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

BARTOLA SANTIAGO, individually, and on  
behalf of all others similarly  
situated,

*Plaintiff,*

v.

GREEN VALLEY LABOR, INC., a California  
corporation; THE BURCHELL NURSERY,  
INC., and DOES 1 through 10, inclusive,

*Defendants.*

Case No.: 21CV-00413

**CLASS AND REPRESENTATIVE  
ACTION**

*[Assigned for all purposes to: Hon. Brian L.  
McCabe]*

**DECLARATION OF JUSTIN F. MARQUEZ  
IN SUPPORT OF PLAINTIFF’S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

*[Filed concurrently with: Plaintiff’s Notice of  
Motion and Motion for Preliminary Approval  
of Class Action Settlement, Memorandum of  
Points and Authorities; and [Proposed] Order  
Granting Motion]*

**PRELIMINARY APPROVAL HEARING**

Date: October 24, 2024  
Time: 8:15 a.m.  
Dept: 8

Complaint filed: February 5, 2021  
FAC filed: January 14, 2022  
SAC filed: September 19, 2024  
Trial date: Not set

**DECLARATION OF JUSTIN F. MARQUEZ**

I, Justin F. Marquez, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Bartola Santiago (“Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

**CASE BACKGROUND**

2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiff and putative class members worked in California as hourly-paid or non-exempt employees for Defendants Green Valley Labor, Inc. and The Burchell Nursery, Inc. (collectively “Defendants”) during the class period. Defendant Green Valley Labor, Inc. (“Green Valley”) is a farm labor contractor that provides agricultural labor services, including planters and pickers, to various growers. Defendant The Burchell Nursery, Inc. (“Burchell Nursery”) is an independent nursery that breeds high quality fruit and nut trees. Green Valley was contracted by Burchell Nursery to provide labor at two locations in Fresno and Clovis, California.

3. Plaintiff alleges that Defendants’ payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiff alleges that Defendants failed to pay for all hours worked. Plaintiff further alleges that Defendants failed to provide employees with legally compliant meal and rest periods, and Defendants failed to reimburse business expenses. Based on these allegations, Plaintiff asserts related claims for failure to provide accurate wage statements, failure to pay all final wages at termination, unfair business practices, and civil penalties under PAGA.

4. On February 5, 2021, Plaintiff filed a putative wage-and-hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204,

1 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3)  
2 failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit  
3 rest periods (Labor Code §§ 226.7 and 512); (5) failure to timely pay final wages at termination  
4 (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code §  
5 226); and (7) unfair business practices (Business and Professions Code 17200 et seq.). On January  
6 14, 2022, Plaintiff filed a First Amended Complaint adding claims for failure to indemnify  
7 necessary business expenditures. Plaintiff sent a notice to Defendant Green Valley Labor, Inc. and  
8 the California Labor & Workforce Development Agency (“LWDA”) alleging wage and hour  
9 violations pursuant to the PAGA (Cal. Lab. Code §§ 2699, *et seq.*) on February 5, 2021, and sent  
10 amended notice to the LWDA to add Defendant Burchell Nursery on July 19, 2023. On September  
11 19, 2024, Plaintiff filed a Second Amended Class Action and Representative Action Complaint,  
12 which included a cause of action for PAGA penalties.

13 DISCOVERY AND INVESTIGATION

14 5. Following the filing of the Complaint, the Parties exchanged documents and  
15 information before mediating this action. Defendants produced a sample of time and pay records  
16 for class members. Defendants also provided an undated Employee Handbook containing its wage  
17 and hour policies and practices during the class period, and information regarding the total number  
18 of current and former employees in its informal discovery responses.

19 6. After reviewing documents regarding Defendants’ wage and hour policies and  
20 practices, and analyzing Defendants’ timekeeping and payroll records, Class Counsel was able to  
21 evaluate the probability of class certification, success on the merits, and Defendants’ maximum  
22 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding  
23 the claims and defenses asserted in the Litigation. Class Counsel reviewed these records and  
24 utilized an expert to prepare a damages analysis prior to mediation.

25 SETTLEMENT NEGOTIATIONS

26 7. On February 16, 2023, the Parties participated in private mediation with experienced  
27 class action mediator, Hon. Howard R. Broadman (Ret.). The mediation was conducted via Zoom.  
28 The settlement negotiations were at arm’s length and, although conducted in a professional manner,

1 were adversarial. The Parties went into the mediation willing to explore the potential for a  
2 settlement of the dispute, but each side was also prepared to litigate their position through trial and  
3 appeal if a settlement had not been reached.

4 8. After extensive negotiations and discussions regarding the strengths and  
5 weaknesses of Plaintiff’s claims and Defendants’ defenses, the Parties were able to reach a  
6 resolution, the material terms of which are encompassed within the Settlement Agreement.  
7 Attached as **Exhibit 1** is a true and correct copy of the Class Action and PAGA Settlement  
8 Agreement and Class Notice (“Settlement Agreement”).

9 9. The Parties used the Los Angeles Superior Court’s Form Class Action and PAGA  
10 Settlement Agreement and Class Notice.

11 10. Class Counsel submitted the proposed Settlement to the LWDA before filing the  
12 Motion for Preliminary Approval.

13 11. I requested several bids from experienced class action settlement administrators to  
14 handle the responsibilities of the Settlement Administrator under this Settlement. The Parties  
15 accepted the bid of CPT Group, Inc. (“CPT”). CPT has multiple years of experience in the field  
16 of Class Action Administration, particularly in the wage-and-hour arena. In its bid, CPT agreed to  
17 fees of \$21,500.00 if there are 2,500 class members. CPT’s bid also accounts for Notice in English  
18 and Spanish. A true and correct copy of the bid is attached hereto as **Exhibit 2**.

19 12. Plaintiff does not have any interest, financial or otherwise, in the proposed third-  
20 party administrator, CPT.

21 13. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone  
22 employed at the law firm) has any interest, financial or otherwise, in the proposed third-party  
23 administrator, CPT.

24 14. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in  
25 this case.

26 15. Class Counsel is not aware of any other pending matter or action asserting claims  
27 that will be extinguished or affected by the Settlement.

28 ///

THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

16. Class Counsel has conducted a thorough investigation into the facts of this case. Based on the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendants both to certification and on the merits, trial risk, and appellate risk.

17. Based on an analysis of the facts and legal contentions in this case, documents and information from Defendants, I evaluated Defendants' maximum exposure. I took into account the risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are certified. After using the data Defendants provided, including class member timekeeping and payroll records, as well as class member demographics (i.e., the number of class members, workweeks, and average total compensation of the class), with the assistance of a statistics expert, I created a damages model to evaluate the realistic range of potential recovery for the class. The damages model is based on the following benchmarks:

Total Class Members: 2,528
Terminated Class Members during 3-year statute: 1,870
Total Workweeks: 40,448
Total Shifts Worked by the Class: 180,803
PAGA Pay Periods: 17,500
PAGA Eligible Employees: 1,050
Avg. Hourly Rate: \$12.49

18. Based on Plaintiff's discovery and investigation, Class Counsel reached the conclusion that Defendants failed to pay class members for all hours worked, including overtime wages, Defendants had a policy and practice of not providing its employees with California compliant meal and rest periods which it did not pay appropriate premiums for, and Defendants required their employees to work "off-the-clock" prior to clocking in for the workday, during meal periods, and after clocking out for the workday, time which it did not pay for, and Defendants

failed to reimburse its employees for business-related expenses. Defendants deny these claims.

19. With respect to the meal period claim, Plaintiff alleges that Defendants required her and similarly situated class members to either work in lieu of taking meal periods, or their meal periods were untimely or interrupted. My expert analyzed Defendants' timekeeping records and assumed that approximately 25% of all meal breaks (approximately 45,201 shifts that exceeded five hours in duration) had violations of short, missed, or no meal periods based on Plaintiffs' and other employees' experiences. Potential liability for the meal period claim is \$564,560.49 (45,201 \* \$12.49). I discounted this figure by 80%<sup>1</sup> to account for the difficulty of certifying and proving meal period claims due to largely homogenous timekeeping records, as well as Defendants' contention that the claim lacks merit, particularly in light of its homogenous timekeeping records, yielding a realistic damage estimate of \$112,912.10.

20. With respect to the rest period claim, Plaintiff alleges that Defendants required her and similarly situated class members to work in lieu of taking rest periods, or their rest periods were untimely or interrupted. Assuming a 33% violation rate for the class period based on Plaintiff's and other class members' experience working for Defendants, Defendants' potential liability for the rest period claim is \$745,215.76 (180,803 shifts \* 0.33 \* \$12.49); however, I discounted this figure by 90% to account for the difficulty of certifying and proving rest period claims and the strengths of Defendants' rest period policy, particularly because rest periods do not have to be recorded, and to account for the possibility of class members voluntarily choosing to forego a rest period, yielding a realistic damage estimate of \$74,521.58.

21. Plaintiff further alleges that Defendants failed to pay for all hours worked, including minimum wages, straight time wages, and overtime wages, by requiring class members to work off-the-clock, unpaid. For purposes of calculating Defendants' liability based on a best case scenario for Plaintiff and the Class, I estimate that Defendant's maximum potential exposure by

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<sup>1</sup> An 80% discount for risk at certification and trial is reasonable because the Judicial Council of California found that only 21.4% of all class actions were certified either as part of a settlement *or* as part of a contested certification motion. *See* Findings of the Study of California Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf).

1 assuming that all unpaid work time should have been paid at the overtime rate and I assumed that  
 2 Defendant is liable for one hour of unpaid worktime per week, which my expert calculated  
 3 exclusively as overtime work. This results in an estimate of \$757,793.28 (40,448 weeks \* \$12.49  
 4 hourly overtime rate \* 1.5 overtime rate \* 1 hour of unpaid work per week), but I discounted this  
 5 figure by 90% to account for the difficulty of prevailing on a motion for class certification and a  
 6 trial on the merits because liability depends on whether Defendant knew or should have known  
 7 that class members were working off-the-clock, yielding a realistic damage estimate of \$75,779.33.

8 22. Plaintiff alleges that Defendants failed to reimburse necessary business expenses.  
 9 Defendant's employees (including Plaintiff) were required to purchase tools and work attire,  
 10 including scissors, gloves, WD-40, and umbrellas in order to satisfactorily and safely perform and  
 11 complete their employment-related tasks. For purposes of calculating Defendants' liability based  
 12 on a best case scenario for Plaintiff and the Class, I estimated that Defendants were liable to each  
 13 class member for \$50 each in unreimbursed expenses, for a total amount of \$126,400.00 (\$50 \*  
 14 2,528); however, I discounted this figure by 80% to account for the difficulty of certifying and  
 15 proving expense reimbursement claims, particularly in light of written policies and practices  
 16 providing a mechanism for class member's to seek reimbursement and the limited evidence  
 17 available across the class, yielding a realistic damage estimate of \$25,280.00.

18 23. In sum, I estimated that Plaintiff's maximum recovery for the off-the-clock claim,  
 19 meal period violations, rest period violations, and failure to reimburse expenses is \$2,193,969.53,  
 20 but, after factoring in the risk and uncertainty of prevailing at certification and trial, I estimate that  
 21 Plaintiff's realistic estimated recovery for the non-penalty claims is \$288,493.01.

22 24. With respect to Plaintiff's derivative claims for statutory and civil penalties,  
 23 Plaintiff estimated that Defendants' realistic potential liability is \$950,145.30. While Defendants'  
 24 maximum potential liability for waiting time penalties is \$6,053,952.96 based on approximately  
 25 1,870 terminated class members during the 3-year statute (1,870\* \$12.49 \* 8.64 hours \* 30 days),  
 26 \$1,697,500.00 for inaccurate wage statements based on approximately 1,050 class members who  
 27 worked 17,500 pay periods within the 1-year statute ((1,050 \* \$50) + (\$100 \* (17,500 – 1,050))),  
 28 and \$1,750,000.00 for PAGA violations based on the Court assessing a \$100 penalty for initial

violations for all 17,500 pay periods within the 1-year statute, I believe that it would be unrealistic to expect the Court to award the full \$9,501,452.96 in penalties given Defendants’ defenses, the contested nature of Plaintiff’s claims, and the discretionary nature of penalties. Considering that the underlying claims are realistically estimated to be \$288,493.01, such a disproportionate award would also raise due process concerns. Weighing these factors and applying a discount of approximately 90% to account for the risk and uncertainty of prevailing at trial as well the potential for due process concerns, I arrived at \$865,479.03 for statutory and civil penalties, which is three times the estimated realistic recovery for non-penalties.

25. Using these estimated figures, Plaintiff predicted that the realistic maximum recovery for all claims, including penalties, would be \$1,153,972.04. This means that the \$500,000.00 settlement figure represents 43% of the realistic maximum recovery ( $\$500,000.00 / \$1,153,972.04 = 43\%$ ). Considering the risk and uncertainty of prevailing at class certification and at trial, and the potential for due process concerns related to a high penalty, this is a good result for the Class.<sup>2</sup> Indeed, because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

26. While Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due to each Class Member would be an expensive, time-consuming, and uncertain proposition.

27. This Settlement avoids the risks and the accompanying expense of further litigation. Although the Parties had engaged in a significant amount of investigation, informal discovery and class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiff intended to depose corporate officers and managers of Defendants. Moreover, preparation for class certification and a trial remained for the Parties as well as the prospect of appeals in the wake of a

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<sup>2</sup> See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* (E.D. Cal. Aug. 21, 2019) 2019 WL 3943859 at \*8 (granting preliminary approval where the proposed allocation to settle class claims was between 9.53 percent of Plaintiffs’ maximum recovery); *Bravo v. Gale Triangle, Inc.* (C.D. Cal. Feb 16, 2017) 2017 WL 708766 at \* 10 (finding that “a settlement for fourteen percent recovery of Plaintiffs’ maximum recovery is reasonable”); *In re Omnivision Techs., Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement amount that “is just over 9% of the maximum potential recovery asserted by either party.”).



1 disputed class certification ruling for Plaintiff and/or adverse summary judgment ruling. Had the  
2 Court certified any claims, Defendants could move to decertify the claims. As a result, the Parties  
3 would incur considerably more attorneys' fees and costs through trial.

4 28. The Net Settlement Amount available for Class Member settlement payments is  
5 estimated to be \$253,333.33, for a class of 2,528 persons.<sup>3</sup> As a result, each Settlement Class  
6 Member is eligible to receive an average net benefit of approximately \$100.21.

7 29. The proposed Settlement of \$500,000.00, therefore, represents a substantial  
8 recovery when compared to Plaintiff's reasonably forecasted recovery. When considering the risks  
9 of litigation, the uncertainties involved in achieving class certification, the burdens of proof  
10 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the  
11 settlement amount of \$500,000.00 is within the "ballpark" of reasonableness, and preliminary  
12 settlement approval is appropriate.

13 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

14 30. Class Counsel represent that Plaintiff devoted a great deal of time and work assisting  
15 counsel in the case, communicated with counsel very frequently for litigation and to prepare for  
16 mediation, and was frequently in contact with Class Counsel during the mediation. Plaintiff's  
17 requested enhancement award is reasonable particularly in light of the substantial benefits Plaintiff  
18 generated for all class members.

19 31. Throughout this Litigation, Plaintiff, who is a former employee of Defendants, has  
20 cooperated immensely with my office and has taken many actions to protect the interests of the  
21 class. Plaintiff provided valuable information regarding the off-the-clock, meal period, and rest  
22 period claims. Plaintiff also informed my office of developments and information relevant to this  
23 action, participated in decisions concerning this action, made herself available to answer questions  
24 during the mediation, and provided my office with the names and contact information of potential  
25 witnesses in this action. Before we filed this case, Plaintiff provided my office with documents

26  
27 <sup>3</sup> The Net Settlement Amount is: \$500,000.00 minus \$166,666.67 for Class Counsel's  
28 attorneys' fees, minus \$15,000.00 for Class Counsel's litigation expenses, minus \$30,000.00 in  
administration costs, minus \$25,000.00 for the PAGA payment, and minus \$10,000.00 for the  
class representative service award to Plaintiff.

1 regarding the claims alleged in this action. The information and documentation provided by  
 2 Plaintiff was instrumental in establishing the wage and hour violations alleged in this action, and  
 3 the recovery provided for in the Settlement Agreement would have been impossible to obtain  
 4 without Plaintiff's participation.

5 32. At the same time, Plaintiff faced many risks in adding herself as the class  
 6 representative in this matter. Plaintiff faced actual risks with her future employment, as putting  
 7 herself on public record in an employment lawsuit could also very well affect her likelihood for  
 8 future employment. Furthermore, as part of this Settlement, Plaintiff is executing a general release  
 9 of all claims against Defendant.

10 33. In turn, class members will now have the opportunity to participate in a settlement,  
 11 reimbursing them for alleged wage violations they may have never known about on their own or  
 12 been willing to pursue on their own. If these class members would have each tried to pursue their  
 13 legal remedies on their own, that would have resulted in each having to expend a significant amount  
 14 of their own monetary resources and time, which were obviated by Plaintiff putting herself on the  
 15 line on behalf of these other class members.

16 34. In the final analysis, this class action would not have been possible without the aid  
 17 of Plaintiff, who put her own time and effort into this Litigation, sacrificed the value of her own  
 18 individual claims, and placed herself at risk for the sake of the class members. The requested  
 19 enhancement award for Plaintiff for her service as the class representative and for her general  
 20 release of all individual claims is a relatively small amount of money when the time and effort put  
 21 into the Litigation are considered and in comparison to enhancements granted in other class actions.  
 22 The requested incentive award is therefore reasonable to compensate Plaintiff for her active  
 23 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation, et al.*,  
 24 No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were  
 25 misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a  
 26 \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00  
 27 class representative incentive award for each named Plaintiffs.

28 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

1           35.     The Settlement provides for attorney’s fees payable to Class Counsel in an amount  
2 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$166,666.67,  
3 plus actual costs and expenses not to exceed \$15,000.00. The proposed award of attorneys’ fees  
4 to Class Counsel in this case can be justified under either method – lodestar or percentage recovery.  
5 Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the  
6 percentage method as many of the entries in the time records will have to be redacted to preserve  
7 attorney-client and attorney work product privileges.

8           36.     I am informed and believe that the fee and costs provision is reasonable. The fee  
9 percentage requested is less than that charged by my office for most employment cases. My office  
10 invested significant time and resources into the case, with payment deferred to the end of the case,  
11 and then, of course, contingent on the outcome.

12           37.     It is further estimated that my office will need to expend at least another 30 to 50  
13 hours to monitor the process leading up to the final approval and payments made to the class. My  
14 office also bears the risk of taking whatever actions are necessary if Defendants fail to pay.

15           38.     The risk to my office has been very significant, particularly if we would not be  
16 successful in pursuing this class action. In that case, we would have been left with no compensation  
17 for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases  
18 that have resulted in thousands of attorney hours being expended and ultimately having  
19 certification denied or the defendant company going bankrupt. The contingent risk in these types  
20 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing  
21 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

22           39.     Because most individuals cannot afford to pay for representation in litigation on an  
23 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a  
24 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless  
25 we prevail at trial or successfully settle our clients’ cases. Because Wilshire Law Firm, PLC is  
26 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or  
27 her case, we cannot afford to represent an individual employee on a contingency basis if, at the  
28 end of our representation, all we are to receive is our regular hourly rate for services. It is essential

that we recover more than our regular hourly rate when we win if we are to remain in practice so as to be able to continue representing other individuals in civil rights employment disputes.

MY EXPERIENCE AND QUALIFICATIONS

40. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World Report as one of the nation's Best Law Firms for every year since 2020 and is comprised of over 70 attorneys and over 500 employees. Wilshire Law Firm, PLC is actively and continuously practicing in employment litigation, representing employees in both individual and class actions in both state and federal courts throughout California.

41. Wilshire Law Firm, PLC is qualified to handle this Litigation because its attorneys are experienced in litigating Labor Code violations in both individual, class action, and representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling, numerous wage and hour class action lawsuits, as well as class actions involving consumer rights and data privacy litigation.

42. I graduated from the University of California, Los Angeles's College Honors Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in 2008.

43. My practice is focused on advocating for the rights of consumers and employees in class action litigation and appellate litigation. I am currently the primary attorney in charge of litigating several class action cases in state and federal courts across the United States.

44. I have received numerous awards for my legal work. From 2017 to 2020, Super Lawyers selected me as a "Southern California Rising Star," and from 2022 to 2024, I was selected as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America" in 2023 and 2024. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under 40" attorney. I am also rated 10.0 ("Superb") by Avvo.com.

45. I am on the California Employment Lawyers Association ("CELA")'s Wage and Hour Committee and Mentor Committee, and I was selected to speak at CELA's 2019 Advanced

1 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively  
2 mentored young attorneys through CELA’s mentorship program.

3 46. I am also a past member of the Consumer Attorneys of California (“CAOC”). In  
4 2020, I was selected for a position on CAOC’s Board of Directors. I am also a past member of  
5 CAOC’s Diversity Committee, and I helped assist the CAOC in defeating bills that harm  
6 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,  
7 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California  
8 Labor Code § 226.

9 47. As the attorney responsible for day-to-day management of this matter at the  
10 Wilshire Law Firm, PLC, I have over fourteen years of experience with litigating wage and hour  
11 class actions. Over the last fourteen years, I have managed and assisted with the litigation and  
12 settlement of several wage and hour class actions. In those class actions, I performed similar tasks  
13 as those performed in the course of prosecuting this action. My litigation experience includes:

- 14 a. I served as lead or co-lead in negotiating class action settlements worth over \$10  
15 million in gross recovery to class members for each year since 2020, including over  
16 \$37.5 million in 2022 and over \$75 million in 2023.
- 17 b. I lead a team of attorneys that successfully obtained class certification of meal  
18 period, rest period, and related derivative claims on April 5, 2024 in *Aguilar-Flores*  
19 *v. Javier’s CC LLC*, Los Angeles Superior Court No. 19STCV36438 (Hon. Elihu  
20 M. Berle).
- 21 c. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*  
22 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a  
23 data breach class action holding that consumer plaintiffs adequately alleged injury  
24 in fact under the benefit of the bargain theory and monitoring-costs theory.
- 25 d. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case  
26 in the Top 20 Labor & Employment Settlements (including number 19 for the \$4.1  
27 million settlement in The FPI Management Wage and Hour Cases) and four  
28 additional cases in the Top 50 Labor & Employment Settlements (numbers 36, 39,

41, and 49).

- e. In 2021, Top Verdict recognized Wilshire Law Firm and myself for having one case in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6 million settlement in *Moreno v. Pretium Packaging, L.L.C*) and four additional cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- f. To my knowledge, I am the only attorney to appear on each of the following Top Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- g. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by winning class certification on behalf of hundreds of thousands of consumers for misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct. C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- h. As lead counsel, I prevailed against Bank of America by: winning class certification on behalf of thousands of employees for California Labor Code violations; defeating appellate review of the court’s order certifying the class; defeating summary judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.* (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2, 2018)). The decision certifying the class in *Frausto* is also discussed in Class Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.
- i. I was the primary author of the class certification and expert briefs in *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action for over 40,000 class members for off-the-clock, meal period, split shift, and reimbursement claims. *ABM Industries Overtime Cases* is the first published California appellate authority to hold that an employer’s “auto-deduct policy for meal breaks in light of the recordkeeping requirements for California employers is

also an issue amenable to classwide resolution.” (*Id.* at p. 310.)<sup>4</sup> Notably, the Court of Appeal also held that expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.

j. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims under California’s Private Attorney Generals Act (“PAGA”) cannot be used to calculate the amount in controversy under the Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises such as Wright & Miller’s *Federal Practice & Procedure*, and *Newberg on Class Actions*. In October 2016, the U.S. Supreme Court denied review of a case that primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.<sup>5</sup> Considering that leading Supreme Court practitioners from the class action defense bar were very motivated in undermining *Yocupicio* case, but failed, this demonstrates the national importance of the *Yocupicio* decision.

k. On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in which I served as lead counsel. In doing so, the Court found: “Class Counsel’s declarations show that the attorneys are experienced and successful litigators.” (*Id.* at p. \*10.)

l. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a

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<sup>4</sup> As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, \*7.)

<sup>5</sup> <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

1 reported decision permitting class-wide discovery even though the employer has a  
2 lawful policy because “[t]he fact that a company has a policy of not violating the  
3 law does not mean that the employees follow it, which is the issue here.” The court  
4 also ordered defendant to pay for the cost of *Belaire-West* notice.

5 m. In 2013, I represented a whistleblower that reported that his former employer was  
6 defrauding the State of California with the help of bribes to public employees. The  
7 case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution  
8 of State of California employees by the California Attorney General’s Office.

9 n. In 2013, I was part of a team of attorneys that obtained conditional certification for  
10 over 2,000,000 class members in a federal labor law case for misclassification of  
11 independent contractors that did crowdsourced work on the Internet, *Otey v.*  
12 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the  
13 following pro-plaintiff reported decisions:

14 i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an  
15 unaccepted Rule 68 offer doesn’t moot plaintiff’s claims, and granting  
16 plaintiff’s motion to strike defendant’s affirmative defenses based on  
17 *Twombly/Iqbal*).

18 ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting  
19 conditional collective certification).

