does not know or suspect to exist in his or her favor**
16 **at the time of executing the release, which if known by him**
or her must have materially affected his or her settlement
with the debtor.

17 Specifically excluded from Plaintiff's Released Claims are any claims for workers'
18 compensation benefits.

19 (o) Defendants or the Settlement Administrator will issue an IRS Form 1099 for the
20 Service Payment to the Class Representative. The Class Representative will be
21 individually responsible for correctly characterizing this compensation on personal
22 income tax returns for tax purposes and for paying any taxes on the amounts
23 received. Should the Court approve a Service Payment to a Class Representative
24 in an amount less than that set forth above, the difference between the lesser
25 amount(s) approved by the Court and the Service Payment amount(s) set forth
26 above shall be added to the Net Settlement Amount. Plaintiff agrees not to opt out
27 or object to the Service Payment as the Class Representative.

28 (p) Settlement Administrator: The Settlement Administrator will be Phoenix Class

1 Action Administration Solutions (“Phoenix”), subject to Court approval.
2 Settlement administration costs were estimated by the Parties not to reasonably
3 exceed \$25,000. The actual costs of the Settlement Administrator for work done
4 shall be paid regardless of the outcome of this Settlement, and Phoenix has
5 submitted a “will not exceed” bid of \$22,000 for all administration, which was the
6 bid accepted by the Parties. The accepted bid amount shall be disclosed to the
7 Class in the Notice.

- 8 (q) Funding of Settlement Account: Defendants will fund the settlement account
9 within seven calendar days of the Effective Date of the Settlement provided that
10 the Settlement Administrator has provided the Parties with an accounting of the
11 amounts to be paid by Defendants pursuant to the terms of this Settlement.
- 12 (r) Mailing of Settlement Payments: The Settlement Administrator shall cause the
13 Settlement Payments to be mailed to the Class Members within 21 calendar days of
14 the Effective Date of the Settlement, provided that the Settlement Administrator
15 has provided the Parties with an accounting of the amounts to be paid by
16 Defendants pursuant to the terms of this Settlement.
- 17 (s) Notice of Settlement: For each Class Member in the Settlement Class, there will
18 be pre-printed information on the mailed notice to the Class Member (“Notice of
19 Settlement”), based on Defendants’ records, stating the Class Member’s Covered
20 Workweeks during the Class Period and the estimated total Settlement Payment
21 under the Settlement, including the portion allocated to the PAGA penalty payment
22 that will be distributed irrespective of any exclusion request and the portion
23 allocated to all other Released Claims. The pre-printed information based on
24 Defendants’ records shall be presumed to be correct. A Class Member may
25 dispute the pre-printed information on the Notice of Settlement as to his or her
26 Covered Workweeks during the Class Period. Class Members must submit any
27 dispute regarding the information on the Notice of Settlement as to his or her
28 Covered Workweeks within the Response Deadline. Unless a disputing class

1 member submits documentary evidence in support of his or her dispute, the records
2 of the Defendants will be determinative.

3 (t) Settlement Notice Language: The Notice of Settlement will issue in English and
4 Spanish.

5 (u) Class Members Cannot Exclude Themselves from the PAGA Payment: Class
6 Members submitting a Request for Exclusion will nevertheless receive their pro-
7 rata share of the 25% of the PAGA penalty payment allocated to the Class. If the
8 Court approves the compromise of the PAGA Claim, all Class Members are bound
9 by the Court's resolution of that Claim. Plaintiff shall serve a notice of proposed
10 settlement on the California Labor and Workforce Development Agency at or
11 before the time Plaintiff files the motion for preliminary approval.

12 (v) Resolution of Disputes: If a Class Member disputes the accuracy of Defendants'
13 records, and the Parties' counsel cannot resolve the dispute informally, the matter
14 will be referred to the Settlement Administrator. The Settlement Administrator
15 will review Defendants' records and any information or documents submitted by
16 the Class Member and issue a non-appealable decision regarding the dispute. The
17 Class Member must submit information or documents supporting his or her
18 position to the Settlement Administrator prior to the expiration of the Response
19 Deadline. Information or documents submitted after the expiration of the
20 Response Deadline will not be considered by the Settlement Administrator, unless
21 otherwise agreed to by the Parties.

22 (w) Right of Class Member to Request Exclusion from the Settlement: Any Class
23 Member may request to be excluded from the Class by mailing a "Request for
24 Exclusion from Settlement" within the Response Deadline, stating, in clear and
25 unambiguous terms, that they wish to be excluded from the Class. The Notice will
26 include suggested language for the Request for Exclusion, if the Class Member
27 wishes to be excluded, as follows:

28 "I WISH TO BE EXCLUDED FROM THE CLASS IN THE

1 *DONAN v. PACIFIC AVIATION CORPORATION*, CASE NO.
2 19STCV19714. I UNDERSTAND THAT IF I ASK TO BE
3 EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE
4 ANY MONEY FROM THE SETTLEMENT OTHER THAN
5 MY SHARE OF THE PAGA PAYMENT, IF ANY.”

6 Any Request for Exclusion must include the name, address, telephone number and
7 signature of the Class Member requesting exclusion to verify the identify of the
8 Class Member requesting exclusion. Any such request must be made in
9 accordance with the terms of the Notice of Settlement, and the Notice will advise
10 Class Members of these requirements. Any Class Member who timely requests
11 exclusion in compliance with these requirements (i) shall not have any rights under
12 this Settlement other than a right to receive a pro-rata share of the portion of the
13 PAGA payment allocated to the Class Members if the Class Member is also PAGA
14 Employee; (ii) shall not be entitled to receive any Settlement Payments under this
15 Settlement other than as stated in (i) in this paragraph; and (iii) shall not be bound
16 by this Settlement or the Court’s Order and Final Judgment other than as it applies
17 to the PAGA Claim.

18 (x) Right of Class Member to Object to The Settlement: Any Class Member may
19 object to the Settlement. To object, the Class Member may (1) appear in person at
20 the Final Approval Hearing to explain any objection (subject to any Court-imposed
21 requirements to appear by phone rather than in person), (2) have an attorney object
22 for the Class Member, or (3) submit a simple written brief or statement of objection
23 to the Settlement Administrator. If any Class Member chooses to submit a written
24 objection, the written objection should contain sufficient information to confirm
25 the identity of the objector and the basis of the objection, including (1) the full
26 name of the Settlement Class Member; (2) the signature of the Settlement Class
27 Member; (3) the grounds for the objection; and (4) be postmarked within the
28 Response Deadline to permit adequate time for processing and review by the
Parties of the written statement or objection. Class Counsel shall ensure that any
written objections are transmitted to the Court for the Court’s review (either by

1 Class Counsel or as an attachment to declaration from the Settlement
2 Administrator). Regardless of the form, an objection alone will not satisfy the
3 requirement that a Settlement Class Member must either make a timely complaint
4 in intervention before final judgment or by file a motion to set aside and vacate the
5 class judgment under Code of Civil Procedure § 663 to have standing to appeal
6 entry of judgment approving this Settlement, as is required under the California
7 Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260
8 (2018). A Class Member who does not object prior to or at the Final Approval
9 Hearing will be deemed to have waived any objections and will be foreclosed from
10 making any objections (whether at the Final Approval Hearing, by appeal, or
11 otherwise) to the Settlement. If the objecting Class Member does not formally
12 intervene in the action or move to set aside any judgment and/or the Court rejects
13 the Class Member’s objection, the Class Member will still be bound by the terms
14 of this Agreement. Class Counsel and Defendants’ Counsel may, before the final
15 approval hearing on a date specified by the Court, file responses to any written
16 objections submitted to the Court.

17 (y) Opt-in to Release Under Fair Labor Standards Act: Class Members will be advised
18 that they will opt in to a settlement of claims for unpaid compensation under the
19 Fair Labor Standards Act (“FLSA”) by cashing or otherwise depositing the check
20 for their share of the Settlement proceeds. This will be set forth in the Notice of
21 Settlement.

22 **THE SETTLEMENT ADMINISTRATOR’S PRIMARY DUTIES**

23 27. Subject to the Court’s approval, and subject to reconsideration by the Parties after a
24 competitive bidding process, the Parties have agreed to the appointment of Phoenix to perform the
25 customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice of
26 Settlement, both in English and Spanish, to the Class Members. There will be a Response Deadline set,
27 based upon the date the Settlement Administrator mails the Notice of Settlement for Class Members to
28 dispute the information contained in the Notice of Settlement, to submit a written objection, or to request

1 exclusion (opt-out) from the Settlement.

2 28. The Settlement Administrator will independently review the Covered Workweeks
3 attributed to each Class Member and will calculate the estimated amounts due to each Class Member and
4 the actual amounts due to each Settlement Class Member in accordance with this Settlement. The
5 Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The
6 Settlement Administrator shall be granted reasonable access to Defendants' records in order to perform its
7 duties.

8 29. In accordance with the terms of this Settlement, and upon receipt of funds from
9 Defendants, the Settlement Administrator will issue and send out the Settlement Payment checks to the
10 Class Members. Tax treatment of the Settlement Payments will be as set forth herein, and in accordance
11 with state and federal tax laws. All disputes relating to the Settlement Administrator's performance of its
12 duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms
13 and conditions of this Settlement until all payments and obligations contemplated by this Settlement have
14 been fully carried out.

15 30. The Settlement Administrator will post the final judgment approving the Settlement on a
16 website maintained by the Settlement Administrator for a period of not less than 90 days after the final
17 judgment is entered. The address of that website will be included in the Notice of Settlement.

18 **ATTORNEY'S FEES AND COSTS**

19 31. In consideration for resolving this matter and in exchange for the release of all claims by
20 the Class Members, including Plaintiff, and subject to approval by the Court, Defendants will not object to
21 Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Gross Settlement Amount
22 (\$291,666.66 of \$875,000.00) and litigation costs not to exceed \$12,000.00. The amounts set forth above
23 will cover all work performed and all fees and costs incurred to date, and all work to be performed and all
24 fees and costs to be incurred in connection with the approval by the Court of this Settlement and
25 administration of the Settlement. Should Class Counsel request a lesser amount and/or the Court approve
26 a lesser amount(s) of attorney's fees and/or attorneys' costs, the difference between the lesser amount(s)
27 and the maximum amount set forth above shall be added to the Net Settlement Amount. The attorney's
28 fees and costs approved by the Court shall be paid to Class Counsel, within 21 days of the Effective Date.

1 Class Counsel shall disclose to the Court any fee sharing agreements in existence. In the event that the
2 Court awards less than 25% of the Gross Settlement Amount in attorney’s fees, Class Counsel shall retain
3 the right to appeal that portion of any Final Approval Order and Judgment.

4 **THE NOTICE PROCESS**

5 32. A Notice of Settlement (sometimes also simply called the “Notice” herein) in
6 approximately the form attached hereto as Exhibit “A,” and as approved by the Court, shall be sent by the
7 Settlement Administrator to the Class Members by first class mail. Exhibit A shall be translated into
8 Spanish so that Spanish and English language versions of the Exhibit are included in the mailing. Any
9 returned envelopes from this mailing with forwarding addresses will be utilized by the Settlement
10 Administrator to forward the Notices to the Class.

11 (a) Within 7 calendar days from the date of preliminary approval of this Settlement by
12 the Court, Defendants shall provide to the Settlement Administrator a class
13 database containing the following information for each Class Member: (1) name;
14 (2) last known address; (3) social security number; and (5) dates of employment at
15 Defendants’ locations in California. This database shall be based on Defendants’
16 payroll and other business records and shall be provided in a format acceptable to
17 the Settlement Administrator. Defendants agree to consult with the Settlement
18 Administrator prior to the production date to ensure that the format will be
19 acceptable to the Settlement Administrator. The Settlement Administrator will run
20 a check of the Class Members’ addresses against those on file with the U.S. Postal
21 Service’s National Change of Address List; this check will be performed only once
22 per Class Member by the Settlement Administrator. Absent mutual written
23 agreement of counsel for the Parties or Court order, the Settlement Administrator
24 will keep this database confidential and secure and use it only for the purposes
25 described herein, and will return this database to Defendants upon final approval of
26 the settlement or destroy electronic records containing the database after the
27 Settlement is final and all payments are distributed as required under this
28 Agreement.

1 (b) Within 14 calendar days after the Class database is provided to the Settlement
2 Administrator, the Settlement Administrator will mail the Notices of Settlement to
3 the Class Members by first class United States mail. There will be a Response
4 Deadline set, based upon the date the Settlement Administrator mails the Notice of
5 Settlement, for Class Members to dispute the information contained in the Notice
6 of Settlement, to submit a written objection, or to request exclusion (opt-out) from
7 the Settlement (for claims other than the PAGA Claim).

8 (c) Notices returned to the Settlement Administrator as non-deliverable during the 60
9 calendar-day period after the initial mailing shall be resent to the forwarding
10 address, if any, on the returned envelope. A returned Notice will be forwarded by
11 the Settlement Administrator any time that a forwarding address is provided with
12 the returned mail. If there is no forwarding address, the Settlement Administrator
13 will do a computer search for a new address using the Class Member's social
14 security number or other information (skip-tracing). In any instance where a
15 Notice is first returned to the Settlement Administrator within ten days of the
16 original Response Deadline, and a new address for that Class Member can be
17 located via a skip-tracing, the Response Deadline will be extended by 15 days for
18 that Class Member. A letter prepared by the Settlement Administrator will be
19 included in the re-mailed Notice in that instance, stating the extended Response
20 Deadline. Upon completion of these steps by the Settlement Administrator,
21 Defendants and the Settlement Administrator shall be deemed to have satisfied
22 their obligations to provide the Notice of Settlement to the affected Class Member.
23 The affected Class Member shall remain a member of the Settlement Class and
24 shall be bound by all the terms of the Settlement and the Court's Order and Final
25 Judgment.

26 (d) Class Counsel shall provide to the Court, on or before the deadline set by the
27 Court, a declaration by the Settlement Administrator of due diligence and
28 confirming mailing of the Notices of Settlement.

1 (e) The Parties authorize their Counsel to make corrections to the Notice as required
2 by the Court without requiring amendment to this Settlement, so long as those
3 corrections do not change the Gross Settlement Amount.

4 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

5 33. As set forth above, each Class Member will have until the expiration of the Response
6 Deadline to postmark to the Settlement Administrator any challenge or dispute to the information on the
7 Notice of Settlement. No disputes will be honored if they are postmarked after the Response Deadline,
8 unless the Parties mutually agree to accept the untimely dispute. Each Class Member is responsible to
9 maintain a copy of any documents sent to the Settlement Administrator and a record of proof of mailing.

10 34. The Settlement Administrator shall cause the Settlement Payments to be mailed to the
11 Class Members within 21 days of the Effective Date, provided Defendants have delivered the Gross
12 Settlement Amount to the Settlement Administrator and provided that the Settlement Administrator has
13 provided the Parties with an accounting of the amounts to be paid by Defendants pursuant to the terms of
14 this Settlement. Settlement Payment checks shall remain valid and negotiable for 180 calendar days from
15 the date of their issuance. Settlement checks will automatically be cancelled by the Settlement
16 Administrator if they are not cashed by the Class Member within that time, and the Class Member's claims
17 will remain released by the Settlement. Settlement checks which have expired will not be reissued.

18 35. Funds from un-cashed or abandoned checks, based on a 180-day void date, shall be
19 transmitted to the California State Controller's Office for Unclaimed Property in the name of each check
20 recipient who failed to cash their check prior to the void date.

21 36. Upon completion of its calculation of Settlement Payments, the Settlement Administrator
22 shall provide Class Counsel and Defendants' Counsel with a report listing the amounts of all payments to
23 be made to Class Members (to be identified anonymously by employee number or other identifier). A
24 Declaration attesting to completion of all payment obligations will be provided to Class Counsel and
25 Defendants' Counsel and filed with the Court by Class Counsel.

26 **RELEASE BY THE CLASS**

27 37. Upon the final approval by the Court of this Settlement, and except as to such rights or
28 claims as may be created by this Settlement, the Class Representative, the Class and each Class Member

1 who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim,
2 will release claims as follows:

3 (a) **Identity of Released Parties.** The released parties are Defendants, and each of
4 its/their former and present direct and/or indirect owners, dba's, affiliates, parents,
5 subsidiaries, brother and sister corporations, divisions, related companies,
6 successors and predecessors, and current and former employees, attorneys, officers,
7 directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries,
8 subrogees, executors, partners, privies, agents, servants, insurers, representatives,
9 administrators, employee benefit plans, and assigns of said entities (collectively
10 "Releasees").

11 (b) **Date Release Becomes Active.** The Released Claims will be released upon the
12 later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendants'
13 obligation to provide to the Settlement Administrator a sum in the amount required
14 to satisfy all required payments and distributions pursuant to this Settlement and
15 the Order and Judgment of final approval. Class Members will not release claims
16 until both the Effective Date of the Settlement has occurred, **and** Defendants have
17 paid all amounts owing under the Settlement.

18 (c) **Claims Released by Specified Class Members and PAGA Employees.** Each
19 and every Class Member, on behalf of himself or herself and his or her heirs and
20 assigns, unless he or she has properly elected to opt out of the Class (which will not
21 effectuate an opt-out from the PAGA claim), hereby releases Releasees from the
22 following claims ("Released Claims") for the entire Class Period:

- 23 1) any and all claims stated in the Action, or that could have been stated based
24 on the facts alleged in the Action, implicitly or explicitly, including but not
25 limited to state wage and hour claims (including all claims under the
26 California Labor Code) for unpaid wages, minimum wage, overtime, off-
27 the-clock work, meal periods, rest periods, wage statement violations,
28 unreimbursed business expenses, interest, penalties, and attorneys' fees,

1 waiting time penalties, withholding from wages and the related provisions
2 of the Labor Code including but limited to Labor Code §§ 201-204, 210,
3 216, 218.6, 226, 226.3 , 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1198,
4 2802, derivative claims under California Business & Professions Code §§
5 17200 et seq., Los Angeles Administrative Code, Division 10, Chapter 1,
6 Article 11, § 10.37, et seq. and all claims under the governing Wage Order;

7 2) as to any Class Member who cashes their Settlement Payment, the signing
8 and negotiation of that check shall serve as the Class Member’s consent to
9 join the action for purposes of releasing claims arising under the Fair Labor
10 Standards Act that are related to the claims stated in the Action, implicitly
11 or explicitly; and,

12 3) in addition, as to *all* PAGA Employees, whether requesting exclusion from
13 the Settlement or not, claims for penalties arising under the Private
14 Attorneys General Act of 2004, Labor Code § 2698 et seq., to the extent
15 asserted in Plaintiff’s administrative exhaustion letter submitted to the
16 LWDA and attached hereto as Exhibit “B” and the Second Amended
17 Complaint in this matter. The penalty provision at issue in Plaintiff’s
18 administrative exhaustion letter include: Labor Code §§ 201 – 203, 204,
19 226, 226.3, 226.7, 510, 512, 558, 1174.5, 1194, 1197, 1197.1, 1198, and
20 2699(f)(2).

