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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

YANIRA ROSAS, a minor, by and through her guardian, DIANA TAPIA, individuals,

Plaintiffs,

vs.

KIDS EMPIRE ANAHEIM, LLC, KIDS EMPIRE BAKERSFIELD (CA), LLC, KIDS EMPIRE COVINA, LLC, KIDS EMPIRE MONROVIA, LLC, KIDS EMPIRE MONTCLAIR, LLC, KIDS EMPIRE NORTHRIDGE, LLC, KIDS EMPIRE ONTARIO, LLC, KIDS EMPIRE OTAY RANCH (CA), LLC, KIDS EMPIRE POMONA, LLC, KIDS EMPIRE RIALTO, LLC, KIDS EMPIRE RIVERSIDE, LLC, KIDS EMPIRE SOUTH GATE, LLC, KIDS EMPIRE USA, LLC, KIDS EMPIRE WOODLAND HILLS, LLC, HIAM ELBAZ, an individual, and DOES 1-10,

Defendants.

Case No.: 21STCV24645
[Assigned for all purposes to: Stuart M. Rice]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM; DECLARATIONS

Date: April 3, 2025
Time: 10:30 a.m.
Dept: 1

NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on April 3, 2025 at 10:30 a.m., in Department 1 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012, pursuant to Code of Civil Procedure § 382 and California Rules of Court, rule 3.769, Plaintiff YANIRA ROSAS will and hereby does move the Court for an Order granting preliminary approval of the proposed class action and PAGA settlement between Plaintiff and Defendants Kids Empire Anaheim, LLC, , Kids Empire Bakersfield (CA), LLC, Kids Empire Covina (CA), LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Moreno Valley, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Woodland Hills, LLC, KESG Holdings, LLC, and Haim Elbaz (collectively "Defendants").[1] '

Specifically, Plaintiffs request that the Court enter an Order:

1. Preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") attached as Exhibit 1 to the Declaration of Theodore Khachaturian in support of Motion for Preliminary Approval ("Khachaturian Decl.");
2. Certifying a Class for settlement purposes;
3. Preliminarily appointing Yanira Rosas as the Class Representative for settlement purposes;
4. Preliminarily appointing Workplace Rights Law Group, LLP as Class Counsel for settlement purposes;

[1] Parties to the settlement include other non-party direct and indirect subsidiaries of Defendant Kids Empire USA, LLC, which operate stores in California, i.e., Kids Empire Antelope Marketplace (CA), Kids Empire Clovis, LLC, Kids Empire Fullerton (CA), LLC, Kids Empire Otium, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), and Kids Empire Ventura Pacific View Mall (CA), LLC.

5. Approving the proposed Notice of Proposed Class Action Settlement ("Class Notice") attached as Exhibit A to the Settlement Agreement (Exh. 1 to Khachaturian Decl.) to be mailed to the Class;
6. Approving the opt-out and objection procedures provided in the Settlement Agreement and set forth in the Class Notice;
7. Directing Defendants to furnish the Class List to the Settlement Administrator within fifteen (15) calendar days after the Court grants preliminary approval of the Settlement;
8. Approving the proposed deadlines for the settlement administration; and
9. Setting a date for a hearing on final approval of the proposed settlement.

Pursuant to California Labor Code § 2699(s)(2), a copy of the Settlement Agreement, as well as information regarding the preliminary approval hearing on this matter, were submitted to the California Labor Workforce Development Agency via online filing at https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General- Act.html on January 13, 2025. See Khachaturian Decl. ¶4, Ex. 4.

This Motion is based on this notice of motion, the attached memorandum of points and authorities, the declarations of Theodore Khachaturian and Plaintiff Yanira Rosas and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence of argument presented at the time of hearing.

WORKPLACE RIGHTS LAW GROUP, LLP

Dated: January 14, 2025

By: _____

THEODORE S. KHACHATURIAN
GREGORY D. WOLFLICK
ADAM N. BOUAYAD
Attorneys for Plaintiff,
YANIRA ROSAS

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff YANIRA ROSAS seeks preliminary approval of a Joint Stipulation of Class Action and PAGA Settlement ("Settlement Agreement" or "Settlement") for all current and former hourly-paid, non-exempt employees of Defendants Kids Empire Anaheim, LLC, Kids Empire Bakersfield (CA), LLC, Kids Empire Covina (CA), LLC, Kids Empire Fullerton (CA), LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Moreno Valley, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Woodland Hills, LLC, KESG Holdings, LLC (collectively "Defendants") who were employed by Defendants or the following direct or indirect subsidiaries of Kids Empire USA, LLC: Kids Empire Antelope Marketplace (CA), Kids Empire Clovis, LLC, Kids Empire Fullerton (CA), LLC, Kids Empire Otium, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), and Kids Empire Ventura Pacific View Mall (CA), LLC in the state of California for claims arising in California at any time between July 6, 2017 until the date that the Court approves the Parties' settlement.

The Settlement terms are outlined as follows:

- Size of the Class: approximately 957 individuals.
- Number of PAGA Members: approximately 787 individuals.
- Gross Settlement Amount: $432,500, exclusive of employer-side payroll taxes.
- Settlement Administration Costs: not to exceed $11,500.
- Requested Class Representative Enhancement Payments: $10,000 to Plaintiff Yanira Rosas.
- PAGA Payment: $50,000, 75% ($37,500) of which will be paid to the California Labor and Workforce Development Agency ("LWDA") with the remaining 25% ($12,500) distributed to PAGA Members (the "PAGA Penalties").

- Requested Class Counsel's Fees and Costs: $144,167 plus actual litigation costs and expenses not to exceed $20,000.
- Net Settlement Amount: $196,833 to be distributed to Participating Class Members.

As set forth herein, the Settlement is the product of informed discovery, arms-length negotiations, and provides a fair, adequate, and reasonable recovery for the Class in light of the relative strength of Plaintiffs' claims, the risk, expense and uncertainty of further litigation, and the benefit conferred by the Settlement. Plaintiffs therefore respectfully request that the Court grant preliminary approval of the proposed Settlement, conditionally certify the Class, approve the proposed Class Notice, and set a hearing date for final settlement approval, among other requested relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Class Action and PAGA Action

The original Class Action Complaint was filed on 7/6/2021. The original Complaint included the following allegations: 1. Failure to Timely Pay Wages (Labor Code §§201, 202, 203); 2. Unpaid Overtime (Labor Code §§ 510 and 1198); 3. Minimum Wages (Labor Code §§ 204, 204b, 1194.2, 1197, 1182.12, 1194, 1197.1, 1198, Wage Order No. 10,2); 4. Non-Compliant Wage Statements and Failure to Maintain Payroll Records (Labor Code §§ 226(a), 1174(d) and 1198); 5. Failure to Provide Meal Periods (Labor Code §§ 226.7, 512 and 1198); 6. Failure to Authorize and Permit Rest Breaks (Labor Code §§ 226.7 and 1198); 7. Denial of Right to Record Inspection and Production (Labor Code §§ 226(b) and 1198.5); 8. Unfair Business Practices (B&P 17200). (Khachaturian Decl., ¶5.)

On 9/24/2021, Plaintiff submitted her Private Attorneys General Act Notice with the LWDA. The LWDA Notice is attached hereto as Exhibit 2. (Khachaturian Decl., ¶2.) An amended LWDA Notice was later submitted on 9/12/2024. The Amended Notice included additional Kids Empire entities that were operating stores in California. (See Exh.3 to Khachaturian Decl., ¶3.)

Plaintiff's First Amended Complaint added three additional claims: (a) a 7th COA for Failure to Pay Sick Pay at Regular Rate (Labor Code §246); (b) an 8th COA for Failure to Reimburse for Necessary Business Expenses (Labor Code §2802); and a 10th COA for Claim for Penalties for Violation of California Labor Code, Pursuant to PAGA, Labor Code §§ 2698, et seq. (Khachaturian Decl., ¶5.) The derivative PAGA sought penalties for violation of the Labor Code sections listed in Plaintiff's class action allegations, and specifically the following provisions: 201, 202, 203, 204, 204b, 221, 226(a), 226(b), 226.3, 226.7, 226.8, 246, 246.5, 248, 248.5, 256, 510, 510(a), 512, 558, 1174(d), 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198, and California Wage Order Nos. 2 and 10 (and other Wage Orders).

On 2/1/2022, Plaintiff served discovery requests, including Special Interrogatories, Form Interrogatories (General and Employment) and Requests for Production of Documents on the Kids Empire Defendants. The Kids Empire Defendants responded in March of 2022. In response to Plaintiff's Interrogatories, several of the Kids Empire Defendants indicated that they were not the employer of the class members, but that the temp-agency/PEO companies who placed its workers were the actual "employer." As a result, Plaintiff added the named-PEO Defendants to the Complaint by amendment. The added, non-Kids Empire Defendants included: Shiftpixy Staffing, Inc, Avitus Group, Cingular HR, Shiftable HR, Vensure Employer Services and Shiftpixy, Inc. Plaintiff also added other Kids Empire Defendants that were identified in Defendants' discovery responses. This includes Holding IP Parks, LLC and Holding IP Parks USA. The new Defendants eventually answered Plaintiffs' FAC. (Khachaturian Decl., ¶8.)

In July of 2022, the Kids Empire Defendants moved to compel arbitration of Plaintiff's individual claims. The PEO-Defendants, which had been added to the lawsuit as Defendants, joined the motion. Plaintiff opposed. The basis of Plaintiff's opposition was that Plaintiff did not sign the arbitration agreement and regardless, Plaintiff was a minor (under 18) at the time the arbitration agreement was supposedly executed and therefore the agreement was not enforceable. The Court denied Defendants' motion to compel arbitration on August 29, 2022. Plaintiff served a Notice of Ruling on September 1, 2022. (Khachaturian Decl., ¶9.)

Following the denial of Defendants' motion to compel arbitration, the Parties continued

to engage in written discovery and exchange of documents. (Khachaturian Decl., ¶10.) The discovery is described in the declaration of Theodore Khachaturian, paragraphs 22 through 33. Both Plaintiff and Defendants served a substantial amount of written discovery regarding Defendant's policies and practices. Depositions were taken of Plaintiff and Kids Empire's Person Most Qualified regarding policies and practices. A Belaire Notice process was conducted in which almost 400 names of putative class members was produced. (Khachaturian Decl., ¶29-33.) From this list, Plaintiff requested payroll and time records of the employees. (Khachaturian Decl., ¶32.)

In March of 2024, the Parties filed a **"**Stipulation and [Proposed] Order Regarding Employment Status, Correcting Party Names, and Dismissing Non-Employer Defendants.**"** In the stipulation the Parties agreed to dismiss the PEO-Defendants on the basis that the Kids Empire entities agreed that they would be responsible for any judgment in the action, as an employer of the individuals who worked in the **"**Kids Empire**"** stores in California. The goal of the stipulation was to streamline the litigation. The PEO Defendants were dismissed without prejudice. The Court signed the proposed Order. (Khachaturian Decl., ¶21.)

B. <u>The Mediation and Proposed Settlement</u>

The Parties' counsel first started to discuss mediation around January of 2023. They first agreed on Todd Smith as mediator and scheduled April 1st as the mediation date. The Parties later rescheduled to April 19th. (Khachaturian Decl., ¶36.)

The Parties (through their counsel) later agreed to mediate with Retired Judge Amy Hogue, a highly respected mediator with particular experience in wage and hour class actions. The mediation took place on July 30, 2024. (Khachaturian Decl., ¶37.)

Prior to the July 2024 mediation (discussed below), the Parties discussed Kids Empire's needed-production of sample payroll and time records for Plaintiff to evaluate Plaintiff's claims and the defenses. (Khachaturian Decl., ¶34.) In March of 2024, Plaintiff's counsel received large batches of payroll and time records for all of the Kids Empire entities, including Anaheim, Bakersfield, Covina, KESG, Monrovia, Montclair, Northridge, Ontario, Pomona, Rialto, and Woodland Hills. This amounted to over seven gigabytes of documents. The documents were a

large sample spanning the period covered by this lawsuit for Defendants' stores. Plaintiff's counsel reviewed all of these records. (Khachaturian Decl., ¶34.)

Kids Empire also produced records around July 9, 2024. This consisted of thousands of pages of policy and personnel records for several of Defendants' stores including Monrovia, Northridge, Pomona, Rialto, Woodland Hills, Montclair, Covina, Anaheim and Ontario. Plaintiff's counsel reviewed these records to understand the nature of violations at Defendants' stores. Plaintiff's counsel learned from this production that Kids Empire had largely fixed the problem of not having consistent policies across its stores that existed prior to 2022, during which time Kids Empire relied on the PEO companies to issue employment policies. In 2022 however, the Kids Empire entities issued their own uniform employee handbooks and had the employees acknowledge receiving the handbooks. Also, in 2022 (with some exceptions in late 2021 after this lawsuit was filed), many Kids Empire employees signed meal period waivers in which they waived their right to receive a meal period if they worked less than 6 hours in a shift. (Khachaturian Decl., ¶35.)

At the mediation, Theodore Khachaturian and Gregory Wolflick appeared for Plaintiff and Plaintiff was present as well. Steven Groode and attorney Julie Holden appeared at the mediation for Defendants. The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. Defendants at all times maintained that they had complied with California wage and hour laws. Likewise, Plaintiffs were prepared to vigorously litigate the Action. The proposed settlement was reached at the end of a process that was neither fraudulent nor collusive and was reached only after a full day of mediation which allowed the Parties to reach a compromise of the hotly disputed claims with the help of the mediator. After a day-long mediation, the case settled. (Khachaturian Decl., ¶37.) The Parties executed a Memorandum of Understanding on the day of the mediation, outlining the basic terms of the settlement. The long-form settlement was executed in October of 2024. A true and correct copy of the long-form settlement agreement is attached hereto as Exhibit 1 to the declaration of Theodore Khachaturian.

Now, following substantial investigation and extensive settlement negotiations, Plaintiffs

move for preliminary approval of this Settlement and have provided notice of the proposed PAGA settlement to the LWDA. (See Exh. 4 to Khachaturian Decl., ¶3.)

III. THE SETTLEMENT TERMS

A. Class Definition

The "Class" is defined as "all persons who are or were employed by Defendants[2] in California and classified as non-exempt during the Class Period." (Exh. 1, §1.5 to Khachaturian Decl.) And "Class Period" is defined as "the period from July 6, 2017 to the date the Court grants preliminary approval of this settlement." (Exh. 1, §1.12 to Khachaturian Decl.) The class members worked at "Kids Empire" stores in California and were classified as non-exempt by Defendants. Also, as noted above, each of the "Kids Empire" LLC-Defendants was its own separate store. For example, "Kids Empire Rialto, LLC" was the LLC just for the Rialto store. So we know that class definition above will capture all of the non-exempt employees working in that store. (Khachaturian Decl., ¶40.)

The Proposed Class consists of 957 individuals. (Settlement Agreement, § 4.1, Exh. 1 to Khachaturian Decl., ¶73)

B. Amount of Settlement

The Gross Settlement Amount under the Settlement Agreement is $432,500, exclusive of employer-side payroll taxes. (Exh. 1 § 3.1 to Khachaturian Decl.)

C. Allocation of the Gross Settlement Amount.

The Gross Settlement Amount is a Common Fund and therefore includes all requested costs, fees, and other allocations. As stated above, the Gross Settlement Amount includes: (1) attorneys' fees in the amount of $144,167 or 33% of the Gross Settlement Amount of $432,500;

[2] "Defendants" in this context includes Kids Empire USA, LLC direct and indirect subsidiaries that operate stores in California, specifically, Kids Empire Antelope Marketplace (CA), Kids Empire Clovis, LLC, Kids Empire Fullerton (CA), LLC, Kids Empire Otium, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), and Kids Empire Ventura Pacific View Mall (CA), LLC.

(2) litigation costs/expenses, not to exceed $20,000.00; (3) settlement administrator costs not to exceed $11,500; (4) class representative enhancement payments to Plaintiff Yanira Rosas in the amount of $10,000.00; and (5) PAGA Payment of $50,000.00, 75% of which shall be distributed to the LWDA and 25% of which will be distributed to PAGA Members. (Exhibit 1, §3; Khachaturian Decl., ¶37.)

After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount of approximately $196,833 shall be distributed and paid to the Participating Class Members. Khachaturian Decl. ¶ 64; Settlement Agreement §3, 1.28. The Net Settlement Amount will be distributed and paid to Participating Class Members on a pro-rata basis based on the number of weeks worked during the Class Period. Khachaturian Decl. ¶79; Settlement Agreement §1.23. In addition, PAGA Members will receive a pro-rata share of the 25% portion of the PAGA Payment allocated for PAGA Members. Khachaturian Decl. ¶ __; Settlement Agreement §1.24. Under the Settlement Agreement, 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. (Exh. 1, § 3.2.4.1, Khachaturian Decl., ¶ 37.) The 67% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for 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. (Exh. 1 § 3.2.4.1, Khachaturian Decl., ¶37.)

D. Release of Wage and Hour Claims

In exchange for participating in the Settlement, Participating Class Members will release their wage and hour claims against Defendants and the Released Parties, as defined in the Settlement Agreement. The release for Participating Class Members is narrowly tailored to only release claims based upon the facts alleged in the operative First Amended Complaint, for the Class Period. Khachaturian Decl. ¶ 37; Settlement Agreement, Exh. 1 § 5.2. The proposed

Settlement also resolves all PAGA Members' claims arising under the PAGA that were alleged in the operative complaint and in the PAGA Notice provided to the LWDA, or could have been alleged, for the PAGA Period. Settlement Agreement, Exh.1, § 5.3.

IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

The settlement of a class action requires court approval. *See* Dunk v. Ford Motor Co., 48 Cal. App. 4th 1794 (1996). "In general, questions whether a settlement was fair and reasonable, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." Wershba v. Apple Computer, Inc., 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds).

The review and approval of a proposed class action settlement involves a two-step process. See Cal. Rules of Court, rule 3.769(c). First, counsel submit the proposed terms of settlement and the Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the range of a fair settlement to justify providing notice of the proposed settlement to class members. After notice is provided to the class, the Court must conduct a second inquiry into whether the proposed settlement is fair, reasonable and adequate. See Id. The initial evaluation of the settlement at the preliminary approval step "is not a fairness hearing." Armstrong v. Board of School Directors of City of Milwaukee, 616 F.2d 305, 314 (7th Cir. 1980). Rather, the limited purpose of this initial inquiry is to determine, at a threshold level, only whether the proposed settlement is within the range of possible approval and, as a result, "whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing." A presumption of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. See In re Microsoft I-V Cases, 135 Cal.App.4th 706, 723 (2006).

Preliminary approval does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage, after notice of the settlement has been given to the class members and they have

had an opportunity to object or exclude themselves from the settlement. *See* Cal. R. Ct. 3.769(g). In considering a potential class settlement, the court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. *See* Officers for Justice v. Civil Service Commission of City and County of San Francisco, 688 F.2d 615, 625 (1982).

V. THE SETTLEMENT IS PRESUMED FAIR

A. Arm's-Length Bargaining

California courts recognize that "a presumption of fairness exists where . . . [a] settlement is reached through arm's-length bargaining." Wershba, supra, 91 Cal.App.4th at 245 (disapproved on other grounds); see also Clark v. Am. Residential Servs. LLC, 175 Cal.App.4th 785, 799 (2009). Here, the Parties engaged in arms-length, non-collusive negotiations at all times. This litigation was hotly contested, and settlement negotiations were at all times arm's length and adversarial. The Parties engaged in a full day of private mediation with a highly respected mediator and Retired Judge, Amy Hogue. Thereafter, the Parties engaged in extensive negotiations before finalizing the long-form agreement presently before the Court. At all times, Plaintiffs were willing and prepared to litigate this matter if the Parties had been unable to reach a favorable resolution. Khachaturian Decl. ¶37.

B. Sufficient Investigation and Discovery by Experienced Class Counsel

Courts typically assess the status of discovery in determining whether a class action settlement agreement is fair, reasonable, and adequate. Dunk, 48 Cal.App.4th at 1801. As discussed above, the Parties engaged in extensive formal and informal discovery prior to reaching a settlement. Prior to mediation, Defendants produced a sampling of time and pay records for putative class members; stand-alone wage and hour policies; and other relevant documents. Defendants also provided information regarding the number of putative class members; the number of "aggrieved employees" for the PAGA claim; the total workweeks and pay periods worked by the Class; the putative class members' average rate of pay; and additional

information including meal period waivers signed by putative class members. This allowed Plaintiffs to conduct a class-wide assessment and analysis of potential damages. The Parties extensively briefed these issues and provided their analyses to the mediator who helped the Parties debate the strengths and weakness of their positions. Khachaturian Decl., ¶¶34,35, 37.

Additionally, settlement negotiations were conducted by highly capable and experienced counsel. Plaintiffs' Counsel are respected members of the bar with strong records of vigorous and effective advocacy, and are experienced in handling complex wage and hour class action litigation. Khachaturian Decl. ¶77. Accordingly, Plaintiffs' Counsel had sufficient information and experience to act intelligently in negotiating the Settlement.

C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions and Recovery Risks

A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable. Wershba, supra, 91 Cal.App.4th at 246, 250 (disapproved on other grounds). In evaluating the reasonableness of a settlement, a trial court must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." Kullar v. Foot Locker Retail, Inc., supra,168 Cal.App.4th 116, 128 (2008).

Here, the reasonableness of the Settlement is underscored by the fact that Defendants have legal and factual grounds for defending the Action. Based upon Plaintiffs' Counsel's experience litigating similar complex matters, Plaintiffs reasonably expected a vigorous and lengthy defense to both class certification and the merits absent a settlement. Khachaturian Decl. ¶¶ 62-64, 77.

1. Plaintiffs' Counsel's Analysis of the Maximum Available Liability and Damages

Prior to mediation, Plaintiffs' Counsel analyzed a sampling of time and payroll records

provided by Defendants and other relevant documents and discovery. The randomly selected sampling included records for putative class members who were employed throughout different time periods during the Covered Period, that is representative of the Class. With this sampling, Plaintiffs' Counsel was able to perform a comprehensive damages analysis and estimate Defendants' potential violations, liability, and exposure, including, and not limited to, analyzing time and pay data, considering potential meal period violations, potential rest period violations, unpaid meal or rest period premiums, overtime and premium payments, etc. This discovery and investigation allowed Plaintiffs' Counsel to perform a comprehensive damages analysis and estimate Defendants' potential liability. Khachaturian Decl. ¶ 38. Based on the discovery provided, all available data, and arguments presented by Defendants at mediation, Plaintiffs' Counsel estimated with respect to the claims at issue, with all claims adjudicated in favor of the Class, Defendants faced a maximum potential liability of $3,378,501. (Id.) This estimated maximum liability includes: $107,806.50 for meal period violations, $107,806.50 for rest period violations, $17,967.75 for unpaid off-the-clock work and overtime, $2,700,000 for failure to pay all wages upon termination (waiting time penalties), $325,140 for incomplete and inaccurate wage statements, and $119,780 for unreimbursed business expenses. Plaintiffs also estimated maximum PAGA penalties of $650,280. Khachaturian Decl. ¶ 37.

2. Plaintiffs' Counsel's Risk-Based Analysis and Risk-Based Adjustments

While Plaintiffs believe Defendants faced significant exposure, substantial barriers to a class recovery exist and Plaintiffs faced numerous challenges attempting to bring the alleged claims on a class and representative basis. For example, Defendants alleged that a large number of Putative Class Members signed arbitration agreements. Khachaturian Decl. ¶41. Moreover, Defendants contended that Plaintiffs' claims were not suitable for class certification because individual issues and affirmative defenses would predominate should this case go to trial. (Khachaturian Decl. ¶ 52; See Brinker Restaurant Corp. v. Superior Court, 53 Cal.4th 1051 (2012); Duran v. U.S. Bank Nat. Assn., 59 Cal.4th 1, 35-36 (2014). While Plaintiffs and Plaintiffs' Counsel disagree with Defendants' predictions, they also recognize that there is a

significant risk that the Court may deny class certification. See *Findings of the Study of California Class Action Litigation*, 2000-2006, available at https://courts.ca.gov/sites/default/files/courts/default/2024-12/class-action-lit-study.pdf (finding that only 21.4% of class actions were certified either as part of a settlement or as part of a contested certification motion).

For instance, a large portion of Defendants' overall liability lies in Plaintiffs' meal and rest period claims. Meal period claims have become increasingly difficult to certify in recent years and Defendants contended their practices were lawful. See Brinker, supra, 53 Cal. 4th at 1034-35. Defendants argued that they had compliant practices. Plaintiffs' Counsel had to consider the risk that the Court would find validity in the individualized proof defense to the certification of Plaintiffs' meal period claim. Similarly, Plaintiffs will likely face difficulties proving the alleged rest period violations, as Defendants were not required to record these breaks. Defendants claimed they allowed employees to take their stated mandated rest periods and there were legitimate concerns Plaintiffs would not be able to certify this claim or prove substantial damages. Khachaturian Decl. ¶¶ 42-50.

Plaintiffs also faced challenges certifying and proving liability for their overtime/minimum wage and overtime claims. These claims were largely based on Defendants' practice of not paying daily overtime, when daily overtime hours exceeded weekly overtime hours. The individualized nature of the claims presented substantial concerns regarding the manageability of the case and the risk the Court could find these issues prevented certification. Khachaturian Decl. ¶¶ 51-53. There are also substantial risks associated with Plaintiffs' claims for waiting time penalties, recordkeeping, and wage statement claims. First, these claims were derivative of Plaintiffs' previous claims and if certification was denied on those underlying claims, these claims would also likely fail. Even if Plaintiffs prevailed on the underlying claims, they would still be required to demonstrate that Defendants' violations of Labor Code § 203 were willful violations, a difficult prospect. See, e.g., Naranjo v. Spectrum Security Services, Inc. (2024) 15 Cal.5th 1056 ["an employer's objectively reasonable, good faith belief that it has provided employees with adequate wage statements precludes an award of penalties. . ."]; Choate

v. Celite Corp., 215 Cal.App.4th 1460, 1468 (2013) (holding that "an employer's reasonable, good faith belief that wages are not owed may negate a finding of willfulness"). Wage statement claims have also seen varying treatment at the appellate level because such claims have an element of discretion attached to them rather than a pure calculation of damages after liability is proven. Cf., Jaimez v. DAIOHS USA, Inc., 181 Cal.App.4th 1286 (2010) with Price v. Starbucks Corp., 192 Cal.App.4th 1136 (2011). Accordingly, these derivative claims, which comprised a substantial portion of Defendants estimated potential liability, are extremely risky. Khachaturian Decl. ¶¶ 54-59.

Plaintiffs' Counsel also recognized that, even if Plaintiffs prevailed at class certification, proving the amount of wages due to each Class Member would be an expensive, time-consuming, and extremely uncertain proposition. In order to prove liability and damages, Plaintiffs' Counsel would be required to spend hundreds of additional hours obtaining discovery and likely substantial motion practice. Obtaining the cooperation of current employees would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current employer. On the other hand, Defendants would likely be able to obtain the cooperation of their employees. Moreover, even if Plaintiffs prevailed possible appeals would substantially delay any recovery by the Class. Khachaturian Decl. ¶62.

Plaintiffs' Counsel also separately contemplated the risks of proceeding with the PAGA claims and the potential liability Defendants could face from these claims. The Parties agreed during settlement negotiations to allocate $50,000.00 of the Settlement towards the PAGA claims, which represents approximately 11.5% of the Gross Settlement Amount. This percentage of the Settlement allocated to the PAGA claims is well above the range in wage and hour settlements regularly approved in both state and federal court for cases that include both a class and PAGA action. Courts have approved allocations of as little as 1% of the gross settlement amount. Plaintiffs' Counsel also recognizes that the PAGA claims would be subject to the same defenses and risks as Plaintiffs' class claims, as well as defenses unique to PAGA, that PAGA penalties may not be stacked for violations based on the same conduct, and the substantial risk that PAGA penalties may be reduced where they are duplicative, arbitrary or oppressive.

Khachaturian Decl. ¶¶ 66-72.

Therefore, in consideration of risks regarding certification of the class claims, Plaintiffs' Counsel discounted Defendants' estimated liability by 10-20%. In addition, Plaintiff's counsel discