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ODW LOGISTICS, INC. and STAFFING LEADERSHIP GROUP, LLC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

MARIA PEREZ, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

ODW LOGISTICS, INC., a Ohio
corporation; STAFFING LEADERSHIP
GROUP, LLC, a Ohio limited liability
company; and DOES 1-50 inclusive,

Defendants.

CASE NO.: CIVDS2001904
CIVDS2004281
[Unlimited Jurisdiction]

*Assigned for all purposes to the
Honorable David Cohn, Dept. S26*

**STIPULATION OF CLASS ACTION
SETTLEMENT**

FAC Filed: 1/21/20
Trial Date: None Set

ROCIO OROZCO, individually and on
behalf of others similarly situated, and as a
private attorney general;

Plaintiff,

vs.

ODW LOGISTICS, INC., an Ohio
corporation; and DOES 1 through 50,
inclusive,

Defendants.

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8 and Proposed Named Plaintiff CRISTAL PEREZ AGUIRRE

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17 Attorneys for Plaintiff ROCIO OROZCO
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1 This Stipulation of Resolution is made by and between the Named Plaintiffs, MARIA
2 PEREZ and ROCIO OROZCO and Proposed Named Plaintiff CRISTAL PEREZ AGUIRRE
3 (“Named Plaintiffs”), on their own behalf and on behalf of all members of the Settlement Class,
4 as defined below, on the one hand, and ODW LOGISTICS, INC., as well as STAFFING
5 LEADERSHIP GROUP, LLC., (“Defendants”) on the other hand (collectively the “Parties”).
6 This Stipulation of Resolution resolves all claims that were asserted or could have been asserted
7 against Defendants pertaining to the claims in this consolidated action Case Numbers:
8 CIVDS2001904 and CIVDS2004281.

9 **I. DEFINITIONS**

10 **A. Administrative Costs.** All administrative costs of settlement, including cost of
11 notice to the Settlement Class, claims administration, and any fees and costs incurred or charged
12 by the Settlement Administrator in connection with the execution of its duties under this
13 Stipulation of Settlement.

14 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
15 synonymously herein to mean this Stipulation of Resolution for purposes of Resolution.

16 **C. Class Counsel.** The term “Class Counsel” as used herein means PROTECTION
17 LAW GROUP, LLP, and SMITH & BENOWITZ who are (or were at some time) counsel for and
18 acting on behalf of Named Plaintiffs and the Settlement Class. The term Class Counsel shall be
19 used synonymously with the term Plaintiffs’ Counsel.

20 **D. Class Period.** The term “Class Period” or “Settlement Period” shall refer to the
21 time period from January 21, 2016 to December 30, 2020.

22 **E. Consolidated Class Action Complaint.** The term “Consolidated Class Action
23 Complaint” as used herein means the Proposed Consolidated Class Action Complaint attached
24 hereto as Exhibit “C”.

25 **F. Court.** The term “Court” as used herein means the Superior Court of the State of
26 California for the County of San Bernardino.
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1 **G. Effective Date.** The term final shall mean the first business day upon which the
2 last of the following have occurred:

- 3 a. If Settlement Class Members have not filed objections, or if they have filed
4 objections, said objections have been withdrawn, entry of the Final Judgment
5 in this Action after the Court has granted final approval of the Settlement, and
6 a file stamped copy of the Final Judgment with a proof of service has been
7 served on all parties by Class Counsel, or
8
9 b. If Settlement Class Members have filed objections that have not been
10 withdrawn, either (1) the time to appeal, object or attack the Court's entry of
11 Final Judgment has expired and there has been no appeal, objection or attack;
12 or (2) the court of last resort to which any appeal is taken has affirmed its entry
13 of Final Judgment in its entirety or the Settlement Class Member has presented
14 a petition for review and the affirmance is no longer subject to further appeal
15 or review, and no further challenge to the entry of Final Judgment is possible.

16 **H. Date of Final Approval.** The terms "Date of Final Approval" or "Final Approval"
17 as used herein mean the date of the Final Fairness and Approval Hearing.

18 **I. Defendants.** The term "Defendants" as used herein means: ODW LOGISTICS,
19 INC., as well as STAFFING LEADERSHIP GROUP, LLC.

20 **J. Employer Taxes.** Employer-funded taxes and contributions imposed on the wage
21 portions of the Settlement Payment under the Federal Insurance Contributions Act, the Federal
22 Unemployment Tax Act, and any similar state taxes and contributions required of employers,
23 such as for unemployment insurance. All Employer Taxes shall be paid by Defendants separately
24 and in addition to the Settlement Amount.

25 **K. Final Judgment.** The term "Final Judgment" as used herein means Final
26 Judgment entered by the Court following the Final Approval Hearing, substantially in the form
27 attached hereto as Exhibit "E".
28

1 **L. Litigation.** The term “Litigation” as used herein means the consolidated class
2 action filed in San Bernardino County Superior Court, case numbers CIVDS2001904 and
3 CIVDS2004281.

4 **M. Named Plaintiffs.** The term “Named Plaintiffs” as used herein means MARIA
5 PEREZ, CRISTAL PEREZ AGUIRRE and ROCIO OROZCO. The term Named Plaintiffs shall
6 be used synonymously with the term Class Representatives.

7 **N. Net Settlement Amount.** The term “Net Settlement Amount” as used herein
8 means the Settlement Amount minus any award of attorneys’ fees and Litigation costs,
9 Administrative Costs, enhancement to the Named Plaintiff, seventy-five percent (75%) of
10 penalties payable to the LWDA pursuant to California’s Private Attorney General Act (“PAGA”)
11 (“PAGA Settlement”), and as provided in Sections XIII, VIII, XIV, XV, and XVI, respectively.
12

13 **O. Net Settlement Payments.** The term “Net Settlement Payment(s)” shall include
14 payments made to the Settlement Class as part of the Resolution, including wages, penalties and
15 interest.

16 **P. Objection/Opt Out Deadline.** The term “Objection/Opt Out Deadline” as used
17 herein means the deadline for Settlement Class Members to object to the Settlement, request to
18 be excluded from the Settlement, or to submit a Workweek Dispute Form, which shall be sixty
19 (60) days after the mailing of the Notice by the Settlement Administrator.

20 **Q. Participating Class Member.** The term “Participating Class Member” or
21 “Participating Class Members” as used herein means any member or members of the Settlement
22 Class who does not timely and validly request to be excluded from the Settlement.

23 **R. Preliminary Approval.** The term “Preliminary Approval” as used herein means
24 the date on which the Court signs the Preliminary Approval Order and grants preliminary approval
25 of the Resolution.

26 **S. Preliminary Approval Order.** The term “Preliminary Approval Order” as used
27 herein means the order entered by the Court granting preliminary approval of this Resolution,
28 substantially in the form attached hereto as Exhibit “D”.

1 **T. Resolution.** The term “Resolution” as used herein means this Agreement to
2 resolve the Litigation.

3 **U. Settlement Administrator.** The term “Settlement Administrator” as used herein
4 means Phoenix Settlement Administrators, which will be responsible for the administration of the
5 Settlement Payment, as defined below, and all related matters.

6 **V. Settlement Agreement.** The terms “Settlement Agreement” or “Agreement” are
7 used synonymously herein to means this Stipulation of Resolution.

8 **W. Settlement Amount.** The terms “Settlement Amount” and “Gross Settlement
9 Fund” as used herein mean a fund in the sum of is One Million Nine Hundred Ninety Nine
10 Thousand Nine Hundred and Ninety Nine dollar and Ninety Nine cents (\$1,999,999.99) which
11 shall be paid by Defendants, and from which all Net Settlement Payments, Court approved
12 attorneys’ fees and Litigation costs pursuant to Section XIII, Administrative Costs pursuant to
13 Section VIII, enhancement to Named Plaintiffs pursuant to Section XIV, statutory penalties,
14 interest, and PAGA penalties pursuant to Section XVI shall be paid, except as provided herein.
15 The Settlement shall be an “all in” settlement and shall not provide for a reversion.
16

17 **X. Settlement Class.** For settlement purposes only, the Parties agree to the
18 certification of a Settlement Class pursuant to California Code of Civil Procedure section 382
19 defined as: “All non-exempt hourly employees of Defendant ODW LOGISTICS, INC. who
20 performed work in the State of California at any time during the Class Period and all non-exempt
21 hourly employees of Defendant STAFFING LEADERSHIP GROUP, LLC who were placed at
22 or assigned to work at any ODW LOGISTICS, INC, worksite in the state of California during the
23 Class Period.”

24 **Y. Settlement Class Member.** The terms “Settlement Class Member” or “Settlement
25 Class Members” as used herein means any member or members of the Settlement Class

26 **Z. Eligible Workweek.** The term “Workweek” as used herein means any calendar
27 week during the Class Period during which a Settlement Class Member performed work for ODW
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Logistics, Inc. on at least one calendar day.

II. BACKGROUND

A. On January 21, 2020, Named Plaintiff Maria Perez filed a putative class action complaint on behalf of herself and all others similarly situated against Defendants alleging the following causes of action: (1) Unfair Competition (Business and Professions Code, § 17200, et seq.), (2) Failure to Pay Minimum and Overtime Wages (Labor Code § 226.7), (3) Non-Provision of Meal and Rest Periods (Labor Code § 226.7), (4) Waiting Time Penalties (Labor Code § 203), and (5) Wage Statement Penalties (Labor Code § 226). On May 29, 2020, Named Plaintiff Maria Perez filed an amended complaint adding a cause of action under PAGA. In the Litigation, Named Plaintiff Maria Perez alleges that Defendants violated California state wage and hour laws, the California Business and Professions Code Section 17200 *et seq.*, and PAGA, as a result of Defendants' California wage and hour policies and practices. Specifically, Named Plaintiff Maria Perez alleges that Defendants failed to provide meal breaks, and failed to authorize and permit legally compliant rest breaks each day. Named Plaintiff Maria Perez further alleges that minimum and overtime wages were not paid, or paid at the proper rate. Moreover, Named Plaintiff Maria Perez alleges that the aforementioned conduct resulted in the employees receiving inaccurate wage statements and the underpayment of wages to employees upon termination and/or resignation.

On February 11, 2020, Named Plaintiff Orozco filed a putative class action complaint on behalf of herself and all others similarly situated against Defendant ODW LOGISTICS, INC. alleging the following causes of action: (1) Violation of Labor Code §§ 510, 1198 (unpaid overtime); (2) Violation of Labor Code §§ 226.7, 512(a) (unpaid meal period premiums); (3) Violation of Labor Code § 226.7 (unpaid rest period premiums); (4) Violation of Labor Code §§ 1194, 1197 (unpaid minimum wages); (5) Violation of Labor Code §§ 201, 202, 203 (unpaid wages upon termination); (6) Violation of Labor Code § 204 (wages not timely paid during employment); (7) Violation of Labor Code § 226(a) (failure to provide accurate itemized wage

1 statements); (8) Violation of Labor Code § 1174(d) (failure to keep accurate payroll records); (9)
2 Violation of Labor Code §§ 2800, 2802 (failure to reimburse necessary expenditures); (10)
3 Violation of Labor Code § 227.3 (failure to pay vested vacation time); and (11) Violation of
4 California Business & Professions Code section 17200 *et seq.* (unfair business practices). On May
5 29, 2020, Named Plaintiff Orozco filed an amended complaint adding a cause of action under
6 PAGA. In the Litigation, Named Plaintiff Orozco alleges, that Defendant ODW LOGISTICS,
7 INC. violated California state wage and hour laws, the California Business and Professions Code
8 Section 17200 *et seq.*, and PAGA, as a result of Defendant's California wage and hour policies
9 and practices. Specifically, Named Plaintiff Orozco alleges that Defendant ODW LOGISTICS,
10 INC. failed to provide meal breaks, and failed to authorize and permit legally compliant rest
11 breaks each day. Named Plaintiff Orozco further alleges that minimum and overtime wages were
12 not properly paid, expenses incurred were not reimbursed, and vested vacation time was not
13 properly paid. Moreover, Named Plaintiff alleges that the aforementioned conduct resulted in the
14 employees receiving inaccurate wage statements and the underpayment of wages to employees
15 upon termination and/or resignation.
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17 Following the filing of the Complaints in both actions, counsel for the Parties met and
18 conferred with respect to the potential settlement of the Litigation. Pursuant to these discussions,
19 the Parties agreed to exchange informal discovery and engage and private mediation. The Parties
20 subsequently exchanged informal discovery, including: a substantial sampling of the timekeeping
21 and payroll records of the Settlement Class; information and documentation concerning the
22 claims set forth in the Litigation, such as Defendants' employee handbooks and policies and
23 procedures regarding the payment of wages, meal and rest breaks, time keeping, and the accrual
24 and payment of vested vacation; information regarding the number of putative class members and
25 the number of current versus former employees; the total Workweeks worked by the Settlement
26 Class; the total pay periods during the PAGA period; and the average rates of pay for the
27 Settlement Class.
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1 **B.** Named Plaintiffs and Class Counsel have engaged in good faith, arms-length
2 negotiations. On September 24, 2020, the Parties participated in a mediation before Marc Feder.
3 The mediation resulted in a mediator's proposal which the parties accepted the following week.
4 Through the proposal, the Parties reached a resolution of this matter, subject to the approval of
5 the Court, and finalization of a formal Stipulation for Resolution. The Parties have now entered
6 into a more detailed, formalized Settlement Agreement for submission to the Court for
7 Preliminary and Final Approval.

8 **C.** Class Counsel has conducted an investigation of the law and facts relating to the
9 claims asserted in the Litigation and has concluded, taking into account the sharply contested
10 issues involved, the expense and time necessary to pursue the Litigation through trial and any
11 appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse outcome,
12 the uncertainties of complex litigation, and the substantial benefits to be received by the Named
13 Plaintiffs and the members of the Settlement Class pursuant to this Agreement, that a settlement
14 with Defendants on the terms and conditions set forth herein is fair, reasonable, adequate, and in
15 the best interests of the Settlement Class. Named Plaintiffs, on their own behalf and on behalf of
16 the Settlement Class, have agreed to settle the Litigation with Defendants on the terms set forth
17 herein.
18

19 **D.** Defendants have concluded that, because of the substantial expense of defending
20 against the Litigation, the length of time necessary to resolve the issues presented herein, the
21 inconvenience involved, and the concomitant disruption to their business operations, it is in their
22 best interests to accept the terms of this Agreement. Defendants deny each of the allegations and
23 claims asserted against it in the Litigation. However, Defendants nevertheless desire to settle the
24 Litigation for the purpose of avoiding the burden, expense and uncertainty of continuing litigation
25 and for the purpose of putting to rest the controversies engendered by the Litigation.
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1 E. This Agreement is intended to and does effectuate the full, final and complete
2 resolution of all allegations and claims that were asserted, or could have been asserted, in the
3 Litigation by Named Plaintiffs and members of the Settlement Class as set forth in Section II.A.

4 **III. JURISDICTION**

5 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
6 Litigation includes claims that, while Defendants deny them in their entirety, would, if proven,
7 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
8 Final Approval of the Resolution and after the Court entered Final Judgment, pursuant to
9 California Code of Civil Procedure Section 664.6 the Court shall retain jurisdiction of this action
10 solely for the purpose of interpreting, implementing, and enforcing this Resolution consistent with
11 the terms set forth herein, and the Parties and their counsel submit to the jurisdiction of the Court
12 for purposes of interpreting, implementing and enforcing this Agreement and all orders and
13 judgments entered in connection therewith.
14

15 **IV. STIPULATION OF CLASS CERTIFICATION**

16 The Parties stipulate to the certification of this Settlement Class for purposes of Resolution
17 only. This Stipulation is contingent upon the Preliminary and Final Approval and certification of
18 the Settlement Class only for purposes of Resolution. Should the Resolution not become final, for
19 whatever reason, the fact that the Parties were willing to stipulate provisionally to class
20 certification as part of the Resolution shall have no bearing on, and shall not be admissible in
21 connection with, the issue of whether a class should be certified in a non-settlement context in the
22 Litigation. Defendants expressly reserve the right to oppose class certification should this
23 Resolution be modified or reversed on appeal or otherwise not become final.

24 **V. MOTION FOR PRELIMINARY APPROVAL**

25 Named Plaintiffs will bring a motion for an order preliminarily approving the Resolution
26 including the Notice of Proposed Class Action Settlement, attached hereto as Exhibit "A", and
27 the Workweek Dispute Form, attached hereto as Exhibit "B". The date that the Court grants
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1 Preliminary Approval of this Agreement will be the “Preliminary Approval Date.” Class Counsel
2 will prepare the Motion for Preliminary Approval. Prior to the filing of the approval motion, the
3 Parties shall file a stipulation to consolidate the Litigation, to allow Plaintiffs to file the
4 Consolidated Class Action Complaint, and to add Cristal Perez Aguirre as a Named Plaintiff.

5 **VI. STATEMENT OF NO ADMISSION**

6 **A.** Defendants deny liability to Named Plaintiffs and to the Settlement Class upon
7 any claim or cause of action. This Agreement does not constitute, and is not intended to constitute,
8 an admission by Defendants as to the merits, validity, or accuracy of any of the allegations or
9 claims made against it in the Litigation.

10 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor
11 any statements, discussions or communications, nor any materials prepared, exchanged, issued or
12 used during the course of the negotiations leading to this Agreement or the Resolution, is intended
13 by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be
14 admissible in any way in this case or any other judicial, arbitral, administrative, investigative or
15 other forum or proceeding as evidence of any violation of any federal, state, or local law, statute,
16 ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The
17 Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in
18 this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding,
19 as purported evidence of any violation of any federal, state, or local law, statute, ordinance,
20 regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other
21 purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before
22 the Court that has as its purpose the interpretation, implementation, or enforcement of this
23 Agreement or any orders or judgments of the Court entered in connection with the Resolution.

24 **C.** None of the documents produced or created by Named Plaintiffs or the Settlement
25 Class in connection with the claims procedures or claims resolution procedures constitute, and
26 they are not intended to constitute, an admission by Defendants of any violation of any federal,
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1 state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty
2 at law or in equity.

3 **D.** The Parties agree that class certification pursuant to California *Code of Civil*
4 *Procedure* Section 382 under the terms of this Agreement is for settlement purposes only. Nothing
5 in this Agreement will be construed as an admission or acknowledgement of any kind that any
6 class should be certified or given collective treatment in the Litigation or in any other action or
7 proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement
8 will be admissible in any court or other tribunal regarding the propriety of class certification or
9 collective treatment. In the event that this Agreement is not approved by the Judge or any
10 appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiffs will not be
11 deemed to have waived, limited or affected in any way any claims, rights or remedies in the
12 Litigation, and Defendants will not be deemed to have waived, limited, or affected in any way
13 any of their objections or defenses in the Litigation.
14

15 **VII. WAIVER, RELEASE, DISMISSAL, AND CONFIDENTIALITY**

16 **A. Release as to All Settlement Class Members.**

17 Upon the complete funding of the Settlement Amount, Named Plaintiffs and all
18 Participating Class Members, will release any and all claims and causes of action, known or
19 unknown, contingent or accrued, against Defendants, Defendants' parents, subsidiaries, affiliates,
20 their insurers, attorneys and all agents thereof, arising out of the facts and claims asserted in the
21 Litigation for wage and hour violations, or any other claims or causes of action that could have
22 reasonably been asserted in the Litigation, based upon the facts alleged in the Consolidated Class
23 Action Complaint, including the following claims: (1) failure to provide meal and rest breaks; (2)
24 unpaid wages, including minimum wages, regular wages, overtime and double time wages, and
25 vacation time; (3) wage statement violations; (4) separation pay violations; (5) unfair business
26 practices; (6) inaccurate payroll records; (7) failure to reimburse business related expenses; (8)
27 civil penalties under the Private Attorney General Act of 2004 Cal. Lab. Code §§ 2698 ("PAGA");
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1 and (9) any other applicable provisions of state or federal law, including the applicable IWC wage
2 order. The release as to Participating Class Members shall apply to claims arising during the Class
3 Period.. This release expressly excludes all claims for vested benefits, wrongful termination,
4 unemployment insurance, disability, social security, workers compensation, claims arising during
5 a period while classified as an exempt employee, claims arising before January 21, 2016, and
6 following December 30, 2020, and all other claims based on facts not included in the Consolidated
7 Class Action Complaint.

8 **B. General Release by Named Plaintiffs Only.**

9 In addition to the release made in Section VII(A), Named Plaintiffs make the additional
10 following general release of all claims, known or unknown. Named Plaintiffs release Defendants,
11 and each of its respective subsidiaries, affiliates, predecessors or successors in interest, officers,
12 directors, shareholders, employees, attorneys, agents, assigns, insurers, and re-insurers of any of
13 them, from all claims, demands, rights, liabilities and causes of action of every nature and
14 description whatsoever, known or unknown, asserted or that might have been asserted, whether
15 in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of,
16 relating to, or in connection with any act or omission by or on the part of any Defendant. (The
17 release set forth in this Paragraph B shall be referred to hereinafter as the "General Release.")
18

19 With respect to the General Release, Named Plaintiffs stipulate and agree that, upon the
20 Date of Final Approval, Named Plaintiffs shall be deemed to have expressly waived and
21 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section
22 1542 of the California Civil Code, or any other similar provision under federal or state law, which
23 provides:

24 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS,**
25 **WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT**
26 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF**
27 **EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM**
28 **OR HER MUST HAVE MATERIALLY AFFECTED HIS OR**
HER SETTLEMENT WITH THE DEBTOR.

1 Accordingly, if the facts relating in any manner to this Resolution are found hereafter to be other
2 than or different from the facts now believed to be true, the release of claims contained herein
3 shall be effective as to all unknown claims.

4 Notwithstanding the foregoing provisions, the General Release by Named Plaintiffs do
5 not constitute a waiver of any claims that cannot by law be waived, including claims for workers'
6 compensation, disability insurance, or unemployment insurance.

7 **C. Publicity.**

8 The Named Plaintiffs and their counsel agree that they have not and will not publish the
9 Resolution. Named Plaintiffs' counsel shall not issue any press releases or press statements
10 regarding the Settlement, identify Defendants or its counsel by name in any media including Class
11 Counsel's website, or have any communications with the press or media about the Lawsuit or the
12 Settlement. However, nothing in the provision shall be construed from as preventing the Parties
13 from taking following actions: (a) Named Plaintiffs' counsel shall be allowed to refer to the
14 Litigation and Resolution in other litigations to support their adequacy as attorneys for a putative
15 class or to justify an award of attorney's fees; (b) the Parties shall have the right to disclose the
16 Resolution as may be required under federal or state tax and/or securities laws or under Generally
17 Accepted Accounting Principles; (c) the Parties shall have the right to disclose the Resolution to
18 third parties without identifying the case name, case number, or names of any of the Parties or
19 Released Entities; (d) the Parties may refer to the Resolution, describe its terms, and file the
20 settlement agreement with the Court, the California LWDA, and the Settlement Administrator in
21 connection with any proceedings which are reasonably necessary to obtain approval of the
22 Settlement; and (e) the Parties or their representatives may communicate with accountants or legal
23 advisors regarding the Resolution. Except for the previously listed exceptions, in response to any
24 inquiries about the Lawsuit, the Parties may state that "the matter has been resolved."
25

26 **VIII. SETTLEMENT ADMINISTRATOR**

27 Named Plaintiffs and Defendants, through their respective counsel, have selected Phoenix
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1 Settlement Administrators as the Settlement Administrator to administer the Resolution, which
2 includes but is not limited to distributing and responding to inquiries about the Notice of Proposed
3 Class Action Settlement and Workweek Dispute Form, determining the validity of any disputes
4 and opt-outs, and calculating all amounts to be paid from the Net Settlement Fund. Charges and
5 expenses of the Settlement Administrator, estimated not to exceed Twenty Thousand Dollars
6 (\$20,000.00), will be paid from the Settlement Amount. Any charges and expenses of the
7 Settlement Administrator greater than the allocated Twenty Thousand Dollars (\$20,000.00) will
8 come from the Settlement Amount. If the actual Settlement Administrator fees are less than the
9 Parties' estimation, the difference between the actual and estimated Settlement Administrator fees
10 will be included in the Net Settlement Amount.

11 **IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

12 **A. Notice.**

13
14 Named Plaintiffs and Defendants, through their respective attorneys, have jointly prepared
15 a Notice of Proposed Class Action Settlement (the "Notice"), in the form attached hereto as
16 Exhibit "A", and a Workweek Dispute Form, in the form attached hereto as Exhibit "B", which
17 in substance will be provided to Settlement Class Members as follows:

18 As soon as practicable following Preliminary Approval of the Resolution, but no later than
19 fourteen days (14) calendar days after the Court's Preliminary Approval Order, Defendants will
20 provide to the Settlement Administrator the following information about each Settlement Class
21 Member: (1) name; (2) last known home address; (4) last known telephone number; (4) number
22 of Workweeks as a class member during the class period; (5) social security number ("Class
23 List"); and (6) any other information required by the Settlement Administrator in order to
24 effectuate the terms of the Settlement. Defendants further agree to consult with the Settlement
25 Administrator prior to the production date to ensure that the format will be acceptable to the
26 Settlement Administrator.

27 The Settlement Administrator shall run all the addresses provided through the United
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1 States Postal Service NCOA database (which provides updated addresses for any individual who
2 has moved in the previous four years who has notified the U.S. Postal Service of a forwarding
3 address) to obtain current address information, and shall mail the Notice and Workweek Dispute
4 Form to all Settlement Class Members via first-class regular U.S. Mail using the most current
5 mailing address information available within fourteen (14) calendar days of the receipt of the
6 Class List from Defendants. The Notice shall be provided to Settlement Class Members in both
7 English and Spanish. The Notice shall provide Settlement Class Members sixty (60) days' notice
8 of all applicable dates and deadlines. If a Settlement Class Member is known to be deceased, the
9 Notice and Workweek Dispute Form for that deceased Settlement Class Member shall be mailed
10 to the last known address (or update address, if applicable) of the deceased Settlement Class
11 Member's heir or the legal representative of the deceased Settlement Class Member's estate, to
12 the extent known.

13
14 The Notice will also include information regarding the nature of the Litigation; a summary
15 of the terms of the Settlement; the definition of the Settlement Class; a statement that the Court
16 has preliminarily approved the Settlement; the procedure and time period for objecting to the
17 Settlement, the date and location of the Final Approval hearing; information regarding the opt-
18 out procedure; and Defendants' calculation of the number of Eligible Workweeks that each
19 Settlement Class Member has worked as an employee in California at any time during Settlement
20 Period. The Notice shall enclose the Workweek Dispute Form for Settlement Class Members.

21 For each Settlement Class Member, the Workweek Dispute Form will identify the number
22 of Eligible Workweeks that she/he was employed and their estimated Net Settlement Payment.
23 The Workweek Dispute Form will also inform the employee of their right to dispute this number
24 by completing and returning the form within sixty (60) days of the postmark date of the
25 Workweek Dispute Form. Class Member's receipt of settlement proceeds is not conditional on
26 the submission of the Workweek Dispute Form. Absent the receipt of a Workweek Dispute Form
27 the number of workweeks identified in the Workweek Dispute Form shall be determined to be
28

1 accurate. The resolution of any disputes concerning the number of Eligible Workweeks is
2 discussed in section X.

3 If a Notice is returned from the initial notice mailing, the Settlement Administrator will
4 submit the applicable and available information, including name, Social Security number, and
5 original mailing address, to a company that specializes in address skip tracing in an attempt to
6 locate a more current address within three (3) business days. If the Settlement Administrator is
7 successful in locating a new address, it will promptly re-mail the Notice to the Settlement Class
8 Member. Further, any Notices returned as non-deliverable with a forwarding address to the
9 Settlement Administrator before the Objection/Opt Out Deadline, shall be sent to the forwarding
10 address affixed thereto within three (3) business days.

11 Should any Settlement Class Member timely submit a Workweek Dispute Form with a
12 deficiency, the Settlement Administrator shall, within five (5) calendar days of receipt by the
13 Settlement Administrator of each timely submitted Workweek Dispute Form, send a deficiency
14 notice. The deficiency notice will provide the Settlement Class Member no more than fourteen
15 (14) calendar days from the mailing of the deficiency notice to postmark a written response to
16 cure all deficiencies. The failure of a Settlement Class Member to timely submit a Workweek
17 Dispute or timely respond to a notice of deficiency shall invalidate the dispute unless all Parties'
18 counsel agrees to allow the dispute.

19 No later than fifteen (15) days prior to the Final Approval Hearing, the Settlement
20 Administrator shall provide counsel for Defendants and Class Counsel with a declaration attesting
21 to the completion of the Notice process, including the number of attempts to obtain valid mailing
22 addresses for and re-sending of any returned Notices, as well as the number of valid Workweek
23 Dispute Forms, opt-outs and deficiencies which the Settlement Administrator received.

24
25 **B. Objections.**

26 In order to object to this Resolution, or any term of it, must mail a written statement of the
27 grounds of objection, signed and dated by the objecting Settlement Class member or his or her
28

1 attorney, along with all supporting papers to the Settlement Administrator. In order to be valid
2 and timely, any objection must be by the Objection/Opt Out Deadline. The objection must state
3 the Settlement Class Member's full name, last four digits of their social security number and/or
4 employee ID number, and the dates they worked for Defendants. The objection should also
5 clearly explain why the Settlement Class Member objects to the Resolution and state whether the
6 Settlement Class member (or someone on his or her behalf) intends to appear at the Final
7 Approval Hearing. The Settlement Class Member may appear through a timely submitted written
8 objection, personally, or through an attorney, at his or her own expense, at the Final Approval
9 hearing to present his or her objection directly to the Court. Any attorney who will represent an
10 individual objecting to this Resolution must file a notice of appearance with the Court and serve
11 Class Counsel and Defense Counsel no later than the Objection/Opt Out Deadline.

12
13 Any Settlement Class Member making the objection may not submit a request for
14 exclusion (i.e., must not opt out). If a Settlement Class Member objects to this Resolution, the
15 Settlement Class Member will remain a member of the Settlement Class and if the Court approves
16 this Agreement, the Settlement Class Member will be bound by the terms of the Resolution and
17 Final Approval in the same way and to the same extent as a Settlement Class Member who does
18 not object. The date of mailing of the Notice of Proposed Class Action Settlement to the objecting
19 Settlement Class Member shall be conclusively determined according to the records of the
20 Settlement Administrator. The Court retains final authority with respect to the consideration and
21 admissibility of any Settlement Class Member objections. Any Settlement Class Member who
22 submits an objection may also participate in the Resolution and will receive a Net Settlement
23 Payment from the Settlement Amount. Provided that the Settlement Administrator mailed the
24 Notice to a Settlement Class Member as set forth in Paragraph IX(A), this deadline to file an
25 objection shall apply notwithstanding assertion by any Settlement Class Member of non-receipt
26 of the Notice.
27
28

1 Named Plaintiffs and Defendants will be permitted to respond in writing to such
2 objections no later than seven (7) days before the Final Approval hearing. Named Plaintiffs waive
3 any right to object to the Resolution, and hereby endorses the Resolution as fair, reasonable and
4 adequate and in the best interests of the Settlement Class.

5 **C. Opportunity to be Excluded.**

6 In order for any Settlement Class Member to validly exclude himself or herself from the
7 Settlement Class and this Resolution (i.e., to validly opt out), a written request for exclusion
8 (“Request to be Excluded”) must be signed by the Settlement Class Member or his or her
9 authorized representative and must be sent to the Settlement Administrator, postmarked by no
10 later than the Objection/Opt Out Deadline. The Request to be Excluded must include the Settlement
11 Class Member’s full name, dates of employment, last four digits of their Social Security number
12 and/or Employee ID, and the following statement or a similar statement: “I wish to exclude myself
13 from the settlement reached in the matter of *Perez v. ODW Logistics, Inc.* I understand that by
14 excluding myself, I will not receive any money from the settlement reached in this matter.” The
15 Request to be excluded must be signed and dated by the Settlement Class Member. The Notice of
16 Proposed Class Action Settlement shall contain instructions on how to opt out.
17

18 The date of the initial mailing of the Notice of Proposed Class Action Settlement, and the
19 date the signed Request to be Excluded was postmarked, shall be conclusively determined
20 according to the records of the Settlement Administrator. Any Settlement Class Member who
21 timely and validly submits a Request to be Excluded from the Settlement Class and this
22 Resolution will not be entitled to any individual Net Settlement Payment, will not be bound by
23 the terms and conditions of this Resolution, and will not have any right to object, appeal, or
24 comment thereon.

25 Any Settlement Class Member who does not timely file and mail a Request to be Excluded
26 from the Settlement Class will be deemed included in the Settlement Class in accordance with
27 this Settlement. Named Plaintiff waives any right to be excluded from the Settlement Class.
28

1 **D. Cooperation.**

2 The Parties and their respective counsel agree not to encourage members of the Settlement
3 Class to refrain from participating in the settlement, to opt out of this settlement, or to object to
4 the Resolution, directly or indirectly, through any means. However, if a Settlement Class Member
5 contacts Class Counsel, Class Counsel may discuss the terms of the Resolution and the Settlement
6 Class Member's options.

7 **X. DISPUTES OF ELIGIBLE WORKWEEKS**

8 Named Plaintiffs and Defendants have agreed upon the following procedure to resolve all
9 disputes of the Settlement Class during the Settlement Period.

10 **A. Workweek Information.**

11 All Settlement Class Members shall receive a Workweek Dispute Form which shall state
12 their respective total number of Eligible Workweeks and their estimated Net Settlement Payment.
13

14 If a Settlement Class Member does not dispute the number of Eligible Workweeks set
15 forth in the Workweek Dispute Form, such person need not take further action to participate in
16 the Settlement. If a Settlement Class Member disputes the number of Eligible Workweeks set
17 forth in the Workweek Dispute Form, such person must follow the directions in the Workweek
18 Dispute Form and in the Notice, including preparing a statement setting forth the number of
19 Eligible Workweeks that such person believes in good faith is correct and stating that the
20 Settlement Class Member authorizes the Settlement Administrator to review the Settlement Class
21 Member's personnel file to determine such information and attaching any relevant documentation
22 in support thereof. The Settlement Class Member must mail the signed and completed Workweek
23 Dispute Form to the Settlement Administrator postmarked by no later than the Objection/Opt Out
24 Deadline, or the number of Eligible Workweeks set forth in the Dispute Form will govern the Net
25 Settlement Payments to the members of the Settlement Class.

26 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation
27 with Class Counsel and counsel for Defendants, will review the pertinent payroll records showing
28

1 the dates the Settlement Class Member was employed and the pertinent leave(s) taken, which
2 records Defendants agree to make available to the Settlement Administrator and Class Counsel.

3 After consulting with Class Counsel and counsel for Defendants, the Settlement
4 Administrator shall compute the number of Eligible Workweeks to be used in computing the
5 Settlement Class Member's pro rata share of the Net Settlement Amount. In the event there is a
6 disparity between the dates a Settlement Class Member claims he or she worked during the
7 Settlement Period and the dates indicated by Defendants' records, Defendants' records will
8 control unless inconsistent with paycheck stub(s) (or bona fide copies thereof) provided by the
9 Settlement Class Member, in which case the paycheck stub(s) will control. The Settlement
10 Administrator's decision as to the total number of Eligible Workweeks shall be final and non-
11 appealable. The Settlement Administrator shall send written notice of the decision on any such
12 claim to the Settlement Class Member, to Class Counsel, and counsel for Defendants within ten
13 (10) calendar days of receipt of the dispute.
14

15 **XI. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

16 **A. Distribution Formula.**

17 Participating Class Members will receive a lump sum payment as good and valuable
18 consideration for the waiver and release of claims set forth in Section VII(A), above, in an amount
19 determined by the Settlement Administrator in accordance with the provisions of this Agreement.

20 The lump sum payment to each Participating Class Member will be determined by
21 dividing the Net Settlement Amount by the total number of Eligible Workweeks worked by all
22 Participating Class Members during the Settlement Period (the "Weekly Amount") and then
23 multiplying the Weekly Amount by the number of Eligible Workweeks worked by the individual
24 Participating Class Member as determined by the Settlement Administrator in accordance with
25 Section X, above, less any applicable withholding taxes based on the Parties stipulated allocation
26 of the Net Settlement Amount as provided for in Section XV, below.

27 **B. Funding of Resolution.**

28

1 The funding of the Settlement Amount will be completed at one time with funds provided
2 to and escrowed by the Settlement Administrator. The funds used for the Settlement Amount shall
3 be paid to the Claims Administrator by Defendants within fifteen (15) days of the Court's Final
4 Approval Order. No distributions from these escrowed funds will be made until fifteen (15) days
5 after the Effective Date. The lump-sum distribution shall occur 15 days after the Effective Date.

6 If a Participating Class Member is deceased at the time of distribution, the Settlement
7 Administrator shall distribute the deceased Participating Class Member's Net Settlement Payment
8 to the deceased Participating Class Member's legal heir(s). In the event of a dispute as to the legal
9 heir(s), the Settlement Administrator shall notify the executor of the deceased Participating Class
10 Member's estate and attempt to place the deceased Participating Class Member's in escrow or
11 similar disposition such that any competing heirs may take whatever action they wish to resolve
12 ultimate disposition of such money and the Settlement Administrator and the Parties hereto may
13 disclaim any further interest in or obligation in relation to such money.

14 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
15 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
16 search and, if another address is identified, shall mail the check to the newly identified address.
17 If the Settlement Administrator is unable to obtain a valid mailing address through this process,
18 the monies represented by the check shall be turned over according to the below procedures.

19 Settlement checks will specifically indicate that they are void if not negotiated within one
20 hundred eighty 180 days of their issuance. Any settlement checks that remain uncashed one
21 hundred eighty (180) or more calendar days after issuance by the Settlement Administrator shall
22 be voided. The Settlement Administrator will remit the entire amount of each Participating Class
23 Member's uncashed Net Settlement Payment to the Controller of the State of California pursuant
24 to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, to be held in trust for those
25 Participating Class Members who did not timely cash their settlement checks.

26
27 **C. Time for Distribution of the Attorney Fees, Costs, and PAGA Settlement and**
28 **Enhancement to Named Plaintiffs.**

1 The Settlement Administrator shall cause the Court approved enhancement to Named
2 Plaintiffs, Court approved attorney's fees and Litigation costs, and PAGA Settlement to be paid
3 in pro rata amounts at the same time and manner as the Net Settlement Payments to the
4 Participating Class Members.

5 **XII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

6 The amounts paid under this Agreement do not represent a modification of any previously
7 credited hours of service under any employee benefit plan, policy or bonus program sponsored
8 by Defendants. Such amounts will not form the basis for additional contributions to, benefits
9 under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by
10 Defendants, policies or bonus programs. Any payments made under the terms of this Resolution
11 shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages,
12 or any other form of compensation for the purposes of Defendants' benefit plan, policy or bonus
13 program. Defendants retain the right to modify the language of their benefit plans, policies and
14 bonus programs to effect this intent and to make clear that any amounts paid pursuant to this
15 Resolution are not for "hours worked," "hours paid," "hours of service," or any similar measuring
16 term as defined by applicable plans, policies and bonus programs for purpose of eligibility,
17 vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not
18 required by this Resolution.

19
20 **XIII. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

21 Defendants shall not oppose an application by Class Counsel for, and Class Counsel shall
22 not seek or receive an amount in excess of Seven Hundred Thousand Dollars (\$700,000.00) which
23 represents 35% of the Settlement Amount for all past and future attorneys' fees necessary to
24 prosecute, settle and administer the Litigation and this Resolution. Additionally, Defendants shall
25 not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an
26 amount in excess of, Twenty-Five Thousand Dollars (\$25,000.00), which represents all past and
27 future Litigation costs and expenses necessary to prosecute, settle and administer the Litigation
28

1 and this Resolution. Any attorneys' fees or Litigation costs awarded to Class Counsel by the Court
2 shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement
3 Amount. The "future" aspect of these amounts include, without limitation, all time and expenses
4 expended by Class Counsel in defending the Resolution and securing Final Approval (including
5 any appeals therein). There will be no additional charge of any kind to either Settlement Class
6 Members or request for additional consideration from Defendants for such work. This amount
7 shall include all attorneys' fees, Litigation costs and expenses for which Named Plaintiffs and
8 Class Counsel could claim under any legal theory whatsoever. Should the Court approve a lesser
9 percentage or amount of fees and/or Litigation costs than the amount that Class Counsel
10 ultimately seeks, then the unapproved portion or portions shall revert to the Net Settlement
11 Amount.

12 **XIV. ENHANCEMENT TO NAMED PLAINTIFFS**

13
14 Defendants shall not oppose an application by Named Plaintiffs and Named Plaintiffs
15 shall not seek or receive an amount in excess of Seven Thousand Five Hundred Dollars
16 (\$7,500.00) each to Named Plaintiffs Maria Perez and Rocio Orozco and Five Thousand Dollars
17 (\$5,000.00) to Proposed Named Plaintiff Cristal Perez Aguirre, for a total of \$20,000.00, for their
18 participation in and assistance with the Litigation. Any enhancement awarded to Named Plaintiffs
19 by the Court shall be deducted from the Settlement Amount for the purpose of determining the
20 Net Settlement Amount, and shall be reported on IRS Form 1099. If the Court approves an
21 enhancement of less than Seven Thousand Five Hundred Dollars (\$7,500.00) to Named Plaintiffs
22 Maria Perez or Rocio Orozco or less than Five Thousand Dollars (\$5,000.00) to Proposed Named
23 Plaintiff Cristal Perez Aguirre, then the unapproved portion or portions shall revert into the Net
24 Settlement Amount.

25 **XV. TAXATION AND ALLOCATION**

26 The Parties agree that all employee-side employment taxes and other legally required
27 withholdings will be withheld from payments to the members of the Settlement Class and Named
28

1 Plaintiff based on the Parties stipulated allocation of the Net Settlement Amount as provided for
2 in this Section. All Employer Taxes shall be paid by Defendants separately and in addition to the
3 Settlement Amount.

4 The amount of federal income tax withholding will be based upon a flat withholding rate
5 for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended
6 or supplemented. Income tax withholding will also be made pursuant to applicable state and/or
7 local withholding codes or regulations.

8 For withholding tax characterization purposes and payment of taxes, the Net Settlement
9 Amount shall be deemed and is allocated by the Parties as follows (“Net Settlement Allocation”):

- 10 (1) 20% as wages; and
11 (2) 80% as penalties and interest.

12 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by
13 the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement. If the Code,
14 the regulations promulgated thereunder, or other applicable tax law, is changed after the date of
15 this Agreement, the processes set forth in this section may be modified in a manner to bring
16 Defendants into compliance with any such changes.

17
18 **XVI. PRIVATE ATTORNEY GENERAL ACT ALLOCATION**

19 In order to implement the terms of this Resolution and to settle claims alleged under the
20 Private Attorneys’ General Act, (“PAGA”) California Labor Code section 2698 *et seq.*, the Parties
21 agree to allocate Fifty Thousand Dollars and Zero Cents (\$50,000.00) as the penalties portion of
22 the Settlement Amount as the PAGA Settlement Amount. Pursuant to PAGA, Seventy Five
23 Percent (75%) or Thirty-Seven Thousand, Five Hundred Dollars and Zero Cents (\$37,500.00) of
24 the PAGA Settlement Amount will be paid to the California Labor and Workforce Development
25 Agency (“LWDA”), and Twenty- Five Percent (25%) or Twelve Thousand, Five Hundred Dollars
26 and Zero Cents (\$12,500.00) of the PAGA Settlement Amount will be included in the Net
27 Settlement Amount to be distributed to Participating Class Members. The Settlement
28

1 Administrator shall disburse the PAGA Settlement to the California Labor Workforce
2 Development Agency ("LWDA") within fifteen (15) calendar days of the Effective Date.

3 **XVII. COURT APPROVAL**

4 This Agreement and the Resolution is contingent upon Final Approval by the Court and
5 the entry of Final Judgment Named Plaintiffs and Defendants agree to take all steps as may be
6 reasonably necessary to secure both Preliminary Approval and Final Approval of the Resolution,
7 to the extent not inconsistent with the terms of this Agreement, and will not take any action
8 adverse to each other in obtaining Judge approval, and, if necessary, appellate approval, of the
9 Resolution in all respects. Named Plaintiffs and Defendants expressly agree that they will not file
10 any objection to the terms of this Stipulation of Resolution or assist or encourage any person or
11 entity to file any such objection.

12 **XVIII. NEUTRAL EMPLOYMENT REFERENCE**

13 Defendants agree that they will adopt a neutral reporting policy regarding future
14 employment inquiries related to Named Plaintiffs. Thus, in the event that any potential or future
15 employers should inquire regarding Defendants' employment of Named Plaintiffs, they will be
16 informed only of Named Plaintiffs' dates of employment with Defendants, job title(s) during her
17 employment with Defendants, and starting and final rates of pay.

18 **XIX. APPRISAL AND CERTIFICATION BY THE SETTLEMENT**
19 **ADMINISTRATOR.**

20 The Settlement Administrator shall keep Class Counsel and Defendants' Counsel apprised
21 of all distributions from the Settlement Amount. Upon completion of administration of the
22 Settlement, the Settlement Administrator shall provide written certification of such completion to
23 the Court and to Class Counsel and Defendants' Counsel. The Settlement Administrator shall also
24 provide Defendants with a final accounting, including the names of payees and Net Settlement
25 Payments.
26

27 //
28

1 **XX. MISCELLANEOUS PROVISIONS**

2 **A. Stay of Litigation.**

3 Named Plaintiff and Defendants agree to the stay of all discovery in the Litigation,
4 pending Final Approval of the Resolution by the Court.

5 **B. Interpretation of the Agreement.**

6 This Agreement constitutes the entire agreement between Named Plaintiffs and
7 Defendants. Except as expressly provided herein, this Agreement has not been executed in
8 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
9 written representations or terms shall modify, vary or contradict its terms. In entering into this
10 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
11 may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
12 enforced under the laws of the State of California, both in its procedural and substantive aspects,
13 without regard to its conflict of laws provisions. Any claim arising out of or relating to the
14 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
15 Court of the State of California for the County of San Bernardino, and Named Plaintiffs and
16 Defendants hereby consent to the personal jurisdiction of the Judge over them solely in connection
17 therewith. The foregoing is only limited to disputes concerning this Agreement and in no way
18 limits or negates the enforceability and effect of the underlying arbitration agreements signed by
19 employees of Defendants, specifically including but not limited to Named Plaintiffs, obligating
20 them to arbitrate any and all claims on an individual (and not on a class, collective, or
21 representative) basis. Named Plaintiffs, on their own behalf and on behalf of the Settlement Class,
22 and Defendants participated in the negotiation and drafting of this Agreement and had available
23 to them the advice and assistance of independent counsel. As such, neither Named Plaintiffs nor
24 Defendants may claim that any ambiguity in this Agreement should be construed against the
25 other.
26
27
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1 The terms and conditions of this Agreement constitute the exclusive and final
2 understanding and expression of all agreements between Named Plaintiffs and Defendants with
3 respect to the Resolution of the Litigation. The Agreement may be modified only by a writing
4 signed by counsel for all Parties or their successors-in-interest.

5 **C. Further Cooperation.**

6 Named Plaintiffs and Defendants and their respective attorneys shall proceed diligently to
7 prepare and execute all documents, to seek the necessary approvals from the Court, and to do all
8 things reasonably necessary or convenient to consummate the Agreement as expeditiously as
9 possible.

10 **D. Confidentiality of Documents.**

11 After the expiration of any appeals period, Named Plaintiffs, the Settlement
12 Administrator, and Class Counsel shall maintain the confidentiality of all documents, deposition
13 transcripts, declarations and other information obtained in the lawsuit, unless necessary for appeal
14 or such documents are ordered to be disclosed by the Judge or by a subpoena.

15 **E. Counterparts.**

16 The Agreement may be executed in one or more actual or non-original counterparts, all
17 of which will be considered one and the same instrument and all of which will be considered
18 duplicate originals.

19 **F. Authority.**

20 Each individual signing below warrants that he or she has the authority to execute this
21 Agreement on behalf of the party for whom or which that individual signs.

22 **G. No Third Party Beneficiaries.**

23 Named Plaintiffs, members of the Settlement Class, and Defendants are direct
24 beneficiaries of this Agreement, but there are no third party beneficiaries.

25 **H. Force Majeure.**

26 The failure of any party to perform any of its obligations hereunder shall not subject such
27
28

1 party to any liability or remedy for damages, or otherwise, where such failure is occasioned in
2 whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions,
3 floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages,
4 shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage,
5 terrorist acts, acts or failures to act of any third parties, or any other similar or different
6 circumstances or causes beyond the reasonable control of such party.

7 **I. Deadlines Falling on Weekends or Holidays.**

8 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or
9 legal holiday, that deadline shall be continued until the following business day.

10 **J. Severability.**

11 In the event that any one or more of the provisions contained in this Agreement shall for
12 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
13 unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel,
14 on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such
15 invalid, illegal, or unenforceable provision had never been included in this Agreement.

16 **K. Escalator Clause.**

17 Defendants estimate the class consists of approximately 48,755 Eligible Workweeks and
18 this estimate serves as the basis for Named Plaintiff accepting the settlement. Should the total
19 number of Eligible Workweeks increase by more than 10% the Settlement Amount will increase
20 proportionately over the 10% grace. (i.e. meaning if the total Eligible Workweeks increase by
21 11% the Settlement Amount will increase by 1%).

22 **L. Defendants' Fees and Costs**

23 All of Defendants' own legal fees, costs and expenses incurred in this Action shall be
24 borne by Defendants.
25
26
27
28

1 APPROVED AS TO CONTENT

2
3
4 Dated: _____, 2020 By: _____
5 MARIA PEREZ

6
7 Dated: 12/04/2020, 2020 By: Rocio Orozco
8 ROCIO OROZCO

9
10
11 Dated: _____, 2020 By: _____
12 CRISTAL PEREZ AGUIRRE

13
14 Dated: Dec. 11, 2020 By: [Signature]
15 For: ODW LOGISTICS, INC.

16
17
18 Dated: 12 / 11, 2020 By: [Signature]
19 For: STAFFING LEADERSHIP GROUP, LLC

1 APPROVED AS TO CONTENT

2
3 Dated: 12/8/2020, 2020 By: Maria Perez
4 MARIA PEREZ

5
6
7 Dated: _____, 2020 By: _____
8 ROCIO OROZCO

9
10 Dated: 12/7/2020, 2020 By: Cristal Perez Aguirre
11 CRISTAL PEREZ AGUIRRE

12
13
14 Dated: _____, 2020 By: _____
15 For: ODW LOGISTICS, INC.