21 **EMPLOYMENT BY DEFENDANT**

22 38. Employment of Plaintiff by Defendants is not consideration for, or a condition of, this
23 Settlement.

24 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

25 39. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in
26 support of Plaintiff’s unopposed motion for preliminary approval for determination by the Court as to its
27 fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class Action
28 Settlement, the Parties shall apply to the Court for the entry of orders:

- 1 (a) Scheduling a final approval and fairness hearing on the question of whether the
2 proposed Settlement, including payment of attorney’s fees and costs, and the Class
3 Representative’s service payment, should be finally approved as fair, reasonable,
4 and adequate as to the members of the Class;
- 5 (b) Certifying a Class;
- 6 (c) Approving as to form and content the proposed Notice of Settlement;
- 7 (d) Directing the mailing of the Notice packets;
- 8 (e) Preliminarily approving the Settlement subject only to the objections of Class
9 Members and final review by the Court;
- 10 (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the
11 proposed Class Members;
- 12 (g) Appointing Phoenix as the Settlement Administrator, and order the Settlement
13 Administrator to provide notice of the settlement as outlined above; and,
- 14 (h) Confirming that the Representative Plaintiff served notice of the proposed
15 Settlement on the California Labor and Workforce Development Agency in
16 compliance with the requirements of PAGA.

17

18 **DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

19 40. In conjunction with the hearing of a motion for final approval by the Court of the
20 Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will provide to Defendants’
21 Counsel for review and approval and then submit to the Court a proposed final order and judgment
22 containing provisions sufficient to accomplish the following:

- 23 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
24 adequate, and directing consummation of its terms and provisions;
- 25 (b) Approving Class Counsel’s application for an award of attorney’s fees and costs;
- 26 (c) Approving the service payment to the Class Representative;
- 27 (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting
28 duties under the Settlement.

- 1 (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final
2 Settlement Class for the purpose of entering into and implementing the Agreement;
3 (f) Entering a final judgment in the action;
4 (g) Adjudging that notwithstanding the submission of a timely request for exclusion,
5 Class Members are still bound by the settlement and release of the PAGA Claims
6 or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th
7 969 (2009), as requests for exclusion do not apply to the PAGA Claims, and
8 further affirms that the State's claims for civil penalties pursuant to PAGA are also
9 extinguished;
10 (h) Directing the posting of the final judgment on a website maintained by the
11 Settlement Administrator for a period of not less than 90 days after entry of final
12 judgment.

13 Any revised final judgments will also be provided to Defendants' Counsel for review and approval before
14 they are submitted to the Court.

15 **NULLIFICATION AND TERMINATION**

16 41. This Settlement will be null and void if any of the following occur: (a) the Court should for
17 any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to
18 preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than
19 adjustments made to the attorney's fees and costs or granting of service fees; (c) the Court should for any
20 reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or rendered
21 void; (e) Plaintiff invokes the Settlement revocation provision based on the actual number of workweeks
22 through March 25, 2020; or (f) the Settlement does not become final for any other reason.

23 42. If 10% or more of the Class Members request exclusion or opt out of this Settlement, then
24 Defendants in their sole discretion may terminate, nullify and void this Settlement. The Settlement
25 Administrator shall provide Defendants' Counsel with the information necessary to effectuate this
26 provision on a regular basis, but no less frequently than on a monthly basis. To terminate this Settlement
27 under this paragraph, Defendants' Counsel must give Plaintiff's Counsel written notice, by facsimile, e-
28 mail, or mail, no later than 10 court days after the opt-out period has expired. If this option is exercised by

1 Defendants, Defendants shall be solely responsible for the costs incurred by the Settlement Administrator
2 for the settlement administration.

3 43. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement
4 shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or
5 proceedings shall have any force or effect and no party shall be bound by any of its terms, and (iii) all
6 Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been
7 neither entered into nor filed with the Court.

8 **PARTIES' AUTHORITY**

9 44. The signatories hereto hereby represent that they are fully authorized to enter into this
10 Settlement and bind the Parties hereto to the terms and conditions thereof.

11 **MUTUAL FULL COOPERATION**

12 45. The Parties agree to fully cooperate with each other to accomplish the terms of this
13 Settlement including, but not limited to, execution of such documents and taking such other action as
14 reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement
15 shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that
16 may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set
17 forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the
18 assistance and cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the
19 Court's preliminary and final approval of this Settlement.

20 **NO PRIOR ASSIGNMENTS**

21 46. The Parties and their respective counsel represent, covenant, and warrant that they have not
22 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
23 any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
24 released and discharged except as set forth herein.

25 **NO ADMISSION OF LIABILITY**

26 47. Nothing contained herein, nor the consummation of this Settlement, is to be construed or
27 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants.
28 Defendants deny all the claims and contentions alleged by the Plaintiff in this case. The Defendants have

1 entered into this Settlement solely with the intention to avoid further disputes and litigation with the
2 attendant inconvenience and expenses.

3 ENFORCEMENT ACTIONS

4 48. In the event that one or more of the Parties to this Settlement institutes any legal action or
5 other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare
6 rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover
7 from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees
8 incurred in connection with any enforcement actions.

9 NOTICES

10 49. Unless otherwise specifically provided herein, all notices, demands or other
11 communications given hereunder shall be in writing and shall be deemed to have been duly given as of the
12 third business day after mailing by United States registered or certified mail, return receipt requested,
13 addressed as follows:

14 Class Counsel:

15 Kane Moon
16 H. Scott Leviant
17 Lilit Tunyan
18 **MOON & YANG, APC**
19 1055 W. Seventh St., Suite 1880
20 Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
kane.moon@moonyanglaw.com
scott.leviant@moonyanglaw.com
lilit.tunyan@moonyanglaw.com

Counsel for Defendants:

Jennifer N. Lutz
Kristina H. Magcamit
**PETTIT KOHN INGRASSIA LUTZ &
DOLIN PC**
11622 El Camino Real, Suite 300
San Diego, CA 92130
Telephone: (858) 755-8500
Facsimile: (858) 755-8504
jlutz@pettitkohn.com
kmagcamit@pettitkohn.com

21 CONSTRUCTION

22 50. The Parties hereto agree that the terms and conditions of this Settlement are the result of
23 lengthy, intensive arms-length negotiations between the Parties, and this Settlement shall not be construed
24 in favor of or against any party by reason of the extent to which any party or his, her or its counsel
25 participated in the drafting of this Settlement.