20 iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the  
21 magistrate judge’s discovery ruling which held that “evidence of other  
22 sources of income is irrelevant to the question of whether a plaintiff is an  
23 employee within the meaning of the FLSA”).

24 iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad  
25 discovery because “an FLSA plaintiff is entitled to discovery from locations  
26 where he never worked if he can provide some evidence to indicate  
27 company-wide violations”).

28 o. From 2012 to 2013, I was part of a team of attorneys that obtained class certification



for over 60,000 class members for off-the-clock claims, *Linares v. Securitas Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also successfully opposed subsequent appeals to the California Court of Appeal and California Supreme Court.

48. My current contingent billing rate of \$1,500.00 per hour is consistent with my actual billing rate for paid legal industry consulting services, my practice area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly rates:

- a. I have been paid for legal industry consulting services at \$1,500 per hour by Gerson Lehrman Group (GLG), a company that provides financial information and advises investors and consultants with business clients seeking expert advice. GLG is one of the largest companies that provides expert consulting services. GLG’s clients include corporations, hedge funds, private equity firms, and consulting firms. I have worked with GLG on numerous occasions at a rate of \$1,500 per hour, including on three recent occasions in October and November of 2023.
- b. On January 11, 2024, the Hon. Laurel Beeler of the United States District Court, Northern District of California approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Suarez v. Bank of America, N.A.* (N.D. Cal. Jan. 11, 2024), No. 18-cv-01202-LB, 2024 WL150721, \*3 (“As for the lodestar cross-check, the billing rates are normal and customary for timekeepers with similar qualifications and experience in the relevant market.”)
- c. My \$1,500 hourly rate was approved by many California state courts:
  - 1. On December 8, 2023, the Hon. Marcella O. McLaughlin of the San Diego County Superior Court approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Payabyab v. Bridge Hospice, LLC*, Case No. 7-2021-00046218-CU-

OE-CTL.

2. On January 11, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Gutierrez v. Next Level Door & Millwork, Inc.*, Case No. CVRI2105455.
3. On January 19, 2024, the Hon. Lauri A. Damrell of the Sacramento County Superior Court approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Sunshine Retirement Wage and Hour Cases*, Case No. JCCP 5247.
4. On January 26, 2024, the Hon. Loren G. Freestone of the San Diego Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Lupercio v. Western CNC, Inc.*, Case No. 37-2021-00010314-CU-OE-CTL.
5. On February 1, 2024, the Hon. Joseph T. Ortiz of the San Bernardino Court approved by \$1,500 hourly rate when he granted final approval of the class action settlement in *Jackson, et al. v. Apple Valley Communications, Inc.*, et al., Case No. CIVSB2124721.
6. On February 2, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved by \$1,500 hourly rate when he granted final approval of the class action settlement in *Barrera v. Paradise Chevrolet Cadillac*, Case No. CVSW2107199.
7. On January 11, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Gutierrez v. Next Level Door & Millwork, Inc.*, No. CVRI2105455.

d. On May 6, 2022, the Hon. Jay A. Garcia-Gregory of the United States District Court in Puerto Rico approved my \$850 hourly rate when he granted final

approval of the class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt. 57 (U.S. Dist. Ct. P.R. May 6, 2022).

- e. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court approved my \$800 hourly rate when he granted final approval of the class action settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-01066522-CU-OE-CXC.
- f. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District Court granted final approval of the \$1,600,000 class action settlement in *Carlos Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the Court approved my then \$750 hourly rate after finding it was “reasonable, given the qualifications of the attorneys who worked on this matter.” (*Id.* at p. \*3.)
- g. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior Court approved my \$750 hourly rate when he granted final approval of the class action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No. 19STCV32396.

49. The reasonableness of my firm’s hourly rates is also supported by several surveys of legal rates, including the following:

- a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which presents the real market rates of Los Angeles area attorneys who practice litigation. For that category, the third quartile 2022 rate was \$1,045 per hour for partners and \$855 for associates. Likewise, page 32 of the Report describes the rates charged by 183 Los Angeles partners with “21 or more years of experience” and “Fewer than 21 years.” For those categories, the third quartile Los Angeles partner rate in 2022 were \$1,133 per hour for 21 or more years and \$1,075 for attorneys with fewer than 21 years. A true and correct copy of portions of the 2022 Real Rate Report is attached hereto as **Exhibit 3**.

b. In an article entitled “Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder,’” written by Roy Strom and published by Bloomberg Law on June 9, 2022, the author describes how Big Law firms have crossed the \$2,000-per hour rate. The article also notes that law firm rates have been increasing by just under 3% per year. A true and correct copy of this article is attached hereto as **Exhibit 4**.

50. Benjamin H. Haber is an eighth-year Associate Attorney at Wilshire Law Firm. He graduated from the University of California, Los Angeles, with a Bachelor of Arts in Political Science, and received his Juris Doctor from the University of California, Hastings College of the Law in 2016. During law school, he was a member of the executive board for the *Hastings Law Journal* and student mediator at the San Francisco Superior Court, Small Claims Division. He was admitted to practice law in the State of California in 2017. Since graduating from law school, he has focused his legal work primarily on wage-and-hour litigation and has helped obtain dozens of settlements on behalf of tens of thousands of workers in California. He was also selected as a “Southern California Rising Star” in 2024.

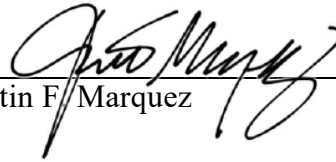
51. Daniel J. Kramer is a eighth-year Associate Attorney at Wilshire Law Firm, PLC. He was admitted to practice law in the State of California and the Central, Eastern, and Northern Districts of California. He graduated from Stanford University with a Bachelor of Arts in History and Political Science, and received his Juris Doctor from Loyola Law School, Los Angeles in 2016. During law school, he was a research editor for the Loyola of Los Angeles International and Comparative Law Review. Before joining Wilshire Law Firm, he practiced briefly at a firm that focused on municipal law and code enforcement and then moved to a respected plaintiff-side firm to practice wage and hour class action litigation. He has several years of work experience litigating wage and hour class actions.

52. Bradford Smith is a Law and Motion Attorney at Wilshire Law Firm. He graduated from the University of California, Irvine with a Bachelor of Arts in History and received his Juris Doctor from Loyola Law School, Los Angeles in 2022. He was admitted to practice law in the State of California in 2022. Before joining Wilshire Law Firm, he worked at a law firm specializing in insurance defense litigation. His focus now is on wage and hour class action

litigation.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on October 2, 2024, at Los Angeles, California.

  
Justin F. Marquez

# Exhibit 1

# CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Bartola Santiago (“Plaintiff”) and defendants Green Valley Labor, Inc. (“Green Valley”) and The Burchell Nursery, Inc. (“Burchell Nursery”) (collectively, “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendants captioned *Bartola Santiago v. Green Valley Labor, Inc., et al.*, Case No. 21CV-00413, initiated on February 5, 2021 pending in Superior Court of the State of California, County of Merced.
- 1.2. “Administrator” means CPT Group, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Green Valley and assigned to work for Burchell Nursery in California as hourly-paid or non-exempt employees at any time during the PAGA Period.
- 1.5. “Class” means all persons who were employed by Green Valley and assigned to work for Burchell Nursery in California as hourly-paid or non-exempt employees during the Class Period.
- 1.6. “Class Counsel” means Justin F. Marquez, Benjamin Haber, and Daniel J. Kramer of Wilshire Law Firm, PLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from February 5, 2017 to May 17, 2023.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as Class Representatives.
- 1.14. “Class Representative’s Service Payment” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Merced.
- 1.16. “Defendants” means Defendants Green Valley Labor, Inc. and Burchell Nursery, Inc., the named defendants in this Action.
- 1.17. “Defense Counsel” means Gerardo Hernandez and Alejandra Gallegos of Littler Mendelson, P.C and Carrie Bushman of Cook Brown, LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.



- 1.22. “Gross Settlement Amount” means \$500,000 which is the total amount Defendants agree to pay under the Settlement, with each responsible for contributing \$250,000. Each Defendant is responsible only for paying its designated 50% share of the Gross Settlement Amount. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, the Class Representative’s Service Payment, and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Period Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, the Class Representative’s Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from February 5, 2020 to May 17, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. “PAGA Notice” means Plaintiff Bartola Santiago’s February 5, 2021 letter to Green Valley and the LWDA, as supplemented on July 19, 2023 to add Burchell Nursery, providing notice pursuant to Labor Code section 2699.3, subd. (a).

- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$6,250.00) and the 75% to LWDA (\$18,750.00) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiff" means Bartola Santiago, the named plaintiff in the Action.
- 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.
- 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.
- 1.41. "Released Parties" means: Defendants and all of their respective former and present directors, officers, shareholders, owners, members, executives, partners, employees, managers, agents, representatives, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. "Response Deadline" means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

## 2. RECITALS.

- 2.1. On February 5, 2021, Plaintiff Bartola Santiago commenced this Action by filing a Complaint alleging causes of action against Green Valley for violations under the Labor Code and Business and Professions Code for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; and (7) violation of California's Unfair Competition Law, California Business and Professions Code §§ 17200, *et seq.* On January 14, 2022, Plaintiff Bartola Santiago filed a First Amended Class Action Complaint adding Burchell Nursery as a named defendant and adding a cause of action for failure to indemnify necessary business expenses. The Parties will stipulate and request the Court's approval to permit Plaintiff to file a Second Amended Class and Representative Action Complaint to include a claim for civil penalties under California's Private Attorneys General Act of 2004 ("PAGA"). The Second Amended Complaint shall be defined as the Operative Complaint. Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff Bartola Santiago gave timely written notice to Green Valley and the LWDA by sending the PAGA Notice and to Burchell Nursery via the supplemental PAGA Notice referenced in Paragraph 1.33 above.
- 2.3. On February 16, 2023, the Parties participated in an all-day mediation presided over by mediator Hon. Howard R. Broadman (Ret.) which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, documents and information pertaining to their wage and hour claims, including, but not limited to, wage and hour policy and procedure documents, an adequate sampling of employee time and payroll records, and the exchanges of relevant data points pertaining to the Class and PAGA claims. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4<sup>th</sup> 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4<sup>th</sup> 116, 129-130 ("*Dunk/Kullar*").
- 2.5. The Court has not granted class certification.
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

### 3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay \$500,000, with each Defendant contributing only \$250,000

thereto, and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Each Defendant is responsible only for paying 50% of said employer payroll taxes. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Service Payment to the Class Representative of not more than \$10,000 to Plaintiff Bartola Santiago (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for the Class Representative's Service Payment that does not exceed these amounts. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves the Class Representative's Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative's Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$166,666.67 and a Class Counsel Litigation Expenses Payment of not more than \$15,000.00. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$30,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$30,000, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 33% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining 67% of each Participating Class Member's Individual Class Payment will be allocated to settlement of non-wage claims for e.g., interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

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

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

- This e-copy is the official court record (GC68150)
- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 2,528 Class Members who collectively worked a total of 40,448 Workweeks for the period of February 5, 2017 to February 16, 2023.
  - 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Green Valley will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Green Valley has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Green Valley must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
  - 4.3. Funding of Gross Settlement Amount. Each Defendant shall fund its 50% portion of the Gross Settlement Amount, and also the amounts necessary to fully pay each Defendants' 50% share of employer payroll taxes owed on the Wage Portions of the Individual Class Payments as follows: (1) each Defendant shall deposit \$125,000 with the Administrator no later than 30 days after the Effective Date; (2) each Defendant shall deposit another \$125,000, plus its 50% share of the employer payroll taxes, within six months after making the first payment.
  - 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative's Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative's Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
    - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who



qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient"), the Valley Children's Hospital, located at 9300 Valley Children's Place, Madera, California 9363-8762. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

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

5.1 Plaintiff's Release. Plaintiff and her former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorney fees and costs), known or unknown, at law or in equity, which she may now have or may have after the signing of this Agreement, arising out of or in any way connected with her employment with Defendants, including, the Released Class Claims and Released PAGA Claims, claims that were asserted or could have been asserted in the Action, and any and all transactions, occurrences, or matters between the Parties occurring prior to the date this Agreement is fully executed. Without limiting the generality of the

foregoing, this release shall include, but not be limited to, any and all claims under the (a) Americans With Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964, as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age Discrimination in Employment Act, as amended; (f) the Fair Labor Standards Act, as amended; (g) the Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and Housing Act; (n) the California Constitution; (o) the California Labor Code; (p) the California Government Code; (q) the California Civil Code; (r) the California Wage Orders, and (s) any and all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims based on constitutional, statutory, common law or regulatory grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules or laws. This release is for any and all relief, no matter how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney fees and costs. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agree, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

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

- 5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, both potential and actual, that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint that arose during the Class Period including but not limited to any and all claims for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to pay for all hours worked; (4) failure to provide meal periods; (5) failure to authorize and permit rest periods; (6) failure to timely pay final wages at termination; (7) failure to provide



accurate itemized wage statements; (8) failure to indemnify employees for business expenditures, and (9) violation of California's Unfair Competition Law, California Business and Professions Code §§ 17200, *et seq.* and all claims for damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said causes of action under California law, to the extent permissible, including but not limited to the California Labor Code and the applicable Wage Orders. This release includes claims alleged under California Labor Code sections 204, 1194, 1194.2, 1197, 1198, 226.7, 512, 201-203, 226, 2802, 1174, 218.5, 218.6, 510, Business & Professions Code section 17200, *et seq.* and IWC Wages Orders, Section 11. Except as set forth in Sections 5.1 and 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 5.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Consolidated Action and the PAGA Notice that arose during the PAGA Period, including but not limited to any and all claims for: (1) failure to pay for all hours worked; (2) failure to pay minimum and straight time wages; (3) failure to pay overtime wages; (4) failure to provide meal periods; (5) failure to authorize and permit rest periods; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements and (8) failure to indemnify employees for business expenditures. This release includes all claims for PAGA penalties for alleged violations of California Labor Code sections 204, 1194, 1194.2, 1197, 1198, 226.7, 512, 201-203, 226, 2802, 1174, 218.5, 218.6, 510, and IWC Wages Orders, Section 11.