16
17
18 Dated: _____, 2020 By: _____
19 For: STAFFING LEADERSHIP GROUP, LLC

1 APPROVED AS TO FORM

2 DATE: 12/7/2020
3 _____, 2020

SMITH & BENOWITZ

4 By: Louis Benowitz
5 Louis Benowitz
6 Benjamin Smith
7 Attorneys for Plaintiff
8 MARIA PEREZ and Proposed Named Plaintiff
9 CRISTAL PEREZ AGUIRRE

10 Dated: _____, 2020

PROTECTION LAW GROUP, LLP

11
12 By: _____
13 Amir Nayebdadash
14 Heather Davis
15 S. Emi Minne
16 Attorneys for Plaintiff,
17 ROCIO OROZCO

18 Dated: December 11, 2020

FISHER & PHILLIPS, LLP

19
20 By: Christopher J. Boman
21 Christopher J. Boman
22 Boris Sorsher
23 Ashton Riley
24 Attorneys for Defendants,
25 ODW LOGISTICS, INC. and STAFFING
26 LEADERSHIP GROUP, LLC
27
28

1 APPROVED AS TO FORM

2 DATE: _____, 2020

SMITH & BENOWITZ

3
4 By: _____

5 Louis Benowitz
6 Benjamin Smith
7 Attorneys for Plaintiff
8 MARIA PEREZ and Proposed Named Plaintiff
9 CRISTAL PEREZ AGUIRRE

10 Dated: December 4, 2020

PROTECTION LAW GROUP, LLP

11
12 By:  _____

13 Amir Nayebdadash
14 Heather Davis
15 S. Emi Minne
16 Attorneys for Plaintiff,
17 ROCIO OROZCO

18 Dated: _____, 2020

FISHER & PHILLIPS, LLP

19
20 By: _____

21 Christopher J. Boman
22 Boris Sorsher
23 Ashton Riley
24 Attorneys for Defendants,
25 ODW LOGISTICS, INC. and STAFFING
26 LEADERSHIP GROUP, LLC
27
28

1 APPROVED AS TO FORM

2 DATE: _____, 2020

SMITH & BENOWITZ

4 By: _____

5 Louis Benowitz
6 Benjamin Smith
7 Attorneys for Plaintiff
8 MARIA PEREZ and Proposed Named Plaintiff
9 CRISTAL PEREZ AGUIRRE

10 Dated: December 4, 2020

PROTECTION LAW GROUP, LLP

12 By: _____

13 Amir Nayebdadash
14 Heather Davis
15 S. Emi Minne
16 Attorneys for Plaintiff,
17 ROCIO OROZCO

18 Dated: _____, 2020

FISHER & PHILLIPS, LLP

20 By: _____

21 Christopher J. Boman
22 Boris Sorsher
23 Ashton Riley
24 Attorneys for Defendants,
25 ODW LOGISTICS, INC. and STAFFING
26 LEADERSHIP GROUP, LLC
27
28

1 APPROVED AS TO FORM

2 DATE: 12/7/2020
3 _____, 2020

SMITH & BENOWITZ

4 By: Louis Benowitz
5 Louis Benowitz
6 Benjamin Smith
7 Attorneys for Plaintiff
8 MARIA PEREZ and Proposed Named Plaintiff
9 CRISTAL PEREZ AGUIRRE

10 Dated: _____, 2020

PROTECTION LAW GROUP, LLP

11
12 By: _____
13 Amir Nayebdadash
14 Heather Davis
15 S. Emi Minne
16 Attorneys for Plaintiff,
17 ROCIO OROZCO

18 Dated: December 11, 2020

FISHER & PHILLIPS, LLP

19
20 By: Christopher J. Boman
21 Christopher J. Boman
22 Boris Sorsher
23 Ashton Riley
24 Attorneys for Defendants,
25 ODW LOGISTICS, INC. and STAFFING
26 LEADERSHIP GROUP, LLC
27
28

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Perez, et al. v. ODW Logistics, et al.

San Bernardino County Superior Court, Case Nos. CIVDS2001904 and CIVDS2004281

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.
PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

To:	All current and former non-exempt hourly employees of Defendant ODW LOGISTICS, INC. who performed work in the State of California at any time during the Class Period and all current and former non-exempt hourly employees of Defendant STAFFING LEADERSHIP GROUP, LLC who were placed at or assigned to work at any ODW LOGISTICS, INC, worksite in the state of California at any time between January 21, 2016 to December 30, 2020
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BASIC INFORMATION

1. What is this settlement about?

A lawsuit was commenced by former employees of ODW Logistics, Inc. and Staffing Leadership Group, LLC (“Defendants”) on January 21, 2020. The case is currently pending in the San Bernardino County Superior Court, Case Nos. CIVDS2001904 and CIVDS2004281.

The lawsuit claims that Defendants violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiffs are alleging that Defendants failed to provide compliant meal and rest periods and associated premium pay, did not properly pay employees overtime or pay minimum wages for all time worked, did not provide accurate wage statements, did not timely pay all wages during employment and all wages owed at termination of employment, did not maintain accurate records, failed to reimburse employees for necessary business expenses, failed to pay accrued vacation time, and maintained unfair business practices. The lawsuit also seeks to recover penalties pursuant to the California Private Attorneys General Act (“PAGA”). The lawsuit claims that the Defendants violated the California Labor Code and the California Business and Professions Code, entitling Class Members to, *inter alia*, damages, penalties and restitution. Defendants deny all alleged violations and deny that they owe Class Members any monies at all and alleges that all monies due employees were paid in accordance with applicable California law. The Court has not made a ruling on the merits of the case.

Defendants have denied and continue to deny all of the allegations in the Action or that they violated any law and contend that at all times they have complied with the law.

2. Why is this a class action?

In a class action, one or more people called the Class Representative (in this case Maria Perez, Rocio Orozco and Cristal Perez Aguirre, also known as “Plaintiffs”), sued on behalf of people who appear to have similar claims (in this case all individuals who have either: (1) been employed by ODW Logistics Inc. as non-exempt employees in the state of California at any time between January 1, 2016 and December 30, 2020, or (2) been employed by Staffing Leadership Group, LLC and were placed or assigned to work at any ODW Logistics, Inc. worksite in the State of California anytime between January 1, 2016 and December 30, 2020. All these people are referred to here as Class Members. One court, the San Bernardino Superior Court will resolve the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The San Bernardino County Superior Court is in charge of this class action.

3. Why is there a settlement?

The Court has not decided in favor of the Plaintiffs or Defendants. Instead, both sides agreed to a settlement which is memorialized in the Stipulation of Class Action Settlement (“Agreement” or “Settlement”) because both sides recognize the costs and risks of proceeding forward in this litigation.

The Settlement represents a compromise and settlement of highly disputed claims. **Nothing in the Settlement is intended or will be construed as an admission by the Defendants that the claims in the Action have merit or that the Defendants have any liability to the Plaintiffs or to the Settlement Class Members.** Plaintiffs and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is appropriate. Plaintiffs and Class Counsel have concluded that the Settlement is fair, reasonable, and adequate, and is in the best interests of the Settlement Class Members.

On [DATE OF PRELIMINARY APPROVAL] the Court granted preliminary approval of the Settlement, appointed Plaintiffs Maria Perez, Rocio Orozco, and Cristal Perez Aguirre as the Class Representatives, and appointed their attorneys at Protection Law Group, LLP and Smith & Benowitz as counsel for the Class (“Class Counsel”).

The Class Representatives and Class Counsel think the Settlement is best for the Class.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the Settlement?

You are part of the Settlement, and a Class Member, if you were either employed by Defendant ODW LOGISTICS, INC., as an hourly-paid, non-exempt employee who performed work in the State of California at any time between January 1, 2016 and December 30, 2020 or if you were an non-exempt hourly employee of Defendant STAFFING LEADERSHIP GROUP, LLC, who was placed at or assigned to work at any ODW LOGISTICS, INC, worksite in the state of California between January 1, 2016 and December 30, 2020.”

THE SETTLEMENT BENEFITS—WHAT YOU GET

5. What does the Settlement provide?

The Settlement provides that Defendants will pay a maximum of One Million Nine Hundred Ninety-Nine Thousand Nine Hundred and Ninety-Nine Dollars and Ninety-Nine Cents (\$1,999,999.99) (“Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion (“Participating Class Members”). The Net Settlement Amount is the Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed 35% of the Settlement Amount or Seven Hundred and Thousand Dollars and Zero Cents (\$700,000.00);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00);
- C. **Enhancement Payment to the Class Representative** in an amount not to exceed Seven Thousand Five Hundred Dollars Zero Cents (\$7,500.00) each to Plaintiffs Maria Perez and Rocio Orozco and Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff Cristal Perez Aguirre;
- D. **Settlement Administration Costs** which are currently estimated not to exceed Twenty-Thousand Dollars and Zero Cents (\$20,000.00); and

- E. **Payment to California the Labor Workforce Development Agency (“LWDA”)** in the amount of Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00) which represents the LWDA’s Seventy-Five Percent (75%) portion of civil penalties from the Fifty Thousand Dollars and Zero Cents (\$50,000.00) allocated toward PAGA claims (“PAGA Settlement Amount”). The remaining Twelve Thousand Five Hundred and Dollars and Zero Cents (\$12,500.00) will remain a part of the Net Settlement Amount for distribution to Participating Class Members. This allocation of the PAGA Payment is required by the LWDA.

The portion of the Net Settlement Amount that you are eligible to claim (“Net Settlement Payment”) will be determined on a *pro rata* basis, based on the number of weeks you either:

- a) performed work for ODW Logistics, Inc. in California as an hourly-paid, non-exempt employee of Defendants between January 21, 2016 and December 30, 2020 or
- b) if you were an non-exempt hourly employee of Defendant STAFFING LEADERSHIP GROUP, LLC, the number of weeks between January 21, 2016 and December 30, 2020 in which who was placed at or assigned to work at any ODW LOGISTICS, INC, worksite in the state of California

Your Individual Settlement Share will be apportioned as twenty percent (20%) wages and eighty percent (80%) penalties and interest. The wage portion of the Net Settlement Payment will be subject to withholdings for the employee’s share of state and federal payroll taxes and will be reported on a W-2 Form. Defendants will separately pay the employer’s share of payroll taxes with respect to the wage portion of each Net Settlement Payment. The penalties and interest portion of the Net Settlement Payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

You worked XXX workweeks between January 21, 2016 and December 30, 2020. Your Estimated Settlement Share is \$XXX.XX. The amount of the payment may change depending on the number of timely and valid requests for exclusions submitted in the Settlement, if any.

This amount was determined based on Defendants’ record of your employment between January 21, 2016 and December 30, 2020, and is presumed correct. If you dispute the accuracy of Defendant’s records as to the number of weeks worked during the Class Period, Workweek Dispute Form, along with any documents supporting your position, to the Settlement Administrator by [DATE]. All disputes regarding your workweeks will be resolved and decided by the Settlement Administrator, and the Settlement Administrator’s decision on all disputes will be final and binding. The Settlement Administrator’s contact information is listed below:

[Settlement Administrator]
[Address]
[Telephone No].

HOW TO GET A PAYMENT FROM THE NET SETTLEMENT AMOUNT

6. How can I get a payment?

You do not have to do anything to qualify for a payment of your portion of the Net Settlement Amount.

7. What claims are being released by the Settlement?

As of the Effective Date, in exchange for the consideration set forth in the proposed settlement, Plaintiffs and any Class Member who does not submit a request for exclusion will release the “Released Parties” from the “Released Claims” for the “Class Period.”

The term “Released Parties” means Defendants ODW Logistics, Inc., Staffing Leadership Group, LLC and all of their present and former parents, subsidiaries, affiliates, their insurers, attorneys and all agents thereof.

The term “Released Claims” means any and all claims and causes of action, known or unknown, contingent or accrued based upon the facts alleged in the Consolidated Class Action Complaint, including the following claims: (1) failure to provide meal and rest breaks; (2) unpaid wages, including minimum wages, regular wages, overtime and double time wages, and vacation time; (3) wage statement violations; (4) separation pay violations; (5) unfair business practices; (6) inaccurate payroll records; (7) failure to reimburse business related expenses; (8) civil penalties under the Private Attorney General Act of 2004 Cal. Lab. Code §§ 2698 (“PAGA”); and (9) any other applicable provisions of state or federal law, including the applicable IWC wage order. The Release Claims are limited to claims arising during the Class Period in connection with work performed for Defendant ODW Logistics, Inc.

The term “Class Period” means the period from January 21, 2016 to December 30, 2020.

EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS

If you want to keep the right to sue or continue to sue Defendants with respect to the Released Claims (other than those which arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*), then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive payment of a portion of the Net Settlement Amount.

All Class Members will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged any and all Released Claims arising under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*), with respect to all of the Released Parties irrespective of whether a Class Member submits a request for exclusion.

8. How can I not participate in the Settlement?

To exclude yourself from the Settlement you must submit a signed and dated, written Request to be Excluded. Your Request to be Excluded must include your full name, dates of employment, and last four digits of your Social Security number and/or Employee ID. Your Request for Exclusion must also include the following statement or a similar statement: “I wish to exclude myself from the settlement reached in the matter of *Perez v. ODW Logistics, Inc.* I understand that by excluding myself, I will not receive any money from the settlement reached in this matter.”.

The written Request to be Excluded must be mailed to the Settlement Administrator at the address listed below, post-marked by [DATE]. You cannot exclude yourself by phone.

[Settlement Administrator]
[Address]

If you ask to be excluded, you will not receive payment for the release of your individual wage claims and you cannot object to the Settlement. You will not be legally bound by the release of Released Claims (except for Released Claims that arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*)).

You may be able to sue Defendants and/or the Released Parties or continue any suit you have pending against Defendants or the Released Parties, regarding the Released Claims (except for Released Claims that arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*)).

9. If I don’t exclude myself, can I sue Defendants for the same thing later?

No. Unless you submit a Request to be Excluded, you give up the right to sue Defendants and Released Parties for the Released Claims. If you have a pending lawsuit involving the Released Claims, speak to your lawyer in that lawsuit immediately.

10. If I exclude myself, can I still get money from this Settlement?

No. (except for money for Released Claims that arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*). But if you submit a timely and valid request for exclusion, you retain any right that you may have to sue, continue to sue, or be part of a different lawsuit against Released Parties for Released Claims (except for Released Claims that arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*).

THE LAWYERS REPRESENTING YOU

11. Who Represents the Class ?

The Court has approved PROTECTION LAW GROUP, LLP and SMITH & BENOWITZ as Class Counsel. The firms' contact information is:

PROTECTION LAW GROUP LLP

Heather Davis, Esq.
Amir Nayebdadash, Esq.
S. Emi Minne, Esq.
237 California Street, Suite A
El Segundo, California 90245
Telephone: (424) 290-3095
Facsimile: (866) 264-7880

SMITH & BENOWITZ

Louis Benowitz, Esq.
Benjamin Smith, Esq.
4515 Van Nuys Boulevard, Suite 302
Sherman Oaks, CA 91403
Telephone: (818) 839-7800
Facsimile: (818) 839-9700

You will not be charged for these lawyers.

12. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees of up to \$700,000.00 and reimbursement of actual out-of-pocket litigation cost/expenses of up to \$25,000.00. These amounts are subject to Court approval and the Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

You can object to the Settlement or some part of it.

13. How do I tell the Court I want to object to the Settlement?

If you are a Class Member, you can object to the Settlement and can give reasons for why you think the Court should not approve it. The Court will consider your views. To submit a written objection, you must mail your objection to the Settlement Administrator no later than [DATE]. Your objection must include your full name, the last four digits of your social security number or employee ID number, the dates you worked for Defendants, the specific reason for your objection, and whether you plan to attend the final approval hearing. You may also come to the Final Approval Hearing on [DATE] and object at the hearing even if you do not submit a written objection.

14. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement ("Final Approval Hearing"). You may attend, but you do not have to attend.

15. When and where will the Court decide whether to approve the settlement?

The Court will hold the Final Approval Hearing at _____ a.m./p.m. on _____, 2021, at the San Bernardino County Superior Court located at 247 West Third Street, San Bernardino CA 92415 in Department 26.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

16. Do I have to come to the hearing?

No. If you agree to the Settlement you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf.

17. How will I learn if the settlement was approved

A notice of final judgment will be posted on the Settlement Administrator website located at www._____com

IF YOU DO NOTHING

18. What happens if I do nothing at all?

If you do nothing, you will receive your share of the Net Settlement Amount, and you will release the Released Claims. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or Released Parties about the Released Claims, ever again. Your share of the Net Settlement Amount will be mailed to you and remain negotiable for 180 days. At the end of this period, if you do not cash this check, this money will be sent to the California State Controller's Office Unpaid Property Fund in your name and you may claim it there.

GETTING MORE INFORMATION

19. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by viewing the settlement located on the Settlement Administrator's website at _____ or by contacting the Settlement Administrator or Class Counsel.

WHAT IF MY INFORMATION CHANGES?

19. What if my contact information changes?

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE
CLERK OF THE COURT OR THE JUDGE**

EXHIBIT B

WORKWEEK DISPUTE FORM

Perez, et al. v. ODW Logistics, Inc., et al.

San Bernardino Superior Court Case No. CIVDS2001904 and CIVDS2004281

INSTRUCTIONS: You have been identified as a member of the Settlement Class described in the Notice of Proposed Class Action Settlement that was sent to you with this Workweek Form. This form can be used to update your contact information regarding, or to dispute your total workweeks according to Defendants ODW Logistics, Inc. and Staffing Leadership Group, LLC's ("Defendants") records.

If the information contained on this form is correct, you do NOT need to take any action at this time and will automatically be sent a Settlement payment after the Settlement is approved.

If the contact information contained in this form is incorrect, or if you believe the number of workweeks reported in Defendant's records is inaccurate, you must complete, sign, and return this form, along with documents supporting your dispute, to the Settlement Administrator at:

Phoenix Settlement Administrators

Perez v. ODW Logistics, Inc.

[Address]

ALL WORKWEEK DISPUTE FORMS MUST BE MUST POSTMARKED NO LATER THAN [60 DAYS AFTER MAILING OF NOTICE].

1. CURRENT CLAIMANT INFORMATION CORRECTED INFORMATION

<<CLASS MEMBER NAME>>

<<STREET ADDRESS>>

<<CITY, STATE, ZIP>>

Last 4 Digits of Social Security No.: <<>>

If any of the information above is incorrect, please provide the corrected information in the space provided and return this form to the Settlement Administrator at the address listed above.

2. REPORTED WORKWEEKS

According to Defendants' records, you performed work for ODW Logistics, Inc. in California as a non-exempt, for a total of [INSERT NO. OF WORKWEEKS] workweeks during the time period between January 21, 2016 to December 30, 2020. Based on this figure, the Settlement Administrator has preliminarily calculated your total share due under this Settlement to be approximately \$ _____. This figure could change depending on whether any Class Members opt-out from the Settlement, approval of other payments by the Court, and required tax withholdings.

If the information in Section 2 is accurate, you do NOT need to take any action at this time and will automatically be sent a Settlement.

If you believe that the information in this Section 2 is inaccurate, please check the box below, write in the number of workweeks you believe you worked for ODW Logistics, Inc. in California as a non-exempt, hour employee from January 21, 2016 to December 30, 2020, sign and date this form where indicated below, and return this completed form to the Settlement Administrator, along with any documents that support your dispute. If you do not provide any documents supporting your dispute, the number of workweeks reported in

Defendants' records will be presumed correct and your challenge will be rejected by the Settlement Administrator.

☐

I wish to challenge the total number of workweeks reported above. I believe that I worked _____ workweeks for ODW Logistics, Inc. between January 21, 2016 to December 30, 2020. I have included any documentary evidence that supports my claim, and I recognize that my claim will not be reviewed without such statement or evidence being provided. I understand that by submitting this challenge, I authorize the Settlement Administrator to review and make a determination based on Defendant's records and the records/statement I submitted. I understand that this determination may increase or decrease the amount of my settlement share. I understand that such determinations are final and binding, with no opportunity for further appeal.

Date: _____

Signature of Claimant

Print Name

If you have any questions about completing this form, please call the Settlement Administrator at [INSERT TOLL FREE NUMBER]. You are responsible for ensuring that the Settlement Administrator receives this form.

EXHIBIT C

LOUIS BENOWITZ, SBN 262300
louis@smithbenowitz.com
BENJAMIN SMITH, SBN 266712
benjamin@smithbenowitz.com
SMITH & BENOWITZ
4515 Van Nuys Boulevard, Suite 302
Sherman Oaks, California 91403
Telephone: (818) 839-7800
Facsimile: (818) 839-9700

Attorneys for Plaintiffs
MARIA PEREZ and CRISTAL PEREZ AGUIRRE

[Additional counsel listed on next page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

MARIA PEREZ and CRISTAL PEREZ
AGUIRRE, individually and on behalf of all
others similarly situated;

Plaintiff,

vs.

ODW LOGISTICS, INC., an Ohio
corporation; STAFFING LEADERSHIP
GROUP, LLC; and DOES 1 through 50,
inclusive,

Defendants.

ROCIO OROZCO, individually and on
behalf of others similarly situated, and as a
private attorney general;

Plaintiff,

vs.

ODW LOGISTICS, INC., an Ohio
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: CIVDS2001904 (Lead Case)
CIVDS2004281

**CONSOLIDATED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

DEMAND FOR TRIAL BY JURY

- (1) VIOLATION OF CALIFORNIA
LABOR CODE §§ 510 AND 1198
(UNPAID OVERTIME)**
- (2) VIOLATION OF CALIFORNIA
LABOR CODE §§ 226.7 AND 512(a)
(UNPAID MEAL PERIOD
PREMIUMS)**
- (3) VIOLATION OF CALIFORNIA
LABOR CODE § 226.7 (UNPAID
REST PERIOD PREMIUMS)**
- (4) VIOLATION OF CALIFORNIA
LABOR CODE §§ 1194, 1197 AND
1197.1 (UNPAID MINIMUM
WAGES)**
- (5) VIOLATION OF CALIFORNIA
LABOR CODE §§ 201, 202 AND 203
(FINAL WAGES NOT TIMELY
PAID)**
- (6) VIOLATION OF CALIFORNIA
LABOR CODE § 204 (WAGES NOT
TIMELY PAID DURING**

- EMPLOYMENT)
- (7) VIOLATION OF CALIFORNIA LABOR CODE § 226(a) (FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS)
 - (8) VIOLATION OF CALIFORNIA LABOR CODE § 1174 (d) (FAILURE TO KEEP ACCURATE PAYROLL RECORDS)
 - (9) VIOLATION OF CALIFORNIA LABOR CODE §§ 2800 AND 2802 (FAILURE TO REIMBURSE EXPENSES)
 - (10) VIOLATION OF LABOR CODE § 227.3 (FAILURE TO PAY VESTED VACATION TIME)
 - (11) VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200, ET SEQ.
 - (12) VIOLATION OF CALIFORNIA LABOR CODE § 2699, ET SEQ. (PRIVATE ATTORNEYS GENERAL ACT)

HEATHER DAVIS, SBN 239372
heather@protectionlawgroup.com
AMIR NAYEBDADASH, SBN 232204
amir@protectionlawgroup.com
S. EMI MINNE, SBN 253179
emi@protectionlawgroup.com
PROTECTION LAW GROUP, LLP
136 Main Street, Suite A
El Segundo, California 90245
Telephone: (424) 290-3095
Facsimile: (866) 264-7880

Attorneys for Plaintiff
ROCIO OROZCO

1 Plaintiffs MARIA PEREZ, CRISTAL PEREZ AGUIRRE, and ROCIO OROZCO
2 (“Plaintiffs”) individually and on behalf of other similarly situated current and former employees
3 of Defendants, and as private attorneys general, based upon facts that either have evidentiary
4 support or are likely to have evidentiary support after a reasonable opportunity for further
5 investigation and discovery, alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. Plaintiffs bring this action against Defendants ODW LOGISTICS, INC.,
8 STAFFING LEADERSHIP GROUP LLC, and DOES 1 THROUGH 50 (hereinafter also
9 collectively referred to as “Defendants”) for California Labor Code violations and unfair business
10 practices stemming from Defendants’ failure to pay overtime compensation, failure to provide
11 meal periods, failure to authorize and permit rest periods, failure to pay meal and rest period
12 premiums, failure to pay minimum wage, failure to timely pay wages, failure to provide accurate
13 wage statements, failure to maintain accurate payroll records, failure to reimburse business
14 expenses, and failure to pay vested vacation time.

15 2. Plaintiffs’ First through Eleventh Causes of Action are brought as a class action
16 on behalf of herself and other similarly situated current and former employees of Defendants
17 (hereinafter collectively referred to as the “Class” or “Class Members”, as defined more fully in
18 paragraph 12, below) pursuant to California Code of Civil Procedure section 382. The monetary
19 damages and restitution sought by Plaintiffs exceeds the minimal jurisdiction limits of the
20 Superior Court and will be established according to proof at trial.

21 3. Plaintiffs’ Twelfth Cause of Action is brought as a representative action on behalf
22 of himself and certain other current and former employees of Defendants against whom one or
23 more of the alleged violations was committed (hereinafter collectively referred to as the
24 “Aggrieved Employees”) pursuant to California Labor Code sections 2698, et seq. The civil
25 penalties sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and
26 will be established according to proof at trial.

27 4. The Court has jurisdiction over this action pursuant to the California Constitution,
28 Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes”

except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

5. This Court has jurisdiction over Defendant ODW LOGISTICS, INC. because, upon information and belief, Defendant DW LOGISTICS, INC. is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

6. This Court has jurisdiction over Defendant STAFFING LEADERSHIP GROUP LLC, because, upon information and belief, Defendant STAFFING LEADERSHIP GROUP LLC is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

7. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, County of San Bernardino.

PARTIES

8. Plaintiff MARIA PEREZ is an individual residing in the State of California.

9. Plaintiff CRISTAL PEREZ AGUIRRE is an individual residing in the State of California.

10. Plaintiff ROCIO OROZCO is an individual residing in the State of California.

11. Defendant ODW LOGISTICS, INC. is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of Ohio and registered to do business in the State of California.

12. Defendant STAFFING LEADERSHIP GROUP LLC, and at all times herein mentioned was, a limited liability company organized and existing under the laws of the State of Ohio and registered to do business in the State of California.

13. Plaintiffs are ignorant of the identities of defendants Does 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. The Doe defendants may be

1 individuals, partnerships, or corporations. Plaintiffs are informed and believe, and thereon allege,
2 that, at all times mentioned herein, each of the Doe defendants was the parent, subsidiary, agent,
3 servant, employee, co-venturer, and/or co-conspirator of each of the other defendants, and was at
4 all times mentioned acting within the scope, purpose, consent, knowledge, ratification and
5 authorization of such agency, employment, joint venture and conspiracy. Plaintiffs will amend
6 this Complaint to allege their true names and capacities when ascertained. Plaintiffs are informed
7 and believe and thereon alleges that each of the fictitiously named Doe defendants is responsible
8 in some manner for the occurrences herein alleged, and that Plaintiffs' damages as herein alleged
9 was proximately caused by its conduct. ODW LOGISTICS, INC., STAFFING LEADERSHIP
10 GROUP LLC, and Doe Defendants 1 through 50 are herein collectively referred to as
11 "Defendants."

12 14. Defendants are and at all times herein mentioned were, (a) conducting business in
13 the County of San Bernardino, State of California, and (b) the employer of Plaintiffs consistent
14 with the California Labor Code and Industrial Welfare Commission Wage Orders ("Wage
15 Orders").

16 15. Plaintiffs further allege that Defendants, directly or indirectly controlled or
17 affected the working conditions, wages, working hours, and conditions of employment of
18 Plaintiffs, the Class, and the Aggrieved Employees so as to make each of said Defendants
19 employers and employers liable under the statutory provisions set forth herein.

20 **CLASS ACTION ALLEGATIONS**

21 16. Plaintiffs bring the First through Eleventh Causes of Action as class action on their
22 own behalf and on behalf of all other members of the general public similarly situated, and, thus,
23 seeks class certification under Code of Civil Procedure section 382.

24 17. The proposed class is defined as follows: All current and former non-exempt
25 employees of Defendants within the State of California at any time commencing from January
26 21, 2016 until the time that notice of the class action is provided to the class, and who were
27 citizens of the State of California as of the filing of this Complaint (hereinafter referred to as the
28 "Class" or "Class Members").

1 18. Plaintiffs reserve the right to establish other subclasses as appropriate.

2 19. The Class is ascertainable and there is a well-defined community of interest in the
3 litigation:

4 a. Numerosity: The Class Members are so numerous that joinder of all Class
5 Members is impracticable. The membership of the entire Class is unknown to
6 Plaintiffs at this time; however, the Class is estimated to be over fifty (50)
7 individuals and the identity of such membership is readily ascertainable by
8 inspection of Defendants' employment records.

9 b. Typicality: Plaintiffs' claims are typical of all other Class Members demonstrated
10 herein. Plaintiffs will fairly and adequately protect the interests of the other Class
11 Members with whom he has a well-defined community of interest.

12 c. Adequacy: Plaintiffs will fairly and adequately protect the interests of each Class
13 Member, with whom they have a well-defined community of interest and
14 typicality of claims, as demonstrated herein. Plaintiffs have no interests that are
15 antagonistic to the other Class Members. Plaintiffs' attorneys, the proposed class
16 counsel, are versed in the rules governing class action discovery, certification, and
17 settlement. Plaintiffs have incurred, and during the pendency of this action will
18 continue to incur, costs and attorneys' fees, that have been, are, and will be
19 necessarily expended for the prosecution of this action for the substantial benefit
20 of each Class Member.

21 d. Superiority: A class action is superior to other available methods for the fair and
22 efficient adjudication of this litigation because individual joinder of all Class
23 Members is impractical.

24 e. Public Policy Considerations: Certification of this lawsuit as a class action will
25 advance public policy objectives. Employers of this great state violate
26 employment and labor laws every day. Current employees are often afraid to
27 assert their rights out of fear of direct or indirect retaliation. However, class
28 actions provide the Class Members who are not named in the complaint

1 anonymity that allows for the vindication of their rights.

2 20. There are common questions of law and fact as to the Class that predominate over
3 questions affecting only individual members. The following common questions of law or fact,
4 among others, exist as to the members of the Class:

- 5 a. Whether Defendants' failure to pay wages, without abatement, or reduction, in
6 accordance with the California Labor Code was willful;
- 7 b. Whether Defendants had a corporate policy and practice of failing to pay Plaintiffs
8 and the other Class Members for all hours worked, and missed, short, late or
9 interrupted meal periods and rest breaks in violation of California law;
- 10 c. Whether Defendants required Plaintiffs and the other Class Members to work
11 more than eight (8) hours per day and/or more than forty (40) hours per week and
12 failed to pay the legally required overtime compensation at the legally required
13 rate to Plaintiffs and the other Class Members;
- 14 d. Whether Defendants deprived Plaintiffs and the other Class Members of meal
15 and/or rest periods or required Plaintiffs and the other Class Members to work
16 during meal and/or rest periods without compensation;
- 17 e. Whether Defendants failed to pay meal period premium wages to Class Members
18 when they were not provided with a legally compliant meal period;
- 19 f. Whether Defendants failed to pay rest period premium wages to class Members
20 when they were not authorized and permitted to take legally compliant rest
21 periods;
- 22 g. Whether Defendants failed to pay minimum wages to Plaintiffs and the other
23 Class Members for all hours worked;
- 24 h. Whether Defendants failed to pay Plaintiffs and the other Class Members the
25 required minimum wage pursuant to California law;
- 26 i. Whether Defendants failed to pay all wages due to Plaintiffs and the other Class
27 Members within the time required upon their discharge or resignation from
28 employment;

- 1 j. Whether Defendants failed to reimburse business expenses in violation of
2 California Labor Code section 2802;
- 3 k. Whether Defendants failed to pay accrued and unused vacation time in violation
4 of Labor Code section 227.3;
- 5 l. Whether Defendants failed to timely pay all wages due to Plaintiffs and the other
6 Class Members during their employment;
- 7 m. Whether Defendants complied with wage reporting as required by the California
8 Labor Code, including section 226;
- 9 n. Whether Defendants kept complete and accurate payroll records as required by
10 the California Labor Code, including section 1174(d);
- 11 o. Whether Defendants failed to pay Plaintiffs and the other Class Members all
12 wages owed for accrued vacation time upon termination of their employment;
- 13 p. Whether Defendants' conduct was with malice, fraud or oppression;
- 14 q. Whether Defendants' conduct was willful or reckless;
- 15 r. Whether Defendants engaged in unfair business practices in violation of
16 California Business & Professions Code section 17200, *et seq.*, based on their
17 improper withholding of compensation and deduction of wages;
- 18 s. The appropriate amount of damages, restitution, and/or monetary penalties
19 resulting from Defendants' violation of California law; and
- 20 t. Whether Plaintiffs and the other Class Members are entitled to compensatory
21 damages pursuant to the California Labor Code.

22 **GENERAL ALLEGATIONS**

23 21. Defendants operate as a logistics provider specializing in warehousing, e-
24 commerce fulfillment, and transportation services with warehouses in Ontario, California and
25 Redlands, California.

26 22. Defendants employed Plaintiffs MARIA PEREZ, ROCIO OROZCO, and
27 CRISTAL PEREZ AGUIRRE as non-exempt, hourly paid employees during the time period
28 covered by this lawsuit.

1 23. Plaintiffs' job duties included, but were not limited to: packing boxes.

2 24. At all relevant times set forth herein, Defendants employed Plaintiffs, the Class,
3 and the Aggrieved Employees as hourly-paid or non-exempt employees.

4 25. Throughout the time period involved in this case, Defendants had the authority to
5 hire and terminate Plaintiffs, the Class, and the Aggrieved Employees; to directly or indirectly
6 control work rules, working conditions, wages, working hours, and conditions of employment of
7 Plaintiffs, the Class, and the Aggrieved Employees; and to hire and terminate the employment of
8 Plaintiffs, the Class, and the Aggrieved Employees.

9 26. At all times herein mentioned, Defendants were subject to the Labor Code of the
10 State of California and the applicable Industrial Welfare Commission Orders.

11 27. Plaintiffs are informed and believe, and thereon allege that Defendants engaged in
12 a systematic scheme of wage abuse against their hourly-paid or non-exempt employees. As set
13 forth in more detail below, this scheme involved, *inter alia*, requiring them to work off-the-clock
14 without compensation, thereby failing to pay them for all hours worked, including minimum and
15 overtime wages. Defendants also implemented time rounding practices that resulted in the
16 underpayment of wages to Plaintiffs, the Class, and the Aggrieved Employees, including
17 minimum and overtime wages. Further, Defendants failed to properly compensate Plaintiffs, the
18 Class, and the Aggrieved Employees at the legally required rate for overtime and double time. In
19 addition, Defendants routinely failed to permit Plaintiffs, the Class, and the Aggrieved Employees
20 to take their meal periods and rest periods in violation of California law. Defendants also failed
21 to reimburse Plaintiffs, the Class, and the Aggrieved Employees for all necessary business-related
22 expenses, and failed to pay wages owed for accrued vacation time upon termination of
23 employment.

24 28. Throughout the time period involved in this case, Defendants have implemented
25 policies and practices which failed to provide Plaintiffs, the Class, and the Aggrieved Employees
26 with timely and duty-free meal periods. Defendants routinely failed to relieve Plaintiffs, the Class,
27 and the Aggrieved Employees of all duties during their meal periods, failed to relinquish control
28 over Plaintiffs, the Class, and the Aggrieved Employees during their meal periods, failed to permit

1 Plaintiffs, the Class, and the Aggrieved Employees a reasonable opportunity to take their meal
2 periods, and impeded or discouraged Plaintiffs, the Class, and the Aggrieved Employees from
3 taking thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of
4 work and/or from taking a second thirty (30) minute uninterrupted meal break no later than their
5 tenth hour of work for shifts lasting more than ten (10) hours. Defendants also failed to maintain
6 accurate records of meal periods taken by Plaintiffs, the Class, and the Aggrieved Employees.

7 29. Throughout the time period involved in this case, Defendants did not adequately
8 inform Plaintiffs, the Class, and the Aggrieved Employees of their right to take a meal periods
9 under California law. Moreover, Defendants systematically disregarded their own written policies
10 regarding the provision and timing of meal periods for Plaintiffs, the Class, and the Aggrieved
11 Employees. Instead, Defendants' actual policy and practice was to schedule Plaintiffs, the Class,
12 and the Aggrieved Employees in a way the prohibited them from taking timely and duty-free meal
13 periods, and to require Plaintiffs, the Class, and the Aggrieved Employees to work through their
14 meal periods, for which they were not compensated.