26 CAPTIONS AND INTERPRETATIONS

27 51. Paragraph titles or captions contained herein are inserted as a matter of convenience and
28 for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision

1 hereof. Each term of this Settlement is contractual and not merely a recital.

2 **MODIFICATION**

3 52. This Settlement may not be changed, altered, or modified, except in writing and signed by
4 the Parties hereto, and approved by the Court. This Settlement may not be discharged except by
5 performance in accordance with its terms or by a writing signed by the Parties hereto.

6 **INTEGRATION CLAUSE**

7 53. This Settlement contains the entire agreement between the Parties relating to the
8 Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,
9 understandings, representations, and statements, whether oral or written and whether by a party or such
10 party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

11 **WAIVER OF APPEALS**

12 54. The Parties agree to waive appeals and to stipulate to class certification for purposes of
13 implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the
14 amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the
15 Gross Settlement Amount as attorney's fees.

16 **BINDING ON ASSIGNS**

17 55. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and
18 their respective heirs, trustees, executors, administrators, successors and assigns.

19 **CLASS COUNSEL SIGNATORIES**

20 56. It is agreed that because the members of the Class are so numerous, it is impossible or
21 impractical to have each member of the Class execute this Settlement. The Notice of Settlement, Exhibit
22 "A" hereto, will advise all Class Members of the binding nature of the release, and the release shall have
23 the same force and effect as if this Settlement were executed by each member of the Class.

24 **COUNTERPARTS**

25 57. This Settlement may be executed in counterparts and by electronic or facsimile signatures,
26 and when each party has signed and delivered at least one such counterpart, each counterpart shall be
27 deemed an original, and, when taken together with other signed counterparts, shall constitute one
28 Settlement, which shall be binding upon and effective as to all Parties.

1 **CONFIDENTIALITY & PUBLIC COMMENT**

2 58. The Class Representative and Class Counsel agree they will not make any disparaging
3 comments about Defendants relating to this Settlement of this class action or disclose the negotiations of
4 the Settlement. The Class Representative and Class Counsel shall only disclose matters of public record
5 other than to Class Members, who may receive information about the Settlement that is not in the public
6 record after the Court has preliminarily approved the Settlement. Other than as to Class Members or as
7 expressly allowed below, the Parties and attorneys will keep the settlement confidential until the filing of
8 the motion for preliminary approval of the class settlement. Thereafter, the Parties agree to make no
9 comments to the media or otherwise publicize the terms of the Settlement, other than in court filings. To
10 the extent counsel for either Party wish to advertise this settlement, such advertising will be limited to a
11 statement that a matter was settled between a putative class and an "airline support business." Any
12 communication about the Settlement to Class Members prior to the Court-approved mailing will be
13 limited to (1) a statement that a settlement has been reached, (2) a statement of any of the details that
14 would necessarily be included in any Court-approved notice if a Class Member requests details about the
15 proposed Settlement, and (3) a warning that the terms of the proposed Settlement have not yet been
16 approved by the Court. Prior to preliminary approval, the Class Representative is prohibited from
17 discussing the terms or the fact of the settlement with third parties other than (1) a spouse, (2) accountants
18 or lawyers as necessary for tax purposes, or (3) Class Members. At all times, the Class Representative is
19 prohibited from communicating about the terms or the fact of the settlement on any form of social media
20 ("Social Media Bar"). In the event of a proven breach of the Social Media Bar, the violating Plaintiff shall
21 forfeit one-half of the class representative enhancement payment, as a form of liquidated damages. Class
22 Counsel will take all steps necessary to ensure the Class Representative is aware of, and will adhere to, the
23 restrictions against any public disclosure of the Settlement. Class Counsel will not include or use the
24 settlement for any marketing or promotional purposes other than as expressly allowed above.

25 **FINAL JUDGMENT**

26 59. The Parties agree that, upon final approval of the Settlement, final judgment of this Action
27 will be made and entered in its entirety. The final judgment may be included in the Order granting Final
28 Approval of the Settlement.

1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Class Action Settlement between Plaintiff and Defendants as set forth below:

3 IT IS SO STIPULATED.

4 **Plaintiff & Class Representative:**


5 Dated: May 10, 2021

By:  _____
JESENIA DONAN

7 **Plaintiff's Counsel:**

8 Dated: May 18, 2021

MOON & YANG, APC

By:  _____
Kane Moon
H. Scott Leviant

Attorneys for Plaintiff

13 **Defendants:**

14 Dated: May ____, 2021

PACIFIC AVIATION CORPORATION

By: _____
Print Name

Signature

Title

22 Dated: May ____, 2021

PACIFIC AVIATION, LLC

By: _____
Print Name

Signature

Title

1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Class Action Settlement between Plaintiff and Defendants as set forth below:

3 IT IS SO STIPULATED.

4 **Plaintiff & Class Representative:**

5 Dated: May __, 2021

By: _____
JESENIA DONAN

7 **Plaintiff's Counsel:**

8 Dated: May __, 2021

MOON & YANG, APC

9
10 By: _____
Kane Moon
H. Scott Leviant
11
12 Attorneys for Plaintiff

13 **Defendants:**

14 Dated: May __, 2021

PACIFIC AVIATION CORPORATION

15 By: _____ Evan Gobdel

16 Print Name

17 

18 Signature

19 Chief Executive Officer

20 Title

21 Dated: May __, 2021

PACIFIC AVIATION, LLC

22 By: _____ Evan Gobdel

23 Print Name

24 

25 Signature

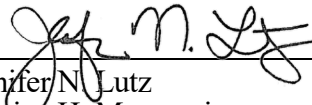
26 Director

27 Title

1 **Defendants' Counsel:**

2 Dated: May 19, 2021

PETTIT KOHN INGRASSIA LUTZ & DOLIN PC

3
4 By: 
Jennifer N. Lutz
Kristina H. Magcamit

5
6 Attorneys for Defendants PACIFIC AVIATION
CORPORATION and PACIFIC AVIATION,
7 LLC