**6. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals, if applicable.

- 6.1 Defendants' Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2); (ii) a draft proposed

Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

## 7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected CPT Group to serve as the Administrator and verified that, as a condition of appointment, CPT Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

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

#### 7.4 Notice to Class Members.

- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, if applicable substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notices to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendants, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

## 7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

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

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained

in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel (with employee names redacted) and the Administrator's determination the challenges.

## 7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and the Class Representative's Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the employee identification numbers of Class



Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the employee identification numbers of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid) (with employee names and addresses redacted). Only Defense Counsel shall receive information containing employee names.

- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Tax Administration. The Administrator shall be responsible for withholding payroll taxes from the Wage Portion of each Individual Class Payment, calculating Defendants’ share of employer payroll taxes, remitting payroll tax payments to the appropriate taxing authorities, and issuing the appropriate tax reporting forms to Class Members and Aggrieved Employees.
- 7.8.6 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List by employee identification number. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.7 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all

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

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Defendants represent that the best-estimate for the number of workweeks worked by the Class Members during the period of February 5, 2017 to February 16, 2023 is 40,448. If the amount of workweeks for the Class Period is determined to be more than 30% higher than this estimate (i.e., 13,334 or more workweeks), Defendants will have the option to either (1) withdraw from this settlement agreement or (2) modify the applicable Class Period's end date to a date prior to May 17, 2023 to reduce the relevant time period to meet the 30% buffer of 53,782 workweeks. The Maximum Settlement Amount will not be reduced due to Defendants' estimate.
9. **DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
  - 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
  - 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as

necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative's Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

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

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

## **12. ADDITIONAL PROVISIONS.**

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



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

- 12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take

all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

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

negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

To Plaintiff:

Justin F. Marquez, Esq.  
Benjamin H. Haber, Esq.  
Daniel J. Kramer, Esq.  
WILSHIRE LAW FIRM  
3055 Wilshire Blvd., 12<sup>th</sup> Floor  
Los Angeles, CA 90010  
Telephone: (213) 784-3830  
Facsimile: (213) 381-9989  
[justin@wilshirelawfirm.com](mailto:justin@wilshirelawfirm.com)  
[benjamin@wilshirelawfirm.com](mailto:benjamin@wilshirelawfirm.com)  
[dkramer@wilshirelawfirm.com](mailto:dkramer@wilshirelawfirm.com)

To Green Valley Labor, Inc.:

Gerardo Hernandez, Esq.  
Alejandra Gallegos, Esq.  
LITTLER MENDELSON, P.C.  
5200 N. Palm Ave., Suite 302  
Fresno, California 93704  
Telephone: (559) 244-7500

Facsimile: (559) 244-7525  
[Ghernandez@littler.com](mailto:Ghernandez@littler.com)  
[Agallegos@littler.com](mailto:Agallegos@littler.com)

To The Burchell Nursery, Inc.:

Carrie E. Bushman, Esq.  
 COOK BROWN, LLP  
 2407 J Street, Second Floor  
 Sacramento, California 95816  
 Telephone: (916) 442-3100  
 Facsimile: (916) 442-4227  
[cbushman@cookbrown.com](mailto:cbushman@cookbrown.com)

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

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

*On Behalf of Plaintiff:*

Dated: 2/28/2024, 2023

DocuSigned by:

*Bartola Santiago*

8B091BB948104F0...

Bartola Santiago, Plaintiff

*On Behalf of Defendant Green Valley labor, Inc.:*

Dated: \_\_\_\_\_, 2023

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*On Behalf of Defendant The Burchell Nursery, Inc.:*

Dated: \_\_\_\_\_, 2023

This e-copy is the official court record (GC68150)

Name:  
Title:

Facsimile: (559) 244-7525

Ghernandez@littler.com

Agallegos@littler.com

To The Burchell Nursery, Inc.:

Carrie E. Bushman, Esq.

COOK BROWN, LLP

2407 J Street, Second Floor

Sacramento, California 95816

Telephone: (916) 442-3100

Facsimile: (916) 442-4227

cbushman@cookbrown.com

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*On Behalf of Plaintiff:*

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Bartola Santiago, Plaintiff

*On Behalf of Defendant Green Valley labor, Inc.:*

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Name:  
Title:

*On Behalf of Defendant The Burchell Nursery, Inc.:*

Dated: \_\_\_\_\_, 2023

Facsimile: (559) 244-7525

[Ghernandez@littler.com](mailto:Ghernandez@littler.com)

[Agallegos@littler.com](mailto:Agallegos@littler.com)

To The Burchell Nursery, Inc.:

Carrie E. Bushman, Esq.

COOK BROWN, LLP

2407 J Street, Second Floor

Sacramento, California 95816

Telephone: (916) 442-3100

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*On Behalf of Plaintiff:*

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Bartola Santiago, Plaintiff

*On Behalf of Defendant Green Valley labor, Inc.:*

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Name:

Title:

*On Behalf of Defendant The Burchell Nursery, Inc.:*

Dated: 3/8/2024, 2023

\_\_\_\_\_  
*Thom W. Wuu*



Name: *Thomas W. Burchell*  
Title: *president / CEO*



# EXHIBIT A

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

*Bartola Santiago v. Green Valley Labor, Inc., et al.,*  
Case No. 21CV-00413

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

**You may be eligible to receive money** from an employee class action and representative action lawsuits ("Action") against Green Valley Labor, Inc. ("Green Valley") and The Burchell Nursery, Inc. ("Burchell Nursery") (collectively "Defendants") for alleged wage and hour violations. The Action was filed by Bartola Santiago ("Plaintiff"), a former Green Valley Labor employee who was assigned to work for The Burchell Nursery, Inc. and seeks payment of back wages and other relief for a class of non-exempt, hourly-paid employees ("Class Members") who were employed by Green Valley and assigned to work for Burchell Nursery in California during the Class Period (February 5, 2017 to May 17, 2023); and (2) penalties under the California Private Attorneys General Act ("PAGA") for all non-exempt, hourly-paid employees who were employed by Green Valley and assigned to work for Burchell Nursery in California during the PAGA Period (February 5, 2020 to May 17, 2023) ("Aggrieved Employees").

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

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

The above estimates are based on Defendants' records showing that **you worked \_\_\_\_\_ workweeks** during the Class Period and **you worked \_\_\_\_\_ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and

Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you were employed by Green Valley and assigned to work for Burchell Nursery during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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

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

#### SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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

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

## 1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Green Valley who was assigned to work for Burchell Nursery. The Action accuses Defendants of violating California labor laws by failing to pay for all hours worked (including minimum, straight time and overtime wages), failing to provide meal periods and rest breaks, failing to pay wages due upon termination, failing to provide accurate itemized wage statements, and failing to indemnify employees for business expenditures. Based on the same claims, Plaintiff Bartola Santiago has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) ("PAGA"). Plaintiff is represented by attorneys in the Action: Justin F. Marquez, Benjamin H. Haber, and Daniel J. Kramer of Wilshire Law Firm, PLC ("Class Counsel").

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

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

So far, the Court has made no determination whether Defendants or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to

jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. Defendants Will Pay \$500,000 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, the Class Representative's Service Payment, Class Counsel's attorneys' fees and expenses, the Administrator's expenses, and penalties to be paid to the LWDA. Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$166,666.67 (33 1/3% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$15,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$10,000 to Plaintiff Bartola Santiago for filing the Action, working with Class Counsel and representing the Class. The Class Representative's Service Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
  - C. Up to \$30,000 to the Administrator for services administering the Settlement.
  - D. Up to \$25,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 33% of each Individual Class Payment to taxable wages (“Wage Portion”) and 67% to penalties and interest (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be irrevocably lost to you because they will be paid to a non-profit organization, the Valley Children’s Hospital, located at 9300 Valley Children’s Place, Madera, California 93636-8762 (“Cy Pres Beneficiary”).
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by [date]. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.



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

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, both potential and actual, that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint that arose during the Class Period including but not limited to any and all claims for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to pay for all hours worked; (4) failure to provide meal periods; (5) failure to authorize and permit rest periods; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; (8) failure to indemnify employees for business expenses, and (9) violation of California’s Unfair Competition Law, California Business and Professions Code §§ 17200, *et seq*, and all claims for damages, interest, penalties, attorneys’ fees, costs and other amounts recoverable under said causes of action under California law, to the extent permissible, including but not limited to the California Labor Code and the applicable Wage Orders. This release includes claims alleged under California Labor Code sections 204, 1194, 1194.2, 1197, 1198, 226.7, 512, 201-203, 226, 2802, 1174, 218.5, 218.6, 510, Business & Professions Code section 17200, *et seq*., and IWC Wage Orders, Section 11. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and

Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

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

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

All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Action, and the PAGA Notice that arose during the PAGA Period, including but not limited to any and all claims for: (1) failure to pay for all hours worked; (2) failure to pay minimum and straight time wages; (3) failure to pay overtime wages; (4) failure to provide meal periods; (5) failure to authorize and permit rest periods; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) failure to indemnify employees for business expenditures. This release includes all claims for PAGA penalties for alleged violations of California Labor Code sections 204, 1194, 1194.2, 1197, 1198, 226.7, 512, 201-203, 226, 2802, 1174, 218.5, 218.6, 510, and IWC Wage Orders, Section 11

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$6,250 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Green Valley's records, are stated in the first page of this Notice. You have until [date] to challenge the number of Workweeks and/or Pay Periods credited

to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

## 5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Bartola Santiago v. Green Valley Labor Inc., et al.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to approve. At least 16 days before the [date] Final Approval Hearing, Class Counsel and/or



Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as the Class Representatives' Service Awards. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [need details] or the Court's website [need details].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [date].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Bartola Santiago v. Green Valley Labor Inc., et al.*, and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [date] at [time] in Department 8 of the Merced County Superior Court, located at 627 W 21st Street Merced, CA 95340. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) personally. Check the Court's website for the most current information ([merced.courts.ca.gov](http://merced.courts.ca.gov)).

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

## 9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [specify whose] website at [URL of website]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to

(<https://jpportal.mercedcourt.org/MERCEDPUBLIC/Home/Dashboard/29>) and entering the Case Number for the Action, Case No. 21CV-00413.

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

Class Counsel:

Justin F. Marquez

[justin@wilshirelawfirm.com](mailto:justin@wilshirelawfirm.com)

Benjamin H. Haber

[benjamin@wilshirelawfirm.com](mailto:benjamin@wilshirelawfirm.com)

Daniel J. Kramer

[dkramer@wilshirelawfirm.com](mailto:dkramer@wilshirelawfirm.com)

WILSHIRE LAW FIRM

3055 Wilshire Blvd., 12th Floor

Los Angeles, CA 90010

Telephone: (213) 784-3830

Facsimile: (213) 381-9989

Settlement Administrator:

Name of Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

**10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund website for instructions on how to retrieve the funds.

**11. WHAT IF I CHANGE MY ADDRESS?**

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

4861-7326-6026.1 / 112379-1001

# Exhibit 2



www.cptgroup.com

**Contact Name:** Timothy Phillips  
Vice President, Business Development  
**Corporate Headquarters**  
50 Corporate Park, Irvine CA 92606  
TIM@CPTGroup.com  
**Direct Number:** (818) 415-2703  
**Main Number:** (800) 542-0900

## CASE NAME: SANTIAGO V. GREEN VALLEY LABOR

**Date:** March 8, 2023

**Requesting Attorney:** Justin F. Marquez

**Plaintiff or Defense:** Plaintiff

**Firm Name:** Wilshire Law Firm, PLC

**Telephone:** (213) 381-9988

**Email:** [justin@wilshirelawfirm.com](mailto:justin@wilshirelawfirm.com)

### **All-In Settlement**

**Class Size:** 2,500

**Opt-Out Rate:** 1.5%

**No. of Checks Issued:** 2,463

**Postage Total:** \$3,081.53

**Grand Total:** \$31,282.08

**DISCOUNTED FLAT FEE: \$21,500.00**

The services and numbers reflected herein are an estimate provided by counsel. If the actual services and number are different, our cost estimate will change accordingly.

The attached Terms and Conditions are included as part of our cost proposal. By accepting our costs proposal for this matter, you are thereby agreeing to the Terms and Conditions.

## CASE SETUP

Upon Intake of the Data, CPT will Scrub all Records to a Useable Format to Reduce Duplicates, Anomalies and Increase the Success Rate of Deliverability of the Class Notice. Class Members will be Assigned a Unique Mailing ID which will be Used Throughout Administration. The Notice Packet will be Translated into Spanish. All Pertinent Documents will be Posted on a Case Specific Website.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Case Intake & Review	\$95.00	7	\$665.00
Programming: Data Base Setup	\$150.00	7	\$1,050.00
Spanish Translation	\$1,200.00	1	\$1,200.00
Static Website	\$500.00	1	\$500.00
TOTAL			\$3,415.00

## DIRECT MAIL NOTICE

To Ensure Mailing to the Most Current Address Possible, CPT will Perform an Address Update via NCOA. CPT will Mail a Full-Length Notice & 1-Page Exclusion Form in Both English & Spanish.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Format Documents	\$95.00	2	\$190.00
National Change of Address Search (NCOA)	\$250.00	1	\$250.00
Print & Mail Notice Packets	\$1.50	2,500	\$3,750.00
First-Class Postage (up to 2 oz.)*	\$0.59	2,500	\$1,475.00
TOTAL			\$5,665.00

\*Postage costs are subject to change at anytime. The final rate will be determined at the time of mailing.

## PROCESS RETURNED UNDELIVERABLE MAIL

Based On CPT's Historical Data, 6% of the Notices will be Returned Undeliverable. Upon Receipt, CPT will Perform a Skip Trace in an Attempt to Obtain a Current Address; Thus, 91% of the Notice Packets are Remailled.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Clerical Staff	\$60.00	3	\$180.00
Update Undeliverable Mail Database	\$0.50	150	\$75.00
Skip Trace for Best Address	\$1.00	129	\$129.00
Print & Remail Notice Packets	\$1.50	117	\$175.50
First-Class Postage (up to 2 oz.)	\$0.81	117	\$94.77
TOTAL			\$654.27

## OPT-OUT PROCESSING

CPT will Process and Validate all Opt-Outs and Other Responses from Class Members. Deficient Opt-Outs will Receive a Deficiency Notice

by Mail and Provide an Opportunity to Cure. CPT will Scrub the Filed Opt-Outs to Eliminate Duplicates, Fraudulent, and Otherwise Invalid.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: De-duplication/Scrubbing	\$150.00	1	\$150.00
Project Manager: Validate Opt-Out Requests	\$95.00	1	\$95.00
Clerical Staff	\$60.00	1	\$60.00
Opt-Out & Change of Address Processing	\$2.00	38	\$75.00
Print & Mail Deficiency/Dispute Notices	\$1.50	2	\$3.00
First-Class Postage (up to 1 oz.)	\$0.60	2	\$1.20
Review & Process Deficiency Responses	\$10.00	1	\$10.00
		<b>TOTAL</b>	<b>\$394.20</b>

## TELEPHONE SUPPORT

CPT will Maintain a Toll-Free Phone Number with IVR Capabilities and Live Class Member Support Representatives During Normal Business Hours, Monday-Friday, 9:00 AM - 5:30 PM, PT. The Dedicated Case Phone Number will Remain Active Up to 120 Days After Disbursement.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Toll-Free Number Establish/Setup	\$150.00	2	\$300.00
Live Call Center Support Reps.	\$3.00	500	\$1,500.00
		<b>TOTAL</b>	<b>\$1,800.00</b>

## SSN VERIFICATION

Verify SSN for Validity with IRS / IRS Backup Withholdings

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: SSN Selection	\$150.00	1	\$150.00
Department Manager: Analysis & Reporting	\$95.00	3	\$285.00
IRS SSN Verification	\$0.10	2,463	\$246.25
		<b>TOTAL</b>	<b>\$681.25</b>

## DISTRIBUTION SERVICES

CPT will Establish and Manage the Qualified Settlement Fund (QSF) for up to One Year After Disbursement. Upon Approval, CPT will Perform all Necessary Calculations and Disburse Funds. CPT will Mail an 8.5"x11" MICR Check to Valid Class Members. CPT Uses a Payee Positive Pay System to Reconcile Checks Cashed and Conducts Monthly Account Reconciliations for the QSF.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: Calculation Totals	\$150.00	3	\$450.00
Project Supervisor: Review of Distribution	\$150.00	6	\$900.00
Project Manager: Correspondence w/Parties	\$95.00	3	\$285.00
Programming: Setup & Printing of Checks	\$150.00	4	\$600.00
Obtain EIN, Setup QSF/Bank Account	\$150.00	3	\$450.00
Print & Mail Notice, Checks & W2/1099	\$2.50	2,463	\$6,156.25
First-Class Postage (up to 1 oz.)*	\$0.52	2,463	\$1,280.50
		<b>TOTAL</b>	<b>\$10,121.75</b>

\*Postage costs are subject to change at anytime. The final rate will be determined at the time of mailing.

## POST-DISTRIBUTION & TAX REPORTING

Any Check Returned Undeliverable is Skip Traced to Locate a Current Address and Remailed Accordingly. CPT will Process Requests for Check Reissues Continuously. CPT Prepares Annual Tax Reporting on Behalf of the QSF and Federal and State Taxes in Accordance with Current State and Federal Regulations. Upon the Conclusion of the Settlement, a Final Report and Declaration will be Provided to all Parties.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Supervisor: Account Reconciliation	\$150.00	10	\$1,500.00
Update Undeliverable Checks Database	\$0.50	197	\$98.50
Skip Trace for Best Address	\$1.00	197	\$197.00
Remail Undeliverable Checks	\$2.50	179	\$447.50
First-Class Postage (up to 1 oz.)	\$0.60	179	\$107.40
Re-Issue Checks as Required	\$5.00	124	\$620.00
First-Class Postage (up to 1 oz.)	\$0.60	124	\$74.40
Project Supervisor: Reconcile Uncashed Chk	\$150.00	1	\$150.00
Programming: Weekly & Final Reports	\$150.00	2	\$300.00
Project Supervisor: Final Declaration	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
CA Tax Preparation*	\$600.00	1	\$600.00
Annual Tax Reporting to IRS*	\$1,000.00	1	\$1,000.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$6,084.80

\*CPT will file Federal and California taxes in accordance to current state and federal regulations. Additional charges will apply if the Settlement/Order/parties require(s) multiple state tax filings.

## SCO ESCHEATMENT PROCESSING

Escheatment Processing to the State Controller Unclaimed Property Division / Uncashed Check Rate 21%			
ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
UPEnterprise Reporting Services	\$0.15	517	\$77.55
Project Manager: SCO Fall Reporting	\$95.00	2	\$190.00
Project Supervisor: Review of SCO Reports	\$150.00	1	\$150.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Check Reissues for Winter/Spring QTR	\$5.00	52	\$260.00
First-Class Postage (up to 1 oz.)	\$0.60	52	\$31.20
Project Supervisor: June Remittance	\$150.00	1	\$150.00
Project Manager: June Remittance	\$95.00	2	\$190.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Add'l Account Recons	\$150.00	6	\$900.00
Add'l QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$2,465.81

GRAND TOTAL \$31,282.08

# TERMS AND CONDITIONS

These Terms and Conditions are made a part of, and incorporated by reference into, any cost proposal or Bid presented by CPT Group, Inc. to Client

## 1. Definitions.

- a) **"Affiliate"** means a party that partially (at least 50%) or fully controls, is partially or fully controlled by, or is under partial (at least 50%) or full common control with another party.
- b) **"Approved Bank"** means a financial institution insured by the Federal Deposit Insurance Corporation with capital exceeding \$1 billion.
- c) **"Case"** means the particular judicial matter identified by the name of plaintiff(s) and defendant(s) on the applicable Order.
- d) **"Claims Administrator"** means CPT Group, Inc., a reputable third-party Claims Administrator selected by all the Parties (Plaintiff and Defense Counsel) to administer the Settlement or Notification Mailing.
- e) **"Client"** means collectively Plaintiff Counsel and Defense Counsel.
- f) **"Client Content"** means all Class Member written document communications relating to the Case, including claim forms, opt-out forms, and objections, which contain Client Data.
- g) **"Client Data"** means proprietary or personal data regarding Client or any of its Class Members under this Agreement, as provided by Client.
- h) **"Class Member"** means an individual who is eligible under the Settlement Agreement to receive a designated amount of the Settlement, including the named Plaintiff(s) in the Case and all other putative persons so designated or addressed therein.
- i) **"Confidential Information"** means any non-public information of CPT or Client disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other party may have access, which a reasonable person would consider confidential and/or which is marked "confidential" or "proprietary" or some similar designation by the disclosing party. Confidential Information shall also include the terms of this Agreement, except where this Agreement specifically provides for disclosure of certain items. Confidential Information shall not, however, include the existence of the Agreement or any information which the recipient can establish: (i) was or has become generally known or available or is part of the public domain without direct or indirect fault, action, or omission of the recipient; (ii) was known by the recipient prior to the time of disclosure, according to the recipient's prior written documentation; (iii) was received by the recipient from a source other than the discloser, rightfully having possession of and the right to disclose such information; or (iv) was independently developed by the recipient, where such independent development has been documented by the recipient.
- j) **"Court Order"** means a legal command or direction issued by a court, judicial office, or applicable administrative body requiring one or more parties to the Case to carry out a legal obligation pursuant to the Case.
- k) **"Defendant"** means the named party and/or parties in the Case against whom action is brought.
- l) **"Defense Counsel"** means the attorney of record for the defendant(s) in the Case.
- m) **"Intellectual Property Right"** means any patent, copyright, trade or service mark, trade dress, trade name, database right, goodwill, logo, trade secret right, or any other intellectual property right or proprietary information right, in each case whether registered or unregistered, and whether arising in any jurisdiction, including without limitation all rights of registrations, applications, and renewals thereof and causes of action for infringement or misappropriation related to any of the foregoing.
- n) **"Order"** means a Product purchase in a schedule, statement of work, addendum, exhibit, or amendment signed by Client and CPT.
- o) **"Parties"** shall mean collectively Defendants, Defense and Plaintiff as defined in the Settlement Agreement or Court Order.
- p) **"Plaintiff"** means the named party and/or parties in the Case who are bringing the action.
- q) **"Plaintiff Counsel"** means the attorney of record for plaintiff Class Members in the Case.
- r) **"Products"** means any and all CPT Services, and work products resulting from Services.
- s) **"Qualified Settlement Fund"** means the entity as defined by Treasury Regulation section 4686-1 under which a bank account is established to receive settlement funds from the Defendant in the Case, which such funds are then disbursed by CPT according to the Settlement Agreement and pursuant to Court Order.

- t) **"Service"** means any service rendered by CPT specifically to Client, including, but not limited to: (i) notifications to Class Members; (ii) setting up a Qualified Settlement Fund with a financial institution; (iii) management of disbursement of funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement; (iv) provision of customer support relating to the Case; (v) management of Case claim forms and correspondence; and/or (vi) any administrative or consulting service.
- u) **"Software"** means any and all of CPT's proprietary applications, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto.
- v) **"Settlement"** means the total dollar amount agreed to between parties to the Case, as negotiated by Plaintiff Counsel and Defense Counsel, to resolve the Case to mutual satisfaction.
- w) **"Settlement Agreement"** means the contract between parties to the Case to resolve the same, which specifies amounts to be disbursed from the Qualified Settlement Fund to attorneys, CPT, and individual Class Members.
- x) **"Term"** means the term of the Agreement, as set forth in the Order.
- y) **"Transmission Methods"** means the secure authorized manner to send Client Data and/or Wire Information as specified on a schedule or Order hereto.
- z) **"Wire Information"** means instructions for (i) Defense Counsel to transfer funds from Defendant to the Qualified Settlement Fund or (ii) CPT to transfer funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement.