15 30. Throughout the time period involved in this case, Defendants failed to pay
16 Plaintiffs, the Class, and the Aggrieved Employees premium wages for meal periods that were
17 missed, late, interrupted, or shortened in violation of California law. Defendants knew or should
18 have known that Plaintiffs, the Class, and the Aggrieved Employees were entitled to receive all
19 meal periods or payment of one additional hour of pay at their regular rate of pay when a meal
20 period was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants
21 routinely failed to provide legally compliant meal periods to Plaintiffs, the Class, and the
22 Aggrieved Employees, and routinely failed pay one additional hour of pay to Plaintiffs, the Class,
23 and the Aggrieved Employees at their regular rate of pay when a meal period was missed, short,
24 late, and/or interrupted.

25 31. Throughout the time period involved in this case, Defendants have implemented
26 policies and practices which prohibited Plaintiffs, the Class, and the Aggrieved Employees from
27 taking timely and duty-free rest periods. Defendants regularly failed to provide, authorize, and
28 permit Plaintiffs, the Class, and the Aggrieved Employees to take full, uninterrupted, off-duty rest

1 periods for every shift lasting three and one-half (3.5) to six (6) hours and/or two full,
2 uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10) hours, and failed to
3 make a good faith effort to authorize, permit, and provide such rest breaks in the middle of each
4 work period.

5 32. Throughout the time period involved in this case, Defendants did not adequately
6 inform Plaintiffs, the Class, and the Aggrieved Employees of their right to take a rest periods
7 under California law. Moreover, Defendants systematically disregarded their own written policies
8 regarding the provision and timing of rest periods for Plaintiffs, the Class, and the Aggrieved
9 Employees. Instead, Defendants' actual policy and practice was to schedule Plaintiffs, the Class,
10 and the Aggrieved Employees in a way the prohibited them from taking timely and duty-free rest
11 periods, and to require Plaintiffs, the Class, and the Aggrieved Employees to work through their
12 rest periods.

13 33. Throughout the time period involved in this case, Defendants failed to pay
14 Plaintiffs, the Class, and the Aggrieved Employees premium wages for rest periods that were
15 missed, late, interrupted, or shortened in violation of California law. Defendants knew or should
16 have known that Plaintiffs, the Class, and the Aggrieved Employees were entitled to receive all
17 rest periods or payment of one additional hour of pay at their regular rate of pay when a rest period
18 was missed, short, late, and/or interrupted. Notwithstanding this knowledge, Defendants routinely
19 failed to authorize and permit Plaintiffs, the Class, and the Aggrieved Employees to take duty-
20 free rest periods, and failed to pay one additional hour of pay to Plaintiffs, the Class, and the
21 Aggrieved Employees at their regular rate of pay when a rest period was missed, short, late and/or
22 interrupted.

23 34. Throughout the time period involved in this case, Defendants required Plaintiffs,
24 the Class, and the Aggrieved Employees to perform work off-the-clock. Although Defendants
25 prohibited overtime, Defendants still required Plaintiffs, the Class, and the Aggrieved Employees
26 complete all of their assigned duties. To do so, Plaintiffs, the Class, and the Aggrieved Employees
27 were required to perform work off-the-clock for which they were not compensated.

28 35. Throughout the time period involved in this case, Plaintiffs, the Class, and the

1 Aggrieved Employees worked more than eight (8) hours in a day, and/or forty (40) hours in a
2 week.

3 36. Throughout the time period involved in this case, Defendants failed to pay
4 overtime compensation to Plaintiffs, the Class, and the Aggrieved Employees when they worked
5 in excess of eight (8) hours in a single work day and/or forty (40) hours in a single work week.
6 Defendants knew or should have known that Plaintiffs, the Class, and the Aggrieved Employees
7 were entitled to receive certain wages for overtime compensation and that they were not receiving
8 wages for overtime compensation and/or did not receive overtime compensation at the proper
9 rate.

10 37. Throughout the time period involved in this case, Defendants failed to pay
11 Plaintiffs, the Class, and the Aggrieved Employees at least minimum wages for all hours worked.
12 Defendants knew or should have known that Plaintiffs, the Class, and the Aggrieved Employees
13 were entitled to receive at least minimum wages for compensation and that they were not
14 receiving at least minimum wages for all hours worked. Defendants' failure to pay minimum
15 wages included, *inter alia*, failing to pay Plaintiffs, the Class, and the Aggrieved Employees at
16 the required minimum wage pursuant to California law, requiring Plaintiffs, the Class, and the
17 Aggrieved Employees to perform work off-the-clock, and implementing time rounding policies
18 that resulted in the systematic underpayment of wages to Plaintiffs, the Class, and the Aggrieved
19 Employees.

20 38. Throughout the time period involved in this case, Defendants failed to pay
21 Plaintiffs, the Class, and the Aggrieved Employees all wages owed to them upon discharge or
22 resignation. Defendants knew or should have known that Plaintiffs, the Class, and the Aggrieved
23 Employees were entitled to receive all wages owed to them upon termination within the time
24 permissible under California Labor Code section 202. Plaintiffs, the Class, and the Aggrieved
25 Employees did not receive payment of all final wages owed to them upon discharge or resignation,
26 including overtime compensation, minimum wages, and meal and rest period premiums, within
27 any time permissible under California Labor Code section 202.

28 39. Throughout the time period involved in this case, Defendants failed to pay

1 Plaintiffs, the Class, and the Aggrieved Employees all wages within any time permissible under
2 California law, including, *inter alia*, California Labor Code section 204. Defendants knew or
3 should have known that Plaintiffs, the Class, and the Aggrieved Employees were entitled to
4 receive all wages owed to them during their employment. Plaintiffs, the Class, and the Aggrieved
5 Employees did not receive payment of all wages, including overtime compensation, minimum
6 wages, and meal and rest period premiums, within any time permissible under California Labor
7 Code section 204.

8 40. Throughout the time period involved in this case, Defendants regularly and
9 consistently failed to provide complete or accurate wage statements to Plaintiffs, the Class, and
10 the Aggrieved Employees. Defendants knew or should have known that Plaintiffs, the Class, and
11 the Aggrieved Employees were entitled to receive complete and accurate wage statements in
12 accordance with California law, but, in fact, they did not receive complete and accurate wage
13 statements from Defendants. The deficiencies included, *inter alia*, the failure to include the total
14 number of hours worked by Plaintiffs, the Class, and the Aggrieved Employees and the failure to
15 include premium pay for missed and/or interrupted rest and meal breaks.

16 41. Throughout the time period involved in this case, Defendants regularly and
17 consistently failed to keep complete or accurate payroll records for Plaintiffs, the Class, and the
18 Aggrieved Employees. Defendants knew or should have known that Defendants were required
19 keep complete and accurate payroll records for Plaintiffs, the Class, and the Aggrieved Employees
20 in accordance with California law, but, in fact, did not keep complete and accurate payroll records.

21 42. Throughout the time period involved in this case Defendants failed to reimburse
22 Plaintiffs, the Class, and the Aggrieved Employees for necessary business-related expenses and
23 costs including, but not limited to, personal tools. Defendants knew or should have known that
24 Defendants were required to reimburse Plaintiffs, the Class, and the Aggrieved Employees for all
25 necessary business-related expenses and costs, but, in fact, failed to do so in violation of
26 California law.

27 43. Throughout the time period involved in this case Defendants failed to pay
28 Plaintiffs, the Class, and the Aggrieved Employees all wages owed for accrued vacation time

1 upon termination of their employment. Defendants knew or should have known that Defendants
2 were required to pay Plaintiffs, the Class, and the Aggrieved Employees all wages owed for
3 accrued vacation time upon termination of their employment, but, in fact, failed to do so in
4 violation of California law.

5 44. Throughout the time period involved in this case Defendants failed to provide
6 Plaintiffs, the Class, and the Aggrieved Employees with suitable seating despite the fact that the
7 nature of their work reasonably permitted the use of seats. Defendants knew or should have known
8 that Defendants were required to pay Plaintiffs, the Class, and the Aggrieved Employees with
9 suitable seating, but, in fact, failed to do so in violation of California law.

10 45. Throughout the time period involved in this case, Defendants knew or should have
11 known that they had a duty to compensate Plaintiffs, the Class, and the Aggrieved Employees
12 pursuant to California law. Defendants had the financial ability to pay such compensation, but
13 willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiffs, the
14 Class, and the Aggrieved Employees that they paid all wages owed to them, all in order to increase
15 Defendants' profits.

16 46. California Labor Code section 218 states that nothing in Article 1 of the Labor
17 Code shall limit the right of any wage claimant to "sue directly ... for any wages or penalty due
18 to him [or her] under this article."

19 **FIRST CAUSE OF ACTION**

20 **(Violation of California Labor Code §§ 510 and 1198)**

21 **(Against All Defendants)**

22 47. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
23 every allegation set forth above.

24 48. California Labor Code section 1198 and the applicable Industrial Welfare
25 Commission ("IWC") Wage Order provide that it is unlawful to employ persons without
26 compensating them at a rate of pay either time-and-one-half or two-times that person's regular
27 rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

28 49. Specifically, the applicable IWC Wage Order provides that Defendants are and

1 were required to pay Plaintiffs and the other Class Members employed by Defendants, and
2 working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the
3 rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than
4 forty (40) hours in a workweek.

5 50. The applicable IWC Wage Order further provides that Defendants are and were
6 required to pay Plaintiffs and the Class overtime compensation at a rate of two times their regular
7 rate of pay for all hours worked in excess of twelve (12) hours in a day and for all hours worked
8 in excess of eight (8) hours on the seventh day of work in a workweek.

9 51. California Labor Code section 510 codifies the right to overtime compensation at
10 one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a
11 day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of
12 work, and no overtime compensation at twice the regular hourly rate for hours worked in excess
13 of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

14 52. During the relevant time period, Plaintiffs and the other Class Members regularly
15 worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

16 53. During the relevant time period, Defendants intentionally and willfully failed to
17 pay overtime wages owed to Plaintiffs and the other Class Members and/or failed to pay overtime
18 wages at the proper rate.

19 54. Defendants' failure to pay Plaintiffs and the other Class Members the unpaid
20 balance of overtime compensation, as required by California laws, violates the provisions of
21 California Labor Code sections 510 and 1198, and is therefore unlawful.

22 55. Pursuant to California Labor Code section 1194, Plaintiffs and the other Class
23 Members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
24 attorneys' fees.

25 **SECOND CAUSE OF ACTION**

26 **(Violation of California Labor Code §§ 226.7 and 512(a))**

27 **(Against All Defendants)**

28 56. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and

1 every allegation set forth above.

2 57. At all relevant times, the relevant IWC Order and California Labor Code sections
3 226.7 and 512(a) were applicable to Plaintiffs and the other Class Members' employment by
4 Defendants.

5 58. At all relevant times, California Labor Code section 226.7 provides that no
6 employer shall require an employee to work during any meal or rest period mandated by an
7 applicable order of the California IWC.

8 59. At all relevant times, the applicable IWC Wage Order and California Labor Code
9 section 512(a) provide that an employer may not require, cause or permit an employee to work
10 for a work period of more than five (5) hours per day without providing the employee with a meal
11 period of not less than thirty (30) minutes, except that if the total work period per day of the
12 employee is no more than six (6) hours, the meal period may be waived by mutual consent of
13 both the employer and employee.

14 60. At all relevant times, California Labor Code section 512(a) further provides that
15 an employer may not require, cause or permit an employee to work for a work period of more
16 than ten (10) hours per day without providing the employee with a second uninterrupted meal
17 period of not less than thirty (30) minutes, except that if the total hours worked is no more than
18 twelve (12) hours, the second meal period may be waived by mutual consent of the employer and
19 the employee only if the first meal period was not waived.

20 61. During the relevant time period, Plaintiffs and the other Class Members who were
21 scheduled to work for a period of time longer than six (6) hours, and who did not waive their
22 legally-mandated meal periods by mutual consent, were required to work for periods longer than
23 five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

24 62. During the relevant time period, Plaintiffs and the other Class Members who were
25 scheduled to work for a period of time in excess of ten (10) hours were required to work for
26 periods longer than ten (10) hours without a second uninterrupted meal period of not less than
27 thirty (30) minutes.

28 63. During the relevant time period, Defendants intentionally and willfully required

1 Plaintiffs and the other Class Members to miss their meal periods and to take meal periods that
2 were late, shortened, or interrupted, and failed to compensate Plaintiffs and the other Class
3 Members the full meal period premium for missed, shortened, late, or interrupted meal periods.

4 64. During the relevant time period, Defendants failed to pay Plaintiffs and the other
5 Class Members the full meal period premium due pursuant to California Labor Code section
6 226.7.

7 65. Defendants conduct violates the applicable IWC Wage Order and California Labor
8 Code sections 226.7 and 512(a).

9 66. Pursuant to the applicable IWC Wage Order and California Labor Code section
10 226.7(b), Plaintiffs and the other Class Members are entitled to recover from Defendants one
11 additional hour of pay at the employee's regular rate of compensation for each work day that the
12 meal period was not provided.

13 **THIRD CAUSE OF ACTION**

14 **(Violation of California Labor Code § 226.7)**

15 **(Against All Defendants)**

16 67. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
17 every allegation set forth above.

18 68. At all times herein set forth, the applicable IWC Wage Order and California Labor
19 Code section 226.7 were applicable to Plaintiffs and the other Class Members' employment by
20 Defendants.

21 69. At all relevant times, California Labor Code section 226.7 provides that no
22 employer shall require an employee to work during any rest period mandated by an applicable
23 order of the California IWC.

24 70. At all relevant times, the applicable IWC Wage Order provides that "[e]very
25 employer shall authorize and permit all employees to take rest periods, which insofar as
26 practicable shall be in the middle of each work period" and that the "rest period time shall be
27 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
28 hours or major fraction thereof unless the total daily work time is less than three and one-half

1 (3.5) hours.”

2 71. During the relevant time period, Defendants required Plaintiffs and other Class
3 Members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest
4 period per each four (4) hour period worked.

5 72. During the relevant time period, Defendants willfully required Plaintiffs and the
6 other Class Members to work during rest periods, failed to allow Plaintiffs and the other Class
7 Member to take any rest period and/or failed to authorize and permit Plaintiffs and the other Class
8 Members to take uninterrupted, duty-free rest breaks.

9 73. During the relevant time period, Defendants failed to pay Plaintiffs and the other
10 Class Members the full rest period premium due pursuant to California Labor Code section 226.7
11 for missed rest periods.

12 74. Defendants’ conduct violates applicable IWC Wage Orders and California Labor
13 Code section 226.7.

14 75. Pursuant to the applicable IWC Wage Orders and California Labor Code section
15 226.7(b), Plaintiffs and the other Class Members are entitled to recover from Defendants one
16 additional hour of pay at the employees’ regular hourly rate of compensation for each work day
17 that the rest period was not provided.

18 **FOURTH CAUSE OF ACTION**

19 **(Violation of California Labor Code §§ 1194, 1197, and 1197.1)**

20 **(Against All Defendants)**

21 76. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
22 every allegation set forth above.

23 77. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1
24 provide that the minimum wage to be paid to employees and the payment of a lesser wage than
25 the minimum so fixed is unlawful.

26 78. During the relevant time period, Defendants regularly failed to pay minimum wage
27 to Plaintiffs and the other Class Members as required, pursuant to California Labor Code sections
28 1194, 1197, and 1197.1.

79. Defendants' failure to pay Plaintiffs and the other Class Members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiffs and the other Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorneys' fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

80. Pursuant to California Labor Code section 1194.2, Plaintiffs and the other Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201, 202, 203)

(Against All Defendants)

81. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

82. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

83. During the relevant time period, the employment of Plaintiffs and many other Class Members with Defendants ended, *i.e.* was terminated by quitting or discharge. Defendants intentionally and willfully failed to pay Plaintiffs and other Class Members who are no longer employed by Defendants all of their wages, earned and unpaid, including but not limited to minimum wages, overtime wages, meal and rest break premiums and bonuses, within seventy-two (72) hours of their leaving Defendants' employ.

84. Defendants' failure to pay Plaintiffs and other Class Members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

85. California Labor Code section 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 from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

86. Plaintiffs and other Class Members who are no longer employed by Defendants are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against All Defendants)

87. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

88. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and 26th day of the month during which the labor was performed.

89. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

90. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

91. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

92. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiffs and other Class Members all wages due to them, within any time period permissible

1 under California Labor Code section 204.

2 93. Plaintiffs and other Class Members are entitled to recover all remedies available
3 for violations of California Labor Code section 204.

4
5 **SEVENTH CAUSE OF ACTION**

6 **(Violation of California Labor Code § 226(a))**

7 **(Against All Defendants)**

8 94. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
9 every allegation set forth above.

10 95. At all material times set forth herein, California Labor Code section 226(a)
11 provides that every employer shall furnish each of his or her employees an accurate itemized
12 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3)
13 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
14 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
15 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates
16 of the period for which the employee is paid, (7) the name of the employee and his or her social
17 security number, (8) the name and address of the legal entity that is the employer, and (9) all
18 applicable hourly rates in effect during the pay period and the corresponding number of hours
19 worked at each hourly rate by the employee. The deductions made from payments of wages shall
20 be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and
21 a copy of the statement or a record of the deductions shall be kept on file by the employer for at
22 least three years at the place of employment or at a central location within the State of California.

23 96. Defendants have intentionally and willfully failed to provide Plaintiffs and the
24 Class with complete and accurate wage statements. The deficiencies include but are not limited
25 to: the failure to include the total number of hours worked by Plaintiffs and the Class, and failure
26 to include and meal and rest break premiums.

27 97. Because of Defendants' violation of California Labor Code section 226(a),
28 Plaintiffs and the Class have suffered injury and damage to their statutorily-protected rights.

98. More specifically, Plaintiffs and the Class have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

99. Plaintiffs and the Class are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

100. Plaintiffs and the Class are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

(Against All Defendants)

101. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

102. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years.

103. Defendants have intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked and the wages paid to Plaintiffs and the Class.

104. Because of Defendants' violation of California Labor Code section 1174(d), Plaintiffs and the Class have suffered injury and damage to their statutorily-protected rights.

105. More specifically, Plaintiffs and the Class have been injured by Defendants' intentional and willful violation of California Labor Code section 1174(d) because they were denied both their legal right and protected interest, in having available, accurate and complete

1 payroll records pursuant to California Labor Code section 1174(d).

2 ///

3 ///

4
5 **NINTH CAUSE OF ACTION**

6 **(Violation of California Labor Code §§ 2800 and 2802)**

7 **(Against All Defendants)**

8 106. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
9 every allegation set forth above.

10 107. Pursuant to California Labor Code sections 2800 and 2802, an employer must
11 reimburse its employee for all necessary expenditures incurred by the employee in direct
12 consequence of the discharge of his or her job duties or in direct consequence of his or her job
13 duties or in direct consequence of his or her obedience to the directions of the employer.

14 108. Plaintiffs and the Class incurred necessary business-related expenses and costs that
15 were not fully reimbursed by Defendants. Defendants' failure to reimburse for all necessary
16 business-related expenses and costs including its failure to reimburse Plaintiffs and the Class for
17 costs incurred as a result of, including not limited, simple negligence.

18 109. Defendants have intentionally and willfully failed to reimburse Plaintiffs and the
19 Class for all necessary business-related expenses and costs. Plaintiffs and the Class are entitled to
20 recover from Defendants their business-related expenses and costs incurred during the course and
21 scope of their employment, plus interest accrued from the date on which the employee incurred
22 the necessary expenditures at the same rate as judgments in civil actions in the State of California.

23 **TENTH CAUSE OF ACTION**

24 **(Violation of California Labor Code § 227.3)**

25 **(Against All Defendants)**

26 110. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
27 every allegation set forth above.

28 111. California Labor Code § 227.3 requires employers to pay employees for vest

1 vacation time at their final rate of pay upon termination of their employment.

2 112. At all times relevant herein, as part of their illegal payroll policies and practices to
3 deprive non-exempt employees of all wages earned and due, Defendants intentionally failed to
4 pay Plaintiffs and the Class all wages owed for vested vacation time upon termination of their
5 employment, in violation of California Labor Code § 227.3.

6 113. Defendants' failure to pay Plaintiffs and the other Class Members the minimum
7 wage as required violates California Labor Code § 227.3. Plaintiffs and the other Class Members
8 are entitled to recover the unpaid balance of unpaid wages owed from their vested vacation time
9 as well as interest, costs, and attorneys' fees.

10 **ELEVENTH CAUSE OF ACTION**

11 **(Violation of Cal. Business & Professions Code §§ 17200, et seq.)**

12 **(Against All Defendants)**

13 114. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
14 every allegation set forth above.

15 115. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
16 unlawful and harmful to Plaintiffs and the Class, to the general public, and Defendants'
17 competitors. Accordingly, Plaintiffs seeks to enforce important rights affecting the public interest
18 within the meaning of Code of Civil Procedure section 1021.5.

19 116. Defendants' activities as alleged herein are violations of California law, and
20 constitute unlawful business acts and practices in violation of California Business & Professions
21 Code section 17200, *et seq.*

22 117. A violation of California Business & Professions Code section 17200, *et seq.*, may
23 be predicated on the violation of any state or federal law. In this instant case, Defendants' policies
24 and practices of requiring employees, including Plaintiffs and the Class, to work overtime without
25 paying them proper compensation violate California Labor Code sections 510 and 1198.
26 Additionally, Defendants' policies and practices of requiring employees, including Plaintiffs and
27 the Class, to work through their meal and rest periods without paying them proper compensation
28 violate California Labor Code sections 226.7 and 512(a). Moreover, Defendants' policies and

1 practices of failing to timely pay wages to Plaintiffs and the Class violate California Labor Code
2 sections 201, 202, and 204.

3 118. Defendants also violated California Labor Code sections, 221, 226(a), 227.3,
4 1194, 1197, 1197.1, 510, 1174(d), 2800, and 2802.

5 119. As a result of the herein described violations of California law, Defendants
6 unlawfully gained an unfair advantage over other businesses.

7 120. Plaintiffs and the Class have been personally injured by Defendants' unlawful
8 business acts and practices as alleged herein, including but not necessarily limited to the loss of
9 money and/or property.

10 121. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
11 Plaintiffs and the Class are entitled to restitution of the wages withheld and retained by
12 Defendants during a period that commences four years prior to the filing of this Complaint; an
13 award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other
14 applicable laws; and an award of costs.

15 **TWELFTH CAUSE OF ACTION**

16 **(Violation of California Labor Code § 2699, Et Seq.)**

17 **(Against All Defendants)**

18 122. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
19 every allegation set forth above.

20 123. Plaintiffs bring their twelfth cause of action as a representative action on behalf of
21 herself and similarly Aggrieved Employees in the capacity as a private attorney general pursuant
22 to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.*
23 ("PAGA").

24 124. PAGA specifically provides for a private right of action to recover civil penalties
25 for violations of the Labor Code as follows: "Notwithstanding any other provision of law, any
26 provision of this code that provides for a civil penalty to be assessed and collected by the Labor
27 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
28 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through

1 a civil action brought by an aggrieved employee on behalf of himself or herself and other current
2 or former employees pursuant to the procedures specified in Section 2699.3.” Cal. Lab. Code §
3 2699(a).

4 125. Plaintiffs were employed by Defendants and the Labor Code violations alleged
5 above were committed against them during their time of employment. Plaintiffs are therefore,
6 “aggrieved employees” under PAGA.

7 126. As set forth in detail above, during all times relevant to this Action, Defendant
8 has routinely subjected Plaintiffs and the Aggrieved Employees to violations of California Labor
9 Codes by:

- 10 a. Failing to pay Plaintiffs and the Aggrieved Employees all earned minimum wage
11 compensation in violation of Labor Code §§ 1194 and 1198 *et seq.*;
- 12 b. Failing to pay Plaintiffs and the Aggrieved Employees all earned overtime
13 compensation in violation of Labor Code §§ 204, 510, 1194, and 1198 *et seq.*;
- 14 c. Failing to provide legally required meal periods to Plaintiffs and the Aggrieved
15 Employees, and failing to pay Plaintiffs and the Aggrieved Employees an
16 additional hour of premium pay for meal period violations in violation of Labor
17 Code §§ 226.7 and 512.
- 18 d. Failing to provide authorize and permit Plaintiffs and the Aggrieved Employees to
19 take duty-free rest periods, and failing to pay Plaintiffs and the Aggrieved
20 Employees an additional hour of premium pay for rest period violations in
21 violation of Labor Code §§ 226.7 and 512.
- 22 e. Failing to timely pay Plaintiffs and the Aggrieved Employees all wages at end of
23 their employment in violation of Labor Code § 203.
- 24 f. Failing to timely pay Plaintiffs and the Aggrieved Employees all wages owed
25 during employment in violation of Labor Code § 204.
- 26 g. Failing to furnish Plaintiffs and the Aggrieved Employees with complete, accurate,
27 itemized wage statements in violation of Labor Code § 226;
- 28

- 1 h. Failing to maintain accurate records relating to Plaintiffs and the Aggrieved
2 Employees' meal periods and total daily hours.
- 3 i. Failing to reimburse Plaintiffs and the Aggrieved Employees for necessary
4 business-related expenses in violation of Labor Code §§ 2800 and 2802.
- 5 j. Failing to pay Plaintiffs and the Aggrieved Employees for all vested but unused
6 vacation time in violation of Labor Code § 227.3.

7 127. Pursuant to California Labor Code sections 2699 and 2699.5, Plaintiffs,
8 individually and on behalf of the Aggrieved Employees and the State of California, request and
9 are entitled to recover penalties against Defendants for the Labor Code violations described
10 above, including but not limited to penalties under California Code of Regulations Title section
11 11010, penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3 and
12 1174.5, and any and all additional penalties and sums as provided by the California Labor Code
13 and/or other statutes. The exact amount of the applicable penalties, in all, is in an amount to be
14 shown according to proof at trial.

15 128. Plaintiffs have exhausted their administrative remedies pursuant to Labor Code §
16 2699.3. On January 21, 2020 and January 28, 2020 Plaintiffs, through their counsel of record, by
17 online filing with the Labor and Workforce Development Agency ("LWDA") and by certified mail
18 to the Defendants, notified Defendants and the LWDA of the specific provisions of the Labor Code
19 and IWC Wage Orders that Defendants have violated, including the facts and theories to support
20 the violations, and of Plaintiffs' intent to bring claims for civil penalties under PAGA. Plaintiffs
21 also paid the filing fee required under Labor Code § 2699.3. As of the filing of this Complaint,
22 more than 65 days have elapsed since the mailing of Plaintiffs' January 21, 2020 and January 28,
23 2020 notices, and the Labor and Workforce Development Agency has not indicated that it intends
24 to investigate the violations discussed in the notice. Accordingly, Plaintiffs may commence a civil
25 action to recover penalties for themselves and other Aggrieved Employees pursuant to Labor Code
26 § 2699.3.

27 129. Plaintiffs were compelled to retain the services of counsel to file this court action
28 to protect his interests and the Aggrieved Employees, and to assess and collect the civil penalties

1 owed by Defendants. Plaintiffs therefore seek an award of reasonable attorney's fees and costs
2 pursuant to Labor Code § 2699(g)(1), and any other applicable statute.

3 130. Plaintiffs may amend this complaint as a matter of right pursuant to California
4 Labor Code § 2699.3 as this complaint has been filed within sixty days of the time periods
5 specified in Labor Code §2699.3.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs, individually and on behalf of all other members of the general
8 public similarly situated, prays for relief and judgment against Defendants, jointly and severally,
9 as follows:

10 **Class Certification**

- 11 1. That this action be certified as a class action;
12 2. That Plaintiffs be appointed as the representatives of the Class;
13 3. That counsel for Plaintiffs be appointed as Class Counsel; and
14 4. That Defendants provide to Class Counsel immediately the names and most
15 current/last known contact information (address, e-mail and telephone numbers) of all class
16 members.

17 **As to the First Cause of Action**

18 5. That the Court declare, adjudge and decree that Defendants violated California
19 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
20 all overtime wages due to Plaintiffs and other Class Members;

21 6. For general unpaid wages at overtime wage rates and such general and special
22 damages as may be appropriate;

23 7. For pre-judgment interest on any unpaid overtime compensation commencing
24 from the date such amounts were due;

25 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
26 California Labor Code section 1194; and

27 9. For such other and further relief as the Court may deem just and proper.
28

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiffs and the Class;

11. That the Court make an award to Plaintiffs and the Class of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code section 226.7(b);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

16. For such other and further relief as the Court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiffs and the Class;

18. That the Court make an award to Plaintiffs and the Class of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(b);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

22. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause of Action

1 23. That the Court declare, adjudge and decree that Defendants violated California
2 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
3 Plaintiffs and the Class;

4 24. For general unpaid wages and such general and special damages as may be
5 appropriate;

6 25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for
7 Plaintiffs and the Class in the amount as may be established according to proof at trial;

8 26. For pre-judgment interest on any unpaid compensation from the date such amounts
9 were due;

10 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
11 California Labor Code section 1194(a);

12 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

13 29. For such other and further relief as the Court may deem just and proper.

14 **As to the Fifth Cause of Action**

15 30. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
17 time of termination of the employment of Plaintiffs and other Class Members no longer employed
18 by Defendants;

19 31. For all actual, consequential, and incidental losses and damages, according to
20 proof;

21 32. For statutory wage penalties pursuant to California Labor Code section 203 for
22 Plaintiffs and other Class Members who have left Defendants' employ;

23 33. For pre-judgment interest on any unpaid compensation from the date such amounts
24 were due; and

25 34. For such other and further relief as the Court may deem just and proper.

26 **As to the Sixth Cause of Action**

27 35. That the Court declare, adjudge and decree that Defendants violated California
28 Labor Code section 204 by willfully failing to pay all compensation owed at the time required by

California Labor Code section 204 to Plaintiffs and the Class;

36. For all actual, consequential, and incidental losses and damages, according to proof;

37. For pre-judgment interest on any unpaid compensation from the date such amounts were due including interest pursuant to California Labor Code section 218.6; and

38. For such other relief as the Court deems just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and the Class, and willfully failed to provide accurate itemized wage statements thereto;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For statutory penalties pursuant to California Labor Code section 226(e); and

42. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

43. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiffs and the Class as required by California Labor Code section 1174(d);

44. For actual, consequential and incidental losses and damages, according to proof;

45. For statutory penalties pursuant to California Labor Code section 1174.5; and

46. For such other and further relief as the court may deem just and proper.

As to the Ninth Cause of Action

47. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and the Class for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

48. For actual, consequential and incidental losses and damages, according to proof;

49. For the imposition of civil penalties and/or statutory penalties;

1 50. For reasonable attorneys' fees and costs of suit incurred herein; and

2 51. For such other and further relief as the Court may deem just and proper.

3 **As to the Tenth Cause of Action**

4 52. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code section 227.36 and applicable IWC Wage Orders by willfully failing to pay all wages
6 owed for vested vacation time Plaintiffs and other Class Members;

7 53. For unpaid wages and such general and special damages as may be appropriate;

8 54. For pre-judgment interest on any unpaid overtime compensation commencing
9 from the date such amounts were due;

10 55. For reasonable attorneys' fees and costs of suit incurred herein; and

11 56. For such other and further relief as the Court may deem just and proper.

12 **As to the Eleventh Cause of Action**

13 57. That the Court decree, adjudge and decree that Defendants violated California
14 Business and Professions Code sections 17200, *et seq.*, by failing to provide Plaintiffs and the
15 Class all overtime compensation due to them, failing to provide all meal and rest periods to
16 Plaintiffs and the Class, failing to pay at least minimum wages to Plaintiffs and the Class, failing
17 to pay Plaintiffs and other Class Members wages timely as required by California Labor Code
18 section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800,
19 and 2082;

20 58. For restitution of unpaid wages to Plaintiffs and the Class and all pre-judgment
21 interest from the day such amounts were due and payable;

22 59. For the appointment of a receiver to receive, manage and distribute any and all
23 funds disgorged from Defendants and determined to have been wrongfully acquired by
24 Defendants as a result of violation of California Business and Professions Code sections 17200,
25 *et seq.*;

26 60. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
27 California Code of Civil Procedure section 1021.5;

28 61. For injunctive relief to ensure compliance with this section, pursuant to California

Business and Professions Code sections 17200, *et seq.*; and

62. For such other and further relief as the Court may deem just and proper.

As to the Twelfth Cause of Action

63. For statutory attorneys' fees and costs pursuant to 2699(g)(1) of California Labor Code;

64. For the imposition of civil penalties pursuant to California Labor Code §§ 2699, 210, 558, 226, 226.3, 1174.5, 1197.1, and all other penalties allowed by the California Labor Code and/or other applicable statutes; and

65. For such other relief as the Court deems just and proper.

Dated: October 23, 2020

PROTECTION LAW GROUP

By: 

Heather Davis
Amir Nayebdadash
S. Emi Minne
Attorneys for Plaintiff
ROCIO OROZCO

Dated: October 23, 2020

SMITH & BENOWITZ

By: 

Louis Benowitz
Benjamin Smith
Michelle Nabati
Attorneys for Plaintiff
MARIA PEREZ and CRISTAL PEREZ
AGUIRRE

DEMAND FOR TRIAL BY JURY

Plaintiffs MARIA PEREZ, CRISTAL PEREZ AGUIRRE, and ROCIO OROZCO
demands a trial by jury as to all causes of action triable by a jury.

Dated: October 23, 2020

PROTECTION LAW GROUP

By: 

Heather Davis
Amir Nayebdadash
S. Emi Minne
Attorneys for Plaintiff
ROCIO OROZCO

Dated: October 23, 2020

SMITH & BENOWITZ

By: 

Louis Benowitz
Benjamin Smith
Attorneys for Plaintiff
MARIA PEREZ and CRISTAL PEREZ
AGUIRRE

EXHIBIT D

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

MARIA PEREZ, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

ODW LOGISTICS, INC., a Ohio corporation;
STAFFING LEADERSHIP GROUP, LLC, a
Ohio limited liability company; and DOES 1-
50 inclusive,

Defendants.

ROCIO OROZCO, individually and on behalf
of others similarly situated, and as a private
attorney general;

Plaintiff,

vs.

ODW LOGISTICS, INC., an Ohio
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: CIVDS2001904
CIVDS2004281

*Assigned for all purposes to the
Honorable David Cohn, Dept. S26*

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: December 30, 2020
Time: 10:00 a.m.
Dept: S26

Complaint Filed: January 21, 2020
Trial Date: None

[PROPOSED] ORDER

Plaintiffs Maria Perez, Rocio Orozco and Cristal Perez Aguirre's ("Plaintiffs") for Motion for Preliminary Approval of Class Action Settlement ("Motion") came regularly for hearing before this Court on December 30, 2020. The Court, having considered the proposed Stipulation of Class Action Settlement ("Settlement Agreement" or "Settlement"), between Plaintiffs and Defendants ODW Logistics, Inc. and Staffing Leadership Group, LLC ("Defendants"), attached as Exhibit 1 to the Declaration of Heather Davis filed concurrently with the Motion; having considered Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, memorandum of points and authorities in support thereof, and supporting declarations filed therewith; and good cause appearing, HEREBY ORDERS THE FOLLOWING:

1. The Court GRANTS preliminary approval of the class action settlement as set forth in the Settlement Agreement and finds its terms to be within the range of reasonableness of a settlement that ultimately could be granted approval by the Court at a Final Fairness hearing. All terms used herein shall have the same meaning as defined in the Settlement Agreement. For purposes of the Settlement only, the Court finds that the proposed Settlement Class is ascertainable and that there is a sufficiently well-defined community of interest among the members of the Settlement Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants conditional certification of the following Settlement Class:

All non-exempt hourly employees of Defendant ODW LOGISTICS, INC. who performed work in the State of California at any time during the Class Period and all non-exempt hourly employees of Defendant STAFFING LEADERSHIP GROUP, LLC who were placed at or assigned to work at any ODW LOGISTICS, INC, worksite in the state of California at any time from January 21, 2016 to December 30, 2020.

2. For purposes of the Settlement only, the Court designates Plaintiffs Maria Perez, Rocio Orozco and Cristal Perez Aguirre as Class Representatives.

3. For purposes of the Settlement only, the Court designates Heather Davis, Amir Nayebdadash, and S. Emi Minne of Protection Law Group, LLP and Louis Benowitz and Benjamin Smith of Smith & Benowitz as Class Counsel.

1 4. The Court designates Phoenix Settlement Administrators as the third-party
2 Settlement Administrator.

3 5. The Parties are ordered to implement the Settlement according to the terms of the
4 Settlement Agreement.

5 6. The Court approves, as to form and content, the Notice of Proposed Class Action
6 Settlement attached as Exhibit A to the Settlement Agreement.

7 7. The Court finds that the form of the Notice of Proposed Class Action Settlement,
8 the dates selected for mailing and distribution, and the methods of giving notice to members of the
9 Settlement Class, satisfy the requirements of due process, constitute the best notice practicable
10 under the circumstances, and constitute valid, due, and sufficient notice to all members of the
11 Settlement Class. The form and method of giving notice complies fully with the requirements of
12 California Code of Civil Procedure § 382, California Civil Code § 1781, California Rules of Court
13 §§ 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

14 8. The Court further approves the procedures for Settlement Class Members to opt-
15 out of or object to the Settlement, as set forth in the Notice of Class Action and Proposed
16 Resolution and the Settlement Agreement. The procedures and requirements for filing objections
17 in connection with the final fairness hearing are intended to ensure the efficient administration of
18 justice and the orderly presentation of any Settlement Class Member's objection to the Settlement,
19 in accordance with the due process rights of all Settlement Class Members.

20 9. The Court directs the Settlement Administrator to mail the Notice of Proposed
21 Class Action Settlement to the members of the Settlement Class in accordance with the terms of
22 the Settlement.

23 10. The Notice of Proposed Class Action Settlement shall provide 60 calendar days'
24 notice for Settlement Class Members to submit disputes, opt-out of, or object to the Settlement.

25 11. The hearing on Plaintiffs' Motion for Final Approval of Settlement on the question
26 of whether the Settlement should be finally approved as fair, reasonable, and adequate is scheduled
27 in Department S26 of this Court, located at 247 West Third Street, San Bernardino, California
28 92415, on _____, 2021 at _____ a.m. / p.m.

12. At the Final Fairness hearing, the Court will consider: (a) whether the Settlement should be approved as fair, reasonable, and adequate for the Class; (b) whether a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiffs' application for enhancement awards, settlement administration costs, and Class Counsel's attorney's fees and costs, should be granted.

13. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of their request for final approval of Plaintiffs' application for enhancement awards, settlement administration costs, Class Counsel's attorneys' fees and costs, prior to the hearing on Plaintiff's Motion for Final Approval of Settlement according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

14. An implementation schedule is below:

Event	Date
Defendants to provide class contact information to Settlement Administrator no later than:	[14 calendar days following preliminary approval]
Settlement Administrator to mail the Notice of Proposed Class Action Settlement and Workweek Dispute Form to the Settlement Class no later than:	[14 calendar days following provision of contact information]
Deadline for Class Members to submit disputes, request exclusion from, or object to the Settlement:	[60 calendar days after mailing of the Notice]
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:	_____, 2020
Hearing on Motion for Final Approval of Settlement	_____, 2020

15. Pending the Final Fairness hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed. To facilitate administration of the Settlement pending final approval, the Court hereby enjoins Plaintiffs and all members of the Class from filing or prosecuting any claims, or suits regarding claims released by the Settlement, unless and until such Class Members have filed valid Requests for Exclusion with the Settlement Administrator.

1 16. Counsel for the parties are hereby authorized to utilize all reasonable procedures in
2 connection with the administration of the Settlement which are not materially inconsistent with
3 either this Order or the terms of the Settlement.

4 **IT IS SO ORDERED.**

5
6
7 DATED:

By: _____
JUDGE OF THE SUPERIOR COURT

EXHIBIT E

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

MARIA PEREZ, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

ODW LOGISTICS, INC., a Ohio corporation;
STAFFING LEADERSHIP GROUP, LLC, a
Ohio limited liability company; and DOES 1-
50 inclusive,

Defendants.

ROCIO OROZCO, individually and on behalf
of others similarly situated, and as a private
attorney general;

Plaintiff,

vs.

ODW LOGISTICS, INC., an Ohio
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: CIVDS2001904
CIVDS2004281

*Assigned for all purposes to the
Honorable David Cohn, Dept. S26*

CLASS ACTION

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

Date: TBD
Time: TBD
Dept: S26

Complaint Filed: January 21, 2020
Trial Date: None

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 The above-referenced Class and PAGA Action (“Action”) having come before the Court
3 on _____, 2021 for a hearing and Final Order Approving Class Settlement and Judgment
4 (“Final Judgment”), consistent with the Court’s Preliminary Approval Order (“Preliminary
5 Approval Order”), filed and entered _____, 2020, and as set forth in the Joint Stipulation
6 of Class Action Settlement (“Agreement” or “Settlement”) in the Action, and due and adequate
7 notice having been given to all Settlement Class Members as required in the Preliminary Approval
8 Order, and the Court having considered all papers filed and proceedings had herein and otherwise
9 being fully informed and good cause appearing therefore, it is hereby **ORDERED, ADJUDGED**
10 **AND DECREED AS FOLLOWS:**

11 1. All terms used herein shall have the same meaning as defined in the Agreement.
12 Consistent with the definitions provided in the Agreement, the term “Settlement Class” shall mean
13 the following: “All non-exempt hourly employees of Defendant ODW LOGISTICS, INC. who
14 performed work in the State of California at any time during the Class Period and all non-exempt
15 hourly employees of Defendant STAFFING LEADERSHIP GROUP, LLC who were placed at or
16 assigned to work at any ODW LOGISTICS, INC, worksite in the state of California at any time
17 from January 21, 2016 to December 30, 2020.” The term “Participating Class Members” includes
18 all members of the Settlement Class who did not submit a timely and valid Request for Exclusion
19 as provided in the Settlement.

20 2. This Court has jurisdiction over the subject matter of this Action and over all Parties
21 to this Action, including all Settlement Class Members.

22 3. Distribution of the Notice of Proposed Class Action Settlement (“Notice”) directed
23 to the Settlement Class Members as set forth in the Agreement and the other matters set forth
24 therein has been completed in conformity with the Preliminary Approval Order, including
25 individual notice to all Settlement Class Members who could be identified through reasonable
26 effort, and the best notice practicable under the circumstances. The Notice provided due and
27 adequate notice of the proceedings and of the matters set forth therein, including the proposed
28 Settlement set forth in the Agreement, to all persons entitled to such Notice, and the Notice fully

1 satisfied the requirements of due process. All Participating Class Members and all Released Claims
2 are covered by and included within the Settlement and this Final Judgment.

3 4. The Court hereby finds the Settlement was entered into in good faith pursuant to
4 and within the meaning of California Code of Civil Procedure section 877.6. For the reasons set
5 forth in the Preliminary Approval Order entered on _____, 2020, and in the proceedings
6 of the Final Approval hearing, which are adopted and incorporated herein by reference, the Court
7 further finds that Plaintiffs have satisfied the standards and applicable requirements for final
8 approval of this class action settlement under California law, including the provisions of California
9 Code of Civil Procedure section 382 and Federal Rule of Civil Procedure 23, approved for use by
10 the California state courts in *Vasquez v. Superior Court* 4 Cal.3d 800, 821 (1971).

11 5. The Court finds that the Agreement is fair, reasonable and adequate, and directs the
12 Parties to effectuate the Settlement according to its terms. The Court finds that the Settlement has
13 been reached as a result of intensive, serious and non-collusive arms-length negotiations. The
14 Court further finds that the Parties have conducted extensive investigation and research, and
15 counsel for the Parties were able to reasonably evaluate their respective positions. The Court also
16 finds that Settlement at this time will avoid additional substantial costs, as well as avoid the delay
17 and risks that would be presented by the further prosecution of the Action. The Court has reviewed
18 the benefits that are being granted as part of the Settlement and recognizes the significant value to
19 the Settlement Class Members. The Court also finds and orders that the Agreement constitutes a
20 fair, adequate, and reasonable compromise of the Released Claims against Defendant and the
21 Released Parties.

22 6. The Court hereby confirms Heather Davis, Amir Nayebdadash, and S. Emi Minne
23 of Protection Law Group, LLP and Louis Benowitz and Benjamin Smith of Smith & Benowitz as
24 Class Counsel in the Action.

25 As of the date of funding of the Settlement Amount as set forth in the Agreement, all Participating
26 Class Members shall fully release and discharge Defendants, Defendants' parents, subsidiaries,
27 affiliates, their insurers, attorneys and all agents thereof ("Released Parties") any and all claims
28 and causes of action, known or unknown, contingent or accrued. rising out of the facts and claims

1 asserted in the Litigation for wage and hour violations, or any other claims or causes of action
2 that could have reasonably been asserted in the Litigation, based upon the facts alleged in the
3 Consolidated Class Action Complaint, including the following claims: (1) failure to provide meal
4 and rest breaks; (2) unpaid wages, including minimum wages, regular wages, overtime and double
5 time wages, and vacation time; (3) wage statement violations; (4) separation pay violations; (5)
6 unfair business practices; (6) inaccurate payroll records; (7) failure to reimburse business related
7 expenses; (8) civil penalties under the Private Attorney General Act of 2004 Cal. Lab. Code §§
8 2698 (“PAGA”); and (9) any other applicable provisions of state or federal law, including the
9 applicable IWC wage order. The release as to Participating Class Members shall apply to claims
10 arising in connection with work performed for Defendant ODW Logistics, Inc. for the time period
11 starting from January 21, 2016 and ending on December 30, 2020. This release expressly excludes
12 all claims for vested benefits, wrongful termination, unemployment insurance, disability, social
13 security, workers compensation, claims arising during a period while classified as an exempt
14 employee, claims arising before January 21, 2016, and following December 30, 2020, and all
15 other claims based on facts not included in the Consolidated Class Action Complaint.
16

17 7. Except for those claims which cannot be released as a matter of law, in
18 consideration for the Class Representative Enhancement Payment, Plaintiffs Maria Perez, Rocio
19 Orozco and Cristal Perez Aguirre for themselves and their heirs, successors and assigns, do hereby
20 waive, release, acquit and forever discharge the Released Parties, from any and all claims, actions,
21 charges, complaints, grievances and causes of action, of whatever nature, whether known or
22 unknown, which exist or may exist on Plaintiffs’ behalf as of the date of the Agreement, including,
23 but not limited to, any and all tort claims, contract claims, wage claims, wrongful termination
24 claims, disability claims, benefit claims, public policy claims, retaliation claims, statutory claims,
25 personal injury claims, emotional distress claims, invasion of privacy claims, defamation claims,
26 fraud claims, *quantum meruit* claims, and any and all claims arising under any federal, state or
27 other governmental statute, law, regulation or ordinance, including, but not limited to, claims for
28 violation of the FLSA, the California Labor Code, the Wage Orders of California's Industrial

1 Welfare Commission, other state wage and hour laws, the Americans with Disabilities Act, the
2 Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act,
3 Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the
4 California Family Rights Act, the Family Medical Leave Act, California's Whistle Blower
5 Protection Act, California Business & Professions Code Section 17200 et seq., and any and all
6 claims arising under any federal , state or other governmental statute, law, regulation or ordinance.

7 8. The Court hereby finds that there have been ___ objections to the Settlement. The
8 deadline for Settlement Class Members to object to the Settlement was _____, 2021.

9 9. The Court hereby finds that the following _____ Settlement Class Members have
10 timely and validly request to be excluded from the Settlement: _____. The deadline
11 for Settlement Class Members to request to be excluded from the Settlement was _____,
12 2021.

13 10. The Court finds the settlement payments provided for under the Agreement to be
14 fair and reasonable in light of all of the circumstances. Pursuant to the terms of the Agreement the
15 Court orders Defendants ODW Logistics and Staffing Leadership Group, LLC fund the Gross
16 Amount of \$1,999,999.99 no later than _____, 2021, in order to provide payments for
17 Participating Class Members' individual Net Settlement Payments, class representative
18 enhancement awards for Plaintiffs Maria Perez, Rocio Orozco and Cristal Perez Aguirre, Class
19 Counsel's attorney fees and costs, the Settlement Administrator's fees and expenses, and penalties
20 to the California Labor and Workforce Development Agency pursuant to Labor Code sections
21 2698 *et seq.* The calculations and the payments shall be made administered in accordance with the
22 terms of the Agreement.

23 11. Pursuant to the terms of the Settlement, and the authorities, evidence and argument
24 submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees in the amount
25 of \$700,000.00 and attorneys' costs in the amount of \$ _____ from the Settlement Amount
26 as final payment for and complete satisfaction of any and all attorneys' fees and costs incurred by
27 and/or owed to Class Counsel and any other person or entity related to the Action. The Court
28 further orders that the award of attorneys' fees and costs set forth in this Paragraph shall be

administered pursuant to the terms of the Agreement; any allocation of attorneys' fees and costs between and among Class Counsel shall be made by the Settlement Administrator pursuant to a separate and independent agreement between Class Counsel.

12. The Court also hereby approves and orders a Class Representative Enhancement Awards of \$7,500 each to Plaintiffs Maria Perez and Rocio Orozco and of \$5,000.00 to Plaintiff Crista Perez Aguirre from the Settlement Amount in accordance with the terms of the Agreement.

13. The Court approves orders the payment in the amount of \$37,000 (75 percent of \$50,000.00) from the Settlement Amount to the California Labor Workforce Development Agency for penalties arising under the Private Attorneys General Act of 2004 (PAGA). The remaining \$12,500.00 (25 percent of \$50,000.00) shall be distributed to Participating Class Members as part of the Net Settlement Amount (as defined in the Agreement).

14. The Court also hereby approves and orders payment from the Gross Settlement Amount for actual settlement administration expenses incurred by the Settlement Administrator, Phoenix Settlement Administrators, in the amount of \$_____.

15. The Court hereby approves and orders payment of individual Net Settlement Payments from the Net Settlement to the Participating Class Members.

16. The Court also hereby approves and orders that any checks distributed from the Gross Settlement Amount yet remaining un-cashed after one hundred and eighty (180) calendar days after being issued shall be void. The Settlement Administrator will remit the entire amount of any uncashed checks to the California State Controller's Office pursuant to California's Unclaimed Property Law (Cal. Code Civ. Proc. §§1500 et seq). in the name of the Participating Class Member to whom the uncashed check was addressed.

17. Provided the Settlement becomes effective under the terms of the Agreement, the Court also hereby orders that the deadline for mailing the Court-approved Settlement Awards, attorneys' fees and costs, and Enhancement Awards is as set forth in the Agreement.

18. Neither the Settlement nor any of the terms set forth in the Agreement is an admission by Defendants, or any of the other Released Parties, nor is this Final Judgment a finding of the validity of any claims in the Action or of any wrongdoing by Defendants, or any of the other

Released Parties. Neither this Final Judgment, the Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement is, may be construed as, or may be used as, an admission by or against Defendants, or any of the other Released Parties, of any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by Defendants, or any of the other Released Parties, and shall not be offered in evidence in any action or proceeding in any court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the provisions of this Final Judgment, the Agreement, the Released Claims, or any related agreement or release. Notwithstanding these restrictions, any of the Released Parties may file in the Action, or submit in any other proceeding, the Final Judgment, the Agreement, and any other papers and records on file in the Action as evidence of the Settlement to support a defense of *res judicata*, *collateral estoppel*, release, or other theory of claim or issue preclusion or similar defense as to the Released Claims.

19. Without affecting the finality of this Final Judgment, the Court shall retain continuing jurisdiction over this action and the parties, including all Class Members, and over all matters pertaining to the implementation and enforcement of the terms of the Agreement pursuant to California Rule of Court 3.769(h) and California Code of Civil Procedure section 664.6. Except as provided to the contrary herein, any disputes or controversies arising with or with respect to the interpretation, enforcement, or implementation of the Agreement shall be presented to the Court for resolution

IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: _____

JUDGE OF THE SUPERIOR COURT