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Exhibit “A”

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Donan v. Pacific Aviation Corporation, Case No.
Los Angeles Superior Court Case No. 19STCV19714

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED BY PACIFIC AVIATION CORPORATION OR PACIFIC AVIATION, LLC (“DEFENDANTS”) IN CALIFORNIA AS AN HOURLY-PAID EMPLOYEE AT ANY TIME BETWEEN JUNE 6, 2015 AND << **PRELIM APPROVAL** >>, THIS PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Donan v. Pacific Aviation Corporation*, Case No. 19STCV19714 (the “Action”). The purpose of this Notice of Proposed Class Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

YOUR ESTIMATED PAYMENT FROM THIS SETTLEMENT: Your estimated minimum Settlement Payment is << **Estimated Settlement Payment** >>. Your estimated Settlement Payment includes your estimated Settlement Class Payment of << **Estimated Settlement Class Payment** >> and, if you worked after June 6, 2018, your estimated PAGA Settlement Payment of << **Estimated PAGA Settlement Payment** >>.

A hearing concerning final approval of the proposed Settlement will be held before the Hon. Maren E. Nelson, on << **FA Date and Time** >> in Department SSC-17 of the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, to determine whether the Settlement is fair, adequate and reasonable. As a Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING – GET MONEY	If you do nothing, you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendants for the Released Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS DEADLINE TO EXCLUDE YOURSELF: << RESPONSE DATE >>	You have the option to pursue separate legal action against Defendants about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written Request to be Excluded. As a result, you will not receive any benefits under the Settlement.
OBJECT TO THE SETTLEMENT DEADLINE TO SUBMIT WRITTEN OBJECTIONS: << RESPONSE DATE >>	To object to the Settlement, you may mail a written explanation of why you don’t like the Settlement to the Settlement Administrator, appear at the final approval hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request to be Excluded if you wish to object. <i>Written</i> objections must be submitted by << RESPONSE DATE >>.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the “Class”):

All non-exempt employees of Defendants PACIFIC AVIATION CORPORATION and PACIFIC AVIATION, LLC who worked for Defendants in California during the Class Period (the “Class Period” is June 6, 2015 through <<the date upon which the Court grants preliminary approval>>).

According to Defendants’ records, you are a member of the Class (“Class Member”). Defendants’ records indicate you [ARE/ARE NOT] also a PAGA Employee who worked in the State of California at any time during the PAGA Period of June 6, 2018 through <<the date upon which the Court grants preliminary approval>>.

What is this case about?

In the Action, Plaintiff Jesenia Donan (“Plaintiff”) alleges on behalf of herself and the Class that Defendants: (1) failed to pay minimum and straight time wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay all wages to terminated employees; (6) failed to furnish accurate itemized wage statements; (7) failed to reimburse all business expenses; (8) violated Los Angeles Administrative Code, Division 10, Chapter 1, Article 11, § 10.37, et seq.; (9) failed to pay wages due and payable twice monthly as required by Labor Code § 204; (10) violated California’s Unfair Competition Law, California Business and Professions Code section 17200 et seq.; and (11) violated provisions of the Labor Code giving rise to civil penalty liability under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, et seq.]. Plaintiff seeks unpaid wages, actual damages, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys’ fees, and costs.

Defendants deny all liability and are confident that they have strong legal and factual defenses to these claims, but they recognize the risks, distractions, and costs associated with litigation. Defendants contend that their conduct is and has been lawful at all times relevant and that Plaintiff’s claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendants (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendants. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff’s claims or Defendants’ defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Kane Moon
H. Scott Leviant
Lilit Tunyan
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Defendants’ Counsel

Jennifer N. Lutz
Kristina H. Magcamit
PETTIT KOHN INGRASSIA
LUTZ & DOLIN PC
11622 El Camino Real, Suite 300
San Diego, CA 92130
Telephone: (858) 755-8500
Facsimile: (858) 755-8504

CONSTANGY, BROOKS, SMITH
& PROPHETE, LLP
Kenneth Sulzer
David Yudelson
2029 Century Park East, Suite 1100
Los Angeles, CA 90067
Telephone: (310) 909-7775
Facsimile: (424) 465-6630

What are the Settlement terms?

Subject to final Court approval, Defendants will pay \$875,000 (the “Gross Settlement Amount”) for: (a) individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Service Payments to Plaintiff (\$5,000 to be requested); (c) the Court-approved attorneys’ fees and costs to Class Counsel (\$291,666.66 in fees and up to \$12,000 in costs to be requested); (d) payment to the Labor and Workforce Development Agency (“LWDA”) for alleged PAGA penalties (\$60,000 of a total of \$80,000 allocated to PAGA penalties); and (e) payment to the Settlement Administrator for settlement administration services (currently expected to be \$22,000, based upon the lowest bid for administration services and assuming no major changes in the scope of work required to administer this Settlement).

Individual Settlement Payments. After deduction from the Gross Settlement Amount for attorneys’ fees and costs, the Class Representative Service Payment to Plaintiff, the payment to the LWDA, and settlement

administration costs, there will be a Net Settlement Amount. From this Net Settlement Amount, Defendants will make an individual Settlement Payment to each Class Member who does not request to be excluded from the Settlement (“Settlement Class Members”).

The Net Settlement Amount shall be divided among all Settlement Class Members on a pro rata basis based upon the total number of workweeks worked by each respective Settlement Class Member as a non-exempt hourly employee in the State of California during the Class Period. The portion of the Net Settlement Amount paid to a Settlement Class Member = $\text{Net Settlement Amount} - \$20,000 \times \frac{\text{the work weeks worked by a Settlement Class Member}}{\text{the work weeks worked by all Settlement Class Members}}$. Your estimated individual Settlement Payment is listed below.

The PAGA Settlement Payments shall be divided among all PAGA Employees on a *pro rata* basis based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period, calculated as follows: $[\text{PAGA Pay Periods worked by a PAGA Employee}] \div [\text{Sum of all PAGA Pay Periods worked by all PAGA Employees}] \times [\$20,000] = \text{individual PAGA Employee's portion of the PAGA Employees' PAGA Penalty Payment Share}$.