2. **Client Obligations.** Client will ensure that it has obtained all necessary consents and approvals for CPT to access Client Data for the purposes permitted under this Agreement and shall only transmit Client Data and/or Wire Instructions to CPT via the Transmission Methods. Client shall use and maintain appropriate administrative, technical, and physical safeguards designed to protect Client Data provided under this Agreement. Client shall not send, or attempt to send, Client Data and/or Wire Instructions via email, facsimile, unprotected spreadsheet, USB flash drive or other external or removable storage device, cloud storage provider, or any other method not specified in the Transmission Methods. Notwithstanding the foregoing, Client acknowledges and understands that the electronic transmission of information cannot be guaranteed to be secure or error free, and such information could be intercepted, corrupted, lost, and/or destroyed. Client further warrants that any Client Data and/or Wire Instructions it transmits shall be free of viruses, worms, Trojan horses, or other harmful or disarming codes which could adversely affect the Client Data and/or CPT. If Client is in breach of this section, CPT may suspend Services, in addition to any other rights and remedies CPT may have at law or in equity.

3. **Security.** The Parties and CPT shall each use reasonable administrative, technical, and physical safeguards that are reasonably designed to: (a) protect the security and confidentiality of any personally identifiable information provided by Class Members and/or Client under this Agreement; (b) protect against any anticipated threats or hazards to the security or integrity of such personally identifiable information; (c) protect against unauthorized access to or use of such personally identifiable information that could result in substantial harm or inconvenience to any individual; and (d) protect against unauthorized access to or use of such personally identifiable information in connection with its disposal. Each Party will respond promptly to remedy any known security breach involving the personally identifiable information provided by you and/or Client under this Agreement and shall promptly inform the other Parties of such breaches.

4. **CPT Obligations.** Provided that Client complies with all provisions of Section "Client Obligations", CPT will (i) maintain appropriate safeguards for the protection of Client Data, including regular back-ups, security and incident response protocols, and (ii) not access or disclose Client Data except (A) as compelled by law, (B) to prevent or address service or technical issues, (C) in accordance with this Agreement or the provisions of the Settlement Agreement, or (D) if otherwise permitted by Client.

## 5. Mutual Obligations.

- a) **Resources.** Each party agrees to: (i) provide the resources reasonably necessary to enable the performance of the Services; (ii) manage its project staffing, milestones, and attendance at status meetings; and (iii) ensure completion of its project deliverables and active participation during all phases of a Service project. The parties acknowledge that failure to cooperate during a Service project may delay delivery of the Service.

If there is a delay, the party experiencing the delay will notify the other party as soon as reasonably practicable, and representatives of each party will meet to discuss the reason for the delay and applicable consequences. Changes beyond the scope of an Order and/or a party's delay in performing its obligations may require an amended Order.

- b) Incident Notification. Each party will promptly inform the other parties in the event of a breach of Client Data in their possession and shall utilize best efforts to assist the other parties to mitigate the effects of such incident.
6. Qualified Settlement Fund Account. At Client's request, CPT shall be authorized to establish one or more bank accounts at an Approved Bank. The amounts held at the Approved Bank under this Agreement are at the sole risk of Client. Without limiting the generality of the foregoing, CPT shall have no responsibility or liability for any diminution of the funds that may result from the deposit thereof at the Approved Bank, including deposit losses, credit losses, or other claims made against the Approved Bank. It is acknowledged and agreed that CPT has acted reasonably and prudently in depositing funds at an Approved Bank, and CPT is not required to conduct diligence or make any further inquiries regarding such Approved Bank.
7. Fees and Payment. Pricing stated within the proposal is good for 90 Days. All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the Client data and /or notice documents. Client will be invoiced for any remaining fees according to the applicable Order. Pricing stated within any proposal from CPT to Client is for illustrative purposes only and is only binding upon an Order executed by CPT and Client. Payment of fees will be due within 30 days after the date of the invoice, except where this Agreement expressly prescribes other payment dates. All fees set forth in an Order are in U.S. dollars, must be paid in U.S. dollars, and are exclusive of taxes and applicable transaction processing fees. Late payments hereunder will incur a late charge of 1.5% (or the highest rate allowable by law, whichever is lower) per month on the outstanding balance from the date due until the date of actual payment. In addition, Services are subject to suspension for failure to timely remit payment therefor. If travel is required to effect Services, Client shall reimburse CPT for pre-approved, reasonable expenses arising from and/or relating to such travel, including, but not limited to, airfare, lodging, meals, and ground transportation.
8. Term and Termination.
  - a) Term. The Term is set forth in the Order. The Agreement may be renewed by mutual written agreement of the parties.
  - b) Termination for Cause. Either party may immediately terminate this Agreement if the other party materially breaches its obligations hereunder, and, where capable of remedy, such breach has not been materially cured within forty-five (45) days of the breaching party's receipt of written notice describing the breach in reasonable detail.
  - c) Bankruptcy Events. A party may immediately terminate this Agreement if the other party: (i) has a receiver appointed over it or over any part of its undertakings or assets; (ii) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (iii) makes a general assignment for the benefit of its creditors.
  - d) Effect of Termination. Immediately following termination of this Agreement, upon Client's written request, Client may retrieve Client Data via Client's secure FTP site in the same format in which the Client Data was originally inputted into the Software, at no additional charge. Alternatively, Client Data can be returned in a mutually agreed format at a scope and price to be agreed. CPT will maintain a copy of Client Data and Client Content for no more than four (4) years following the date of the final check cashing deadline for Class Members under the Settlement Agreement, after which time any Client Data and Client Content not retrieved will be destroyed.
  - e) Final Payment. If Client terminates this Agreement due to Section "Termination", Client shall pay CPT all fees owed through the termination date. If CPT terminates the Agreement in accordance with Section "Termination," Client shall pay CPT all fees invoiced through the termination date, plus all fees remaining to be invoiced during the Term, less any costs CPT would have incurred had the Agreement not been terminated.

Confidentiality. Each of the parties agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those subcontractors of CPT providing Products hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (ii) not to use any Confidential Information for any purposes except carrying out such party's rights and responsibilities under this Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such party uses to protect its own confidential information; provided, however, that such party shall use at least reasonable care. These obligations shall survive termination of this Agreement.

- a) Compelled Disclosure. If receiving party is compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of law, such party shall (i) promptly notify the other party, (ii) reasonably cooperate with the other party in such party's efforts to prevent or limit such compelled disclosure and/or obtain confidential treatment of the items requested to be disclosed, and (iii) shall disclose only that portion of such information which each party is advised by its counsel in writing is legally required to be disclosed.
- b) Remedies. If either party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages.
10. Intellectual Property. As between the parties, CPT will and does retain all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to the Products. Client retains all ownership rights to Client Data.
11. Indemnification. Client agrees to indemnify, defend, and hold harmless CPT, its Affiliates, and the respective officer, directors, consultants, employees, and agents of each (collectively, Covered CPT Parties") from and against any and all third party claims and causes of action, as well as related losses, liabilities, judgments, awards, settlements, damages, expenses and costs (including reasonable attorney's fees and related court costs and expenses) (collectively, "Damages") incurred or suffered by CPT which directly relate to or directly arise out of (i) Client's breach of this Agreement; (ii) CPT's performance of Services hereunder; (iii) the processing and/or handling of any payment by CPT; (iv) any content, instructions, information or Client Data provided by Client to CPT in connection with the Services provided by CPT hereunder. The foregoing provisions of this section shall not apply to the extent the Damages relate to or arise out of CPT's willful misconduct. To obtain indemnification, indemnitee shall: (i) give written notice of any claim promptly to indemnitor; (ii) give indemnitor, at indemnitor's option, sole control of the defense and settlement of such claim, provided that indemnitor may not, without the prior consent of indemnitee (not to be unreasonably withheld), settle any claim unless it unconditionally releases indemnitee of all liability; (iii) provide to indemnitor all available information and assistance; and (iv) not take any action that might compromise or settle such claim.
12. Warranties. Each party represents and warrants to the other party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such party; (iii) the Agreement is a legally valid and binding obligation of such party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party. CPT WARRANTS THAT ANY AND ALL SERVICES PROVIDED BY IT HEREUNDER SHALL BE PERFORMED IN A PROFESSIONAL MANNER CONSISTENT WITH PREVAILING INDUSTRY STANDARDS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CPT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.
13. Liability.
  - a) Liability Cap. EXCEPT FOR A PARTY'S WILLFUL MISCONDUCT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL CLAIMS ADMINISTRATOR FEES PAID OR PAYABLE BY CLIENT TO CPT HEREUNDER. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN CLIENT AND CPT ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION SHALL NOT APPLY TO A PARTY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT.
  - b) Exclusion of Consequential Damages. NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
14. Communications. CPT may list Client's name and logo alongside CPT's other clients on the CPT website and in marketing materials, unless and until Client revokes such permission. CPT may also list the Case name and/or number, and certain Qualified Settlement Fund information, on the CPT website and in marketing materials, unless stated otherwise in the Settlement Agreement.



15. Miscellaneous Provisions.

- a) Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America, without regard to conflict of law principles. CPT and Client agree that any suit, action or proceeding arising out of, or with respect to, this Agreement or any judgment entered by any court in respect thereof shall be brought exclusively in the state or federal courts of the State of California located in the County of Orange, and each of CPT and Client hereby irrevocably accepts the exclusive personal jurisdiction and venue of those courts for the purpose of any suit, action or proceeding.
- b) Force Majeure. Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, acts or omissions of vendors or suppliers, equipment failures, sabotage, labor shortage or dispute, governmental act, failure of the Internet or other acts beyond such party's reasonable control, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.
- c) Counterparts. This Agreement may be executed in any number of counterparts and electronically, each of which shall be an original but all of which together shall constitute one and the same instrument.
- d) Entire Agreement. This Agreement contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written) between the parties with respect to such subject matter. The schedules and exhibits hereto constitute a part hereof as though set forth in full herein.
- e) Modifications. Any modification, amendment, or addendum to this Agreement must be in writing and signed by both parties.
- f) Assignment. Neither party may assign this Agreement or any of its rights, obligations, or benefits hereunder, by operation of law or otherwise, without the other party's prior written consent; provided, however, either party, without the consent of the other party, may assign this Agreement to an Affiliate or to a successor (whether direct or indirect, by operation of law, and/or by way of purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of such party, where the responsibilities or obligations of the other party are not increased by such assignment and the rights and remedies available to the other party are not adversely affected by such assignment. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and permitted assigns.
- g) No Third-Party Beneficiaries. The representations, warranties, and other terms contained herein are for the sole benefit of the parties hereto and their respective successors and permitted assigns and shall not be construed as conferring any rights on any other persons.
- h) Statistical Data. Without limiting the confidentiality rights and Intellectual Property Rights protections set forth in this

Agreement, CPT has the perpetual right to use aggregated, anonymized, and statistical data ("Statistical Data") derived from the operation of the Software, and nothing herein shall be construed as prohibiting CPT from utilizing the Statistical Data for business and/or operating purposes, provided that CPT does not share with any third-party Statistical Data which reveals the identity of Client, Client's Class Members, or Client's Confidential Information.

- i) Export Controls. Client understands that the use of CPT's Products is subject to U.S. export controls and trade and economic sanctions laws and agrees to comply with all such applicable laws and regulations, including the Export Administration Regulations maintained by the U.S. Department of Commerce and the trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control.
- j) Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.
- k) Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by electronic delivery, or mailed by registered or certified mail, return receipt requested and postage prepaid to the address for the other party first written above or at such other address as may hereafter be furnished in writing by either party hereto to the other party. Such notice will be deemed to have been given as of the date it is delivered, if by personal delivery; the next business day, if deposited with an overnight courier; upon receipt of confirmation of electronic delivery (if followed up by such registered or certified mail); and five days after being so mailed.
- l) Independent Contractors. Client and CPT are independent contractors, and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative or employment relationship between Client and CPT. Each party understands that it does not have authority to make or accept any offers or make any representations on behalf of the other. Neither party may make any statement that would contradict anything in this section.
- m) Subcontractors. CPT shall notify Client of its use of any subcontractors to perform Client-specific Services. CPT shall be responsible for its subcontractors' performance of Services under this Agreement.
- n) Headings. The headings of the sections of this Agreement are for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret, or construe its meaning, scope or intent.
- o) Waiver. No failure or delay on the part of either party in exercising any right, power or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power, or remedy.
- p) Survival. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.

# Exhibit 3

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*ELM Solutions*

# 2022 Real Rate Report<sup>®</sup>

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The industry's leading  
analysis of law firm rates,  
trends, and practices

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# Report Use Considerations

## 2022 Real Rate Report

- Examines law firm rates over time
- Identifies rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Itemizes variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

### Some key factors<sup>1</sup> that drive rates<sup>2</sup>:

**Attorney location** - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.

**Litigation complexity** - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).

**Years of experience and reputation** - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.

**Overhead** - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

**Firm size** - The rates can increase if the firm is large and has various timekeeper roles at the firm. For example, the cost to work with an associate or partner at a larger firm will be higher compared to a firm that has one to two associates and a paralegal.

<sup>1</sup> David Goguen, J.D., University of San Francisco School of Law (2020) Guide to Legal Services Billing Retrieved from: <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

<sup>2</sup> Source: 2018 RRR. Factor order validated in multiple analyses since 2010



# Section I: High-Level Data Cuts

All data and analysis based on  
data collected thru Q2 2022

# Section I: High-Level Data Cuts

## Cities

By Matter Type

### 2022 - Real Rates for Associate and Partner

### Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Jackson MS	Litigation	Associate	56	\$55	\$225	\$250	\$178	\$203	\$175
	Non-Litigation	Partner	24	\$315	\$420	\$485	\$418	\$394	\$375
		Associate	25	\$55	\$126	\$255	\$155	\$125	\$259
Kansas City MO	Litigation	Partner	74	\$413	\$450	\$556	\$472	\$450	\$450
		Associate	50	\$252	\$329	\$385	\$319	\$316	\$305
	Non-Litigation	Partner	101	\$411	\$487	\$615	\$519	\$487	\$464
		Associate	73	\$250	\$320	\$385	\$322	\$312	\$285
Las Vegas NV	Non-Litigation	Partner	20	\$350	\$425	\$525	\$440	\$422	\$432
		Associate	11	\$238	\$267	\$368	\$301	\$297	\$282
Little Rock AR	Non-Litigation	Partner	11	\$215	\$215	\$308	\$264	\$256	\$298
Los Angeles CA	Litigation	Partner	322	\$516	\$725	\$1,045	\$799	\$739	\$702
		Associate	408	\$400	\$615	\$855	\$642	\$606	\$564
	Non-Litigation	Partner	521	\$596	\$868	\$1,201	\$903	\$902	\$858
		Associate	667	\$441	\$603	\$845	\$653	\$712	\$648

## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2022 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Minneapolis MN	Non-Litigation	Associate	83	\$340	\$421	\$528	\$425	\$408	\$384
Nashville TN	Litigation	Partner	24	\$275	\$320	\$456	\$363	\$378	\$403
	Non-Litigation	Partner	78	\$412	\$484	\$576	\$505	\$481	\$470
		Associate	59	\$270	\$330	\$384	\$340	\$315	\$285
New Orleans LA	Litigation	Partner	47	\$290	\$332	\$412	\$343	\$330	\$340
		Associate	42	\$231	\$243	\$340	\$278	\$290	\$275
	Non-Litigation	Partner	32	\$295	\$347	\$405	\$419	\$380	\$391
		Associate	21	\$244	\$250	\$278	\$273	\$303	\$258
New York NY	Litigation	Partner	614	\$475	\$675	\$1,088	\$808	\$784	\$746
		Associate	631	\$323	\$460	\$729	\$545	\$527	\$509
	Non-Litigation	Partner	1,376	\$765	\$1,235	\$1,638	\$1,189	\$1,139	\$1,090
		Associate	1,809	\$550	\$776	\$1,050	\$796	\$766	\$716
Oklahoma City OK	Non-Litigation	Partner	14	\$235	\$338	\$393	\$337	\$319	\$311
Omaha NE	Litigation	Partner	12	\$293	\$339	\$353	\$329	\$338	\$341



## Section I: High-Level Data Cuts

## Cities

By Matter Type

### 2022 - Real Rates for Associate and Partner

### Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Rochester NY	Non-Litigation	Partner	12	\$270	\$360	\$488	\$386	\$341	\$446
		Associate	13	\$220	\$310	\$375	\$314	\$278	\$287
Sacramento CA	Non-Litigation	Partner	11	\$381	\$437	\$682	\$534	\$559	\$516
Salt Lake City UT	Litigation	Partner	14	\$246	\$353	\$468	\$363	\$333	\$379
	Non-Litigation	Partner	42	\$297	\$371	\$447	\$391	\$363	\$353
		Associate	22	\$220	\$240	\$270	\$248	\$247	\$228
San Diego CA	Litigation	Associate	23	\$151	\$225	\$300	\$255	\$258	\$264
	Non-Litigation	Partner	89	\$332	\$540	\$1,066	\$699	\$667	\$649
		Associate	71	\$250	\$325	\$424	\$373	\$378	\$351
San Francisco CA	Litigation	Partner	143	\$423	\$675	\$995	\$742	\$711	\$691
		Associate	98	\$325	\$430	\$731	\$525	\$517	\$470
	Non-Litigation	Partner	221	\$475	\$750	\$950	\$758	\$746	\$741
		Associate	151	\$338	\$486	\$702	\$545	\$563	\$507
San Jose CA	Litigation	Partner	33	\$654	\$921	\$1,133	\$916	\$907	\$864

## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2022 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
San Jose CA	Litigation	Associate	22	\$461	\$580	\$745	\$608	\$593	\$498
	Non-Litigation	Partner	50	\$660	\$864	\$1,303	\$969	\$985	\$887
		Associate	46	\$380	\$460	\$775	\$616	\$639	\$567
Seattle WA	Litigation	Partner	76	\$497	\$655	\$760	\$635	\$567	\$510
		Associate	61	\$394	\$468	\$530	\$447	\$453	\$395
	Non-Litigation	Partner	148	\$410	\$526	\$760	\$571	\$547	\$547
		Associate	113	\$310	\$395	\$502	\$422	\$401	\$377
St. Louis MO	Litigation	Partner	46	\$260	\$350	\$435	\$376	\$373	\$388
		Associate	17	\$197	\$225	\$250	\$228	\$237	\$232
	Non-Litigation	Partner	57	\$352	\$419	\$540	\$451	\$446	\$473
Tampa FL	Litigation	Partner	31	\$369	\$508	\$595	\$490	\$467	\$452
		Associate	15	\$269	\$298	\$368	\$316	\$302	\$306
Trenton NJ	Non-Litigation	Partner	21	\$408	\$600	\$700	\$569	\$620	\$581
		Associate	12	\$480	\$495	\$500	\$448	\$376	\$387

## Section I: High-Level Data Cuts

### Cities

By Years of Experience

#### 2022 - Real Rates for Associate

#### Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	3 to Fewer Than 7 Years	15	\$270	\$325	\$360	\$318	\$295	\$283
	7 or More Years	28	\$292	\$334	\$391	\$333	\$312	\$302
Los Angeles CA	Fewer Than 3 Years	63	\$429	\$595	\$654	\$556	\$524	\$488
	3 to Fewer Than 7 Years	144	\$486	\$688	\$838	\$662	\$626	\$530
	7 or More Years	171	\$351	\$550	\$840	\$600	\$634	\$586
Miami FL	3 to Fewer Than 7 Years	19	\$300	\$360	\$457	\$380	\$331	\$313
	7 or More Years	36	\$295	\$450	\$595	\$460	\$433	\$385
Minneapolis MN	Fewer Than 3 Years	11	\$374	\$405	\$446	\$408		\$230
	3 to Fewer Than 7 Years	27	\$340	\$451	\$510	\$421	\$358	\$356
	7 or More Years	27	\$423	\$468	\$585	\$478	\$438	\$392
Nashville TN	7 or More Years	12	\$219	\$245	\$345	\$282	\$266	\$262
New Orleans LA	3 to Fewer Than 7 Years	12	\$232	\$243	\$265	\$261	\$242	\$245
	7 or More Years	18	\$243	\$312	\$343	\$306	\$318	\$294
New York NY	Fewer Than 3 Years	142	\$443	\$622	\$775	\$629	\$600	\$652

## Section I: High-Level Data Cuts

### Cities

By Years of Experience

#### 2022 - Real Rates for Partner

#### Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	Fewer Than 21 Years	46	\$400	\$450	\$537	\$473	\$411	\$397
	21 or More Years	68	\$440	\$553	\$658	\$539	\$497	\$491
Las Vegas NV	Fewer Than 21 Years	12	\$284	\$381	\$495	\$389	\$349	\$343
	21 or More Years	13	\$350	\$425	\$515	\$468	\$456	\$472
Los Angeles CA	Fewer Than 21 Years	183	\$533	\$801	\$1,075	\$804	\$797	\$682
	21 or More Years	333	\$550	\$765	\$1,133	\$863	\$842	\$808
Memphis TN	Fewer Than 21 Years	14	\$288	\$331	\$380	\$345	\$317	\$328
	21 or More Years	15	\$355	\$415	\$425	\$394	\$382	\$375
Miami FL	Fewer Than 21 Years	57	\$370	\$450	\$598	\$490	\$498	\$443
	21 or More Years	104	\$388	\$581	\$749	\$584	\$580	\$536
Milwaukee WI	21 or More Years	16	\$302	\$454	\$613	\$589	\$515	\$530
Minneapolis MN	Fewer Than 21 Years	36	\$470	\$530	\$607	\$532	\$486	\$499
	21 or More Years	84	\$507	\$675	\$796	\$656	\$620	\$589
Nashville TN	Fewer Than 21 Years	28	\$375	\$405	\$535	\$449	\$405	\$397

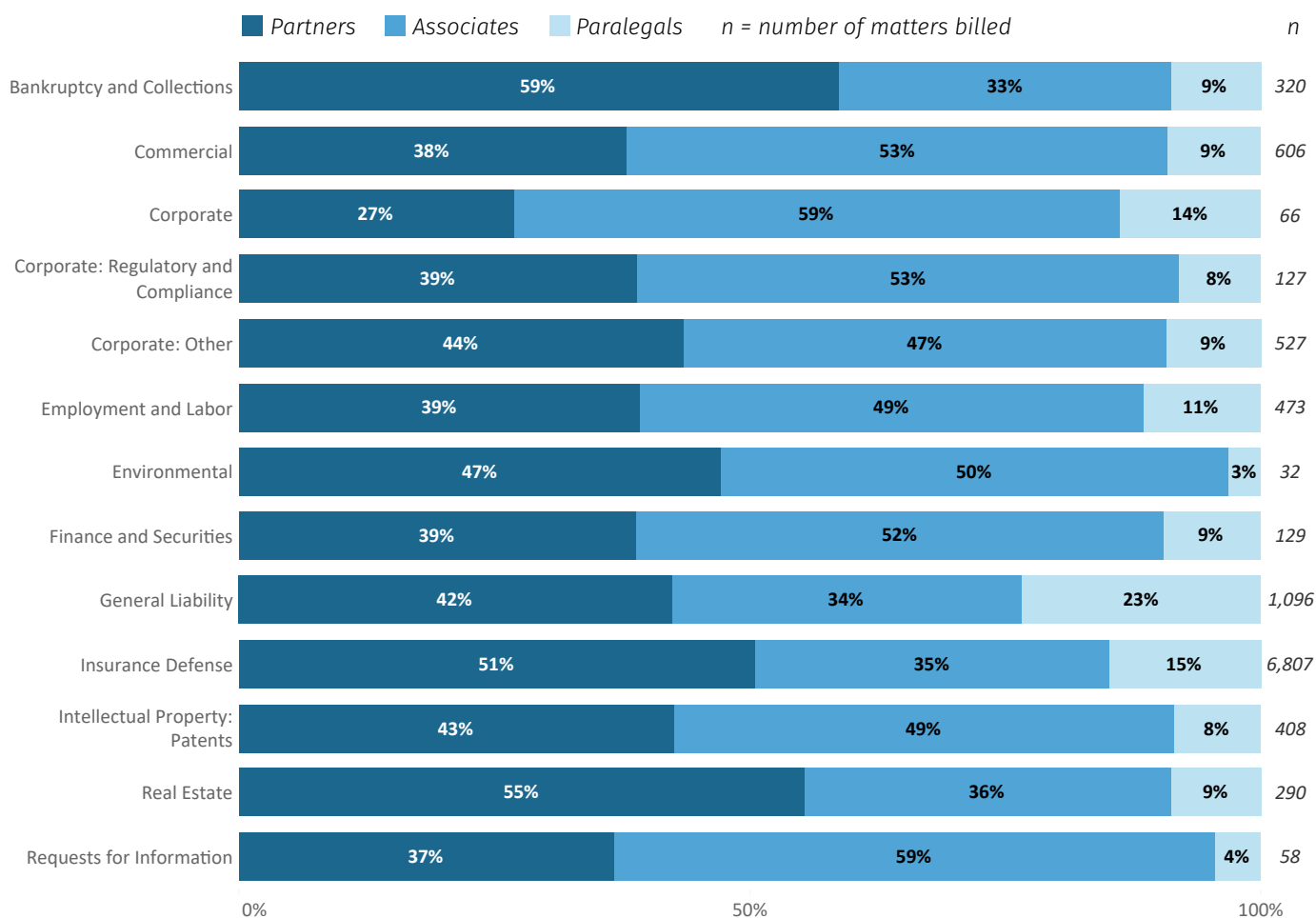
# Section VI: Matter Staffing Analysis

All data and analysis based on  
data collected thru Q2 2022

## Section VI: Matter Staffing Analysis

### Long Litigation Matters, More Than 100 Total Hours Billed

2019 to 2022 -- Percentage of Hours Billed per Matter





# Section VII: Data Methodology

All data and analysis based on  
data collected thru Q2 2022

# Appendix: Data Methodology

## Invoice Information

Data in Wolters Kluwer ELM Solutions' reference database and the 2022 Real Rate Report were taken from invoice line-item entries contained in invoices received and approved by participating companies.

Invoice data were received in the Legal Electronic Data Exchange Standard (LEDES) format (LEDES.org). The following information was extracted from those invoices and their line items:

- Law firm (which exists as a random number in the ELM Solutions reference database)
- Timekeeper ID (which exists as a random number in the ELM Solutions reference database)
- Matter ID (which exists as a random number in the ELM Solutions reference database)
- Timekeeper's position (role) within the law firm (partner, associate, paralegal, etc.)
- Uniform Task-Based Management System Code Set, Task Codes, and Activity Codes (UTBMS.com)
- Date of service
- Hours billed
- Hourly rate billed
- Fees billed

## Non-Invoice Information

To capture practice area details, the matter ID within each invoice was associated with matter profiles containing areas of work in the systems of each company. The areas of work were then systematically categorized into legal practice areas. Normalization of practice areas was done based on company mappings to system-level practice areas available in the ELM Solutions system and by naming convention.

The majority of analyses included in this report have been mapped to one of 11 practice areas, further divided into sub-areas and litigation/non-litigation (for more information on practice areas and sub-areas, please refer to pages 232-234).

To capture location and jurisdiction details, law firms and timekeepers were systematically mapped to the existing profiles within ELM Solutions systems, as well as with publicly available data sources for further validation and normalization. Where city location information is provided, it includes any address within that city's defined Core-Based Statistical Area (CBSA) as defined by the Office of Management and Budget (OMB). The CBSAs are urban centers with populations of 10,000 or more and include all adjacent counties that are economically integrated with that urban center.

Where the analyses focus on partners, associates, and paralegals, the underlying data occasionally included some sub-roles, such as "senior partner" or "junior associate." In such instances, those timekeeper sub-roles were placed within the broader partner, associate, and paralegal segments.

Demographics regarding law firm size, location, and lawyer years of experience were augmented by incorporating publicly available information.



# Appendix: Data Methodology

## A Note on US Cities

Principal City	CBSA Name
Hartford, CT	Hartford-East Hartford-Middletown, CT
Honolulu, HI	Urban Honolulu HI
Houston, TX	Houston-The Woodlands-Sugar Land, TX
Indianapolis, IN	Indianapolis-Carmel-Anderson, IN
Jackson, MS	Jackson, MS
Jacksonville, FL	Jacksonville, FL
Kansas City, MO	Kansas City, MO-KS
Lafayette, LA	Lafayette, LA
Las Vegas, NV	Las Vegas-Henderson-Paradise, NV
Lexington, KY	Lexington-Fayette, KY
Little Rock, AR	Little Rock-North Little Rock-Conway, AR
Los Angeles, CA	Los Angeles-Long Beach-Anaheim, CA
Louisville, KY	Louisville/Jefferson County, KY-IN
Madison, WI	Madison, WI
Memphis, TN	Memphis-Forrest City, TN-MS-AR
Miami, FL	Miami-Fort Lauderdale-Pompano Beach, FL
Milwaukee, WI	Milwaukee-Waukesha, WI
Minneapolis, MN	Minneapolis-St. Paul-Bloomington, MN-WI
Nashville, TN	Nashville-Davidson-Murfreesboro-Franklin, TN
New Haven, CT	New Haven-Milford, CT
New Orleans, LA	New Orleans-Metairie, LA
New York, NY	New York-Newark-Jersey City, NY-NJ-PA
Oklahoma City, OK	Oklahoma City, OK
Omaha, NE	Omaha-Council Bluffs, NE-IA
Orlando, FL	Orlando-Kissimmee-Sanford, FL
Philadelphia, PA	Philadelphia-Camden-Wilmington, PA-NJ-DE-MD
Phoenix, AZ	Phoenix-Mesa-Chandler, AZ
Pittsburgh, PA	Pittsburgh, PA
Portland, ME	Portland-South Portland, ME
Portland, OR	Portland-Vancouver-Hillsboro, OR-WA
Providence, RI	Providence-Warwick, RI-MA
Raleigh, NC	Raleigh-Cary, NC
Reno, NV	Reno-Carson City-Fernley, NV

# Appendix: Data Methodology

## Bankruptcy and Collections

Chapter 11  
Collections

General/Other  
Workouts and Restructuring

## Commercial (Commercial Transactions and Agreements)

Contract Breach or Dispute  
General, Drafting, and Review  
General/Other

## Corporate<sup>1</sup>

Antitrust and Competition  
Corporate Development  
General/Other  
Governance  
Information and Technology  
Mergers, Acquisitions, and Divestitures

Partnerships and Joint Ventures  
Regulatory and Compliance  
Tax  
Treasury  
White Collar/Fraud/Abuse

## Employment and Labor

ADA  
Agreements  
Compensation and Benefits  
Discrimination, Retaliation, and Harassment/EEO  
Employee Dishonesty/Misconduct  
ERISA

General/Other  
Immigration  
Union Relations and Negotiations/NLRB  
Wages, Tips, and Overtime  
Wrongful Termination

## Environmental

General/Other  
Health and Safety

Superfund  
Waste/Remediation

## Finance and Securities

Commercial Loans and Financing  
Debt/Equity Offerings  
Fiduciary Services  
General/Other

Investments and Other Financial Instruments  
Loans and Financing  
SEC Filings and Financial Reporting  
Securities and Banking Regulations

## General Liability

Asbestos/Mesothelioma  
Auto and Transportation  
Consumer Related Claims  
Crime, Dishonesty and Fraud  
General/Other

Personal Injury/Wrongful Death  
Premises  
Product and Product Liability  
Property Damage  
Toxic Tort

<sup>1</sup> All references to "Corporate: General/Other" in the Real Rate Report are the aggregation of all Corporate sub-areas excluding the Mergers, Acquisitions, and Divestitures sub-area and the Regulatory and Compliance sub-area.

# Exhibit 4

Free Newsletter Sign Up

Business & Practice

# Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder’

By Roy Strom

Column

June 9, 2022, 2:30 AM

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*Welcome back to the Big Law Business column on the changing legal marketplace written by me, Roy Strom. Today, we look at a new threshold for lawyers' billing rates and why it's so difficult to put a price on high-powered attorneys. Sign up to receive this column in your inbox on Thursday mornings. Programming note: Big Law Business will be off next week.*

Some of the nation's top law firms are charging more than \$2,000 an hour, setting a new pinnacle after a two-year burst in demand.

Partners at Hogan Lovells and Latham & Watkins have crossed the threshold, according to court documents in bankruptcy cases filed within the past year.

Other firms came close to the mark, billing more than \$1,900, according to the documents. They include Kirkland & Ellis, Simpson Thacher & Bartlett, Boies Schiller Flexner, and Sidley Austin.

Simpson Thacher & Bartlett litigator Bryce Friedman, who helps big-name clients out of jams, especially when they're accused of fraud, charges \$1,965 every 60 minutes, according to a court document.

In need of a former acting US Solicitor General? Hogan Lovells partner Neal Katyal bills time at \$2,465 an hour. Want to hire famous litigator David Boies? That'll cost \$1,950 an hour (at least). Reuters was first to report their fees.

Eye-watering rates are nothing new for Big Law firms, which typically ask clients to pay higher prices at least once a year, regardless of broader market conditions.

"Value is in the eye of the beholder," said John O'Connor, a San Francisco-based expert on legal fees. "The perceived value of a good lawyer can reach into the multi-billions of dollars."

Kirkland & Ellis declined to comment on its billing rates. None of the other firms responded to requests to comment.

**Charge It Up**

Big Law firms are crossing the \$2,000-an-hour threshold after two years of surging rates driven by an increase in demand for lawyers.

Firm	Highest Billing Rate
Hogan Lovells	\$2,465
Latham & Watkins	\$2,075
Kirkland & Ellis	\$1,995
Simpson Thacher & Bartlett	\$1,965
Boies Schiller Flexner	\$1,950
Sidley Austin	\$1,900

Source: Court documents

Bloomberg Law

Law firms have been more successful raising rates than most other businesses over the past 15 years.

Law firm rates rose by roughly 40 percent from 2007 to 2020, or just short of 3 percent per year, Thomson Reuters Peer Monitor data show. US inflation rose by about 28% during that time.

The 100 largest law firms in the past two years achieved their largest rate increases in more than a decade, Peer Monitor says. The rates surged more than 6% in 2020 and grew another 5.6% through November of last year. Neither level had been breached since 2008.

The price hikes occurred during a once-in-a-decade surge in demand for law services, which propelled profits at firms to new levels. Fourteen law firms reported average profits per equity partner in 2021 over \$5 million, according to data from The American Lawyer. That was up from six the previous year.

The highest-performing firms, where lawyers charge the highest prices, have outperformed their smaller peers. Firms with leading practices in markets such as mergers and acquisitions, capital markets, and real estate were forced to turn away work at some points during the pandemic-fueled surge.

Firms receive relatively tepid pushback from their giant corporate clients, especially when advising on bet-the-company litigation or billion-dollar deals.

The portion of bills law firms collected—a sign of how willingly clients pay full-freight—rose during the previous two years after drifting lower following the Great Financial Crisis. Collection rates last year breached 90% for the first time since 2009, Peer Monitor data show.

Professional rules prohibit lawyers from charging “unconscionable” or “unreasonable” rates. But that doesn’t preclude clients from paying any price they perceive as valuable, said Jacqueline Vinaccia, a San Diego-based lawyer who testifies on lawyer fee disputes.

Lawyers’ fees are usually only contested when they will be paid by a third party.

That happened recently with Hogan Lovells’ Katyal, whose nearly \$2,500 an hour fee was contested in May by a US trustee overseeing a bankruptcy case involving a Johnson & Johnson unit facing claims its talc-based powders caused cancer.

The trustee, who protects the financial interests of bankruptcy estates, argued Katyal’s fee was more than \$1,000 an hour higher than rates charged by lawyers in the same case at Jones Day and Skadden Arps Slate Meagher & Flom.

A hearing on the trustee’s objection is scheduled for next week. Hogan Lovells did not respond to a request for comment on the objection.

Vinaccia said the firm’s options will be to reduce its fee, withdraw from the case, or argue the levy is reasonable, most likely based on Katyal’s extensive experience arguing appeals.

Still, the hourly rate shows just how valuable the most prestigious lawyers’ time can be—even compared to their highly compensated competitors.

“If the argument is that Jones Day and Skadden Arps are less expensive, then you’re already talking about the cream of the crop, the top-of-the-barrel law firms,” Vinaccia said. “I can’t imagine a case in which I might argue those two firms are more reasonable than the rates I’m dealing with.”

**Worth Your Time**

**On Cravath:** Cravath Swaine & Moore is heading to Washington, opening its first new office since 1973 by hiring former heads of the U.S. Securities and Exchange Commission and Federal Deposit Insurance Corporation. Meghan Tribe reports the move comes as Big Law firms are looking to add federal government expertise as clients face more regulatory scrutiny.

**On Big Law Promotions:** It’s rare that associates get promotions to partner in June, but Camille Vasquez is now a Brown Rudnick partner after she shot to fame representing Johnny Depp in his defamation trial against ex-wife Amber Heard.

**On Working From Home:** I spoke this week with Quinn Emanuel’s John Quinn about why he thinks law firm life is never going back to the office-first culture that was upset by the pandemic. Listen to the podcast [here](#).



*That's it for this week! Thanks for reading and please send me your thoughts, critiques, and tips.*

To contact the reporter on this story: Roy Strom in Chicago at [rstrom@bloomberglaw.com](mailto:rstrom@bloomberglaw.com)

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**PROOF OF SERVICE**

*Santiago v. Green Valley Labor, Inc., et al.*  
21CV-00413

STATE OF CALIFORNIA            )  
  ) ss  
COUNTY OF LOS ANGELES    )

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12<sup>th</sup> Floor, Los Angeles, California 90010. My electronic service address is rebecca.padilla@wilshirelawfirm.com.

On October 2, 2024, I served the foregoing **DECLARATION OF JUSTIN F. MARQUEZ IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

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(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

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

Executed on October 2, 2024, at Los Angeles, California.

  
\_\_\_\_\_  
Rebecca Padilla