Your estimated minimum Settlement Payment is <<Estimated Settlement Payment>>. Your estimated Settlement Payment includes your estimated Settlement Class Payment of <<Estimated Settlement Class Payment>> and, if you worked after June 6, 2018, your estimated PAGA Settlement Payment of <<Estimated PAGA Settlement Payment>>. Your covered Work Weeks worked during the relevant period between June 6, 2015 and <<Class Period End Date>> are <<Work Weeks>>, and your covered PAGA Pay Periods worked between June 18, 2015 and <<Class Period End Date>> are <<PAGA Pay Periods>>. To the extent you dispute the number of Work Weeks and/or PAGA Pay Periods, you must make your dispute (“Work Period Dispute”) in writing and send it to the Settlement Administrator via fax or mail. Your Work Period Dispute must be postmarked or faxed no later than <<+60 days from date of mailing>> (the “Response Deadline”) to:

Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863

Your Work Period Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks and/or Pay Periods you contend are correct; and (c) any evidence supporting your contention. Defendants’ records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Period Disputes, and its decisions will be final and non-appealable. **REMINDER:** If you believe your estimated individual Settlement Amount is incorrect because your Work Weeks (the number of total weeks you worked within the Class Period only) or PAGA Pay Periods (the number of pay periods you worked between June 5, 2018 and <<Class Period End Date>>) are wrong, the deadline to dispute the workweeks and/or pay periods reported for you is <<RESPONSE DATE>>.

For tax reporting purposes, the payments to Settlement Class Members will be allocated 40% as wages, 30% to penalties and 30% as interest, excluding the \$20,000 in PAGA Settlement Payments, which will be allocated as 100% penalties. The wage portion of the individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the individual Settlement Payments. The portion of the Settlement Payments allocated to penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer’s share of any payroll taxes will be separately paid by Defendants.

All checks for individual Settlement Payments paid to Class Members shall advise that the checks will remain valid and negotiable for one hundred eighty (180) days from the date of the checks’ issuance and shall thereafter automatically be void if not cashed by a Class Member within that time. Any individual Settlement Payment that is not cashed by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller’s Office for Unclaimed Property in the name of each check recipient who failed to cash their check prior to the void date. The Settlement Administrator shall void any tax documents issued to Class Members who did not cash their checks within 180 days of issuance. In such event, the Class Member shall nevertheless remain bound by the Settlement.

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax

consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

Class Counsel Attorneys' Fees and Costs, Class Representative Service Award, Settlement Administration Costs and Payment to the LWDA. Class Counsel will ask the Court to award attorneys' fees up to \$291,666.66 (one third) of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$12,000. In addition, Class Counsel will ask the Court to authorize a Class Representative Service Payment of \$5,000 for Plaintiff for her efforts in bringing the case on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$22,000.00 (based upon the lowest bid for administration services and assuming no major changes in the scope of work required to administer this Settlement), but the Court will be asked to reimburse the Settlement Administrator for the actual costs of administration, even if more than \$22,000. A payment in the amount of \$60,000.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$80,000 set aside for payment under PAGA.

PLEASE BE PATIENT AND UPDATE THE SETTLEMENT ADMINISTRATOR WITH YOUR NEW ADDRESS IF YOU MOVE AFTER RECEIVING THIS NOTICE OR YOU RECEIVED THIS NOTICE AS FORWARDED MAIL.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

(a) Identity of Released Parties. The released parties are Defendants, and each of its/their former and present direct and/or indirect owners, dba's, affiliates, parents, subsidiaries, brother and sister corporations, divisions, related companies, successors and predecessors, and current and former employees, attorneys, officers, directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries, subrogees, executors, partners, privies, agents, servants, insurers, representatives, administrators, employee benefit plans, and assigns of said entities (collectively "Releasees").

(b) Date Release Becomes Active. The Released Claims will be released upon the later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendants' obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release claims until both the Effective Date of the Settlement has occurred, and Defendants have paid all amounts owing under the Settlement.

(c) Claims Released by Specified Class Members and PAGA Employees. Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has properly elected to opt out of the Class (which will not effectuate an opt-out from the PAGA claim), hereby releases Releasees from the following claims ("Released Claims") for the entire Class Period:

1) any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, implicitly or explicitly, including but not limited to state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, minimum wage, overtime, off-the-clock work, meal periods, rest periods, wage statement violations, unreimbursed business expenses, interest, penalties, and attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1198, 2802, derivative claims under California Business & Professions Code §§ 17200 et seq., Los Angeles Administrative Code, Division 10, Chapter 1, Article 11, § 10.37, et seq. and all claims under the governing Wage Order;

2) as to any Class Member who cashes their Settlement Payment, the signing and negotiation of that check shall serve as the Class Member's consent to join the action for purposes of releasing claims arising under the Fair Labor Standards Act that are related to the claims stated in the Action, implicitly or explicitly; and,

3) in addition, as to all PAGA Employees, whether requesting exclusion from the Settlement or not, claims for penalties arising under the Private Attorneys General Act of 2004, Labor Code § 2698 et seq., to the extent asserted in Plaintiff's administrative exhaustion letter submitted to the LWDA and the Second Amended Complaint in this matter. The penalty provision at issue in Plaintiff's administrative exhaustion letter include: Labor Code §§ 201 – 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174.5, 1194, 1197, 1197.1, 1198, and 2699(f)(2).

PAGA EMPLOYEES CANNOT OPT-OUT OR EXCLUDE THEMSELVES FROM THE RELEASED PAGA CLAIMS AND WILL RECEIVE A PAGA SETTLEMENT PAYMENT EVEN IF THEY OPT-OUT OF THE CLASS SETTLEMENT.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an individual Settlement Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an individual Settlement Payment under the Settlement, **you do not need to take any action.** By remaining in the Class and receiving settlement monies, you consent to the release of the Released Claims as described above.

Any amount paid to Settlement Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendants, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may appear in person at the Final Approval Hearing, have an attorney object for you, or submit a written brief or statement of objection (“written objection”) to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. If you submit a written objection, it should contain sufficient information to confirm the your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; and (4) be postmarked on or before <<**Response Deadline**>> and returned to the Settlement Administrator at the address listed above to ensure that it is received in time to be transmitted to and considered by the Court. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the final approval hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Settlement Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.**

Because of healthcare guidance and Orders of the Los Angeles Superior Court related to COVID-19, the Final Approval Hearing may be a telephonic hearing only. If you wish to attend the Final Approval Hearing telephonically, visit <https://my.lacourt.org/laccwelcome> for instructions on how to do so. You will need to create an account with LACourtConnect using an e-mail address before you can schedule a telephonic or video appearance at the Final Approval Hearing. You will need to use the Case Number for this case (19STCV19714) to schedule a telephonic or video appearance under the “Civil” case section of the LACourtConnect website.

Regardless of the form, an objection, alone will not satisfy the requirement that a Settlement Class Member must formally intervene and become a party of record in the action to appeal a Judgment entered following an Order finally approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018).

OPTION B. Request to Be Excluded from the Class and Receive No Money from the Class Action Portion of the Settlement (PAGA Employees Still Will Receive Their Share of the PAGA Employee Payment). If you do not want to be part of the Settlement, you must submit a written request to be excluded from the Settlement to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. In order to be valid, your written request to be excluded from the Settlement must be signed and include your name, address, and telephone number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement), along with a statement that clearly and unambiguously says that you would like to be excluded from the Class. Suggested language to accomplish that request is as follows (but you can use any language you like, as long as your intention to request exclusion is clear):

“I WISH TO BE EXCLUDED FROM THE CLASS ACTION SETTLEMENT IN *DONAN v. PACIFIC AVIATION CORPORATION*, CASE NO. 19STCV19714. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT, IF ANY.”

Your written request to be excluded from the Settlement must then be signed and postmarked on or before <<**Response Deadline**>>. If you do not submit a written request to be excluded from the Settlement on time (as evidenced by the postmark), your written request to be excluded from the Settlement will be rejected, you will be deemed a participating Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a written request to be excluded from the Settlement by the deadline to request exclusion, you will have no further role in the Action. **You will not be entitled to any benefit, including money**, as a result of the Action and Settlement. You will not be able to complain to the Court about any aspect of the Settlement. **NOTE:** If you are a PAGA Employee (someone who worked for Defendants at any time after June 6, 2018), you cannot opt out of the PAGA portion of the Settlement.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel’s request for attorneys’ fees and costs, the Class Representative Service Payment to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on <<**FA Date and Time**>> in Department SSC-17 of the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012. Because of healthcare guidance and Orders of the Los Angeles Superior Court related to COVID-19, the hearing may be a telephonic hearing only. As described above, if you wish to attend the Final Approval Hearing telephonically, visit <https://my.lacourt.org/laccwelcome> for instructions on how to do so. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website by the Settlement Administrator for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<**website**>>.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class Action and PAGA Action Settlement attached to the Declaration of H. Scott Leviant in Support of Plaintiff’s Motion for Preliminary Approval. The Joint Stipulation of Class Action and PAGA Action Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Los Angeles Superior Court. Because of the Los Angeles Superior Court’s COVID-19 pandemic procedures, in order to view documents filed in the lawsuit, Class Members may be required to make an appointment with the Court to view documents, at the Stanley Mosk Courthouse, 111 N. Hill St., Los Angeles, California 90012. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above.

You may also view documents filed in this case, including the complete Settlement, on the Court’s website at: www.lacourt.org/casesummary/ui/index.aspx?casetype=civil. **NOTE:** If you choose to access documents online, the Court will charge you a fee for access. Class Counsel can provide you with copies of the settlement documents at no charge. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

Exhibit “B”

MOON & YANG, APC

ATTORNEYS AT LAW
WWW.MOONYANGLAW.COM

1055 W. SEVENTH ST., SUITE 1880
LOS ANGELES, CALIFORNIA 90017
TELEPHONE: (213) 232-3128
FACSIMILE: (213) 232-3125

Lilit Ter-Astvatsatryan, Esq.
Lilit@moonyanglaw.com

June 12, 2019

VIA ONLINE SUBMISSION

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

VIA CERTIFIED MAIL

PACIFIC AVIATION CORPORATION
201 Continental Blvd, Ste 220
El Segundo, CA 90245

VIA CERTIFIED MAIL

PACIFIC AVIATION, LLC
201 Continental Blvd, Ste 220
El Segundo, CA 90245

Notice of Labor Code Violations and PAGA Penalties

Re: *Jesenia Donan v. Pacific Aviation Corporation, et. al.*

To Whom It May Concern:

Please be advised that my office has been retained by Jesenia Donan (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, et seq.) against his former employer, Pacific Aviation Corporation and Pacific Aviation, LLC (“Defendant”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of herself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendants owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendants is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff Jesenia Donan worked for Defendants in Los Angeles County, California as a cabin cleaner from approximately August 2018 to May 2019. At all times Defendants classified Plaintiff as non-exempt from California's overtime requirements. During the statutory time period, Plaintiff was typically scheduled to work 6 days in a workweek, and typically at least 7 hours in a single workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendants regularly used a system of time rounding in a manner that results, over a period of time, in a failure to compensate Plaintiff and the Aggrieved Employees properly for all the time they actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for every minute of work performed. Due to Defendants' time rounding, Plaintiff and the Aggrieved Employees are frequently paid for less than all their work time. Defendants also required Plaintiff and the Aggrieved Employees to work "off-the-clock", uncompensated. For example, at the beginning of their shift each workday, Plaintiff and the Aggrieved Employees were regularly required to go through security checks to get into the building which took

approximately 10 minutes, and then walked an additional 4 to 5 minutes in order to clock into work, resulting in approximately 15 minutes of uncompensated time each workday. Additionally, at the end of each shift, Plaintiff and the Aggrieved Employees were regularly required to clock out at the scheduled time and continue to work approximately 1 hour each workday until the work was finished. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked. In Addition throughout the statutory time period, Plaintiff and the Aggrieved Employees were required to attend training sessions. However, Defendants failed to pay Plaintiff and the Aggrieved Employees for all work performed during these training sessions.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants have wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendants did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendants did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendants have adequate policies or practices regarding the timing of meal periods. Defendants also did not have adequate policies or practices to document and verify whether Plaintiff and the Aggrieved Employees were taking their required meal periods. Accordingly, Defendants' policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendants have wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendants regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Further, Plaintiff and the Aggrieved Employees were not authorized to take a third rest period in those instances where they worked in excess of 10 hours per workday. Accordingly, Defendants' policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

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

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay

period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
6. Labor Code § 226 by failing to provide accurate itemized wage statements; and
7. Labor Code § 204 by failing to pay all earned wages two times per month.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

MOON & YANG, APC

Lilit Ter-Astvatsatryan
Attorney at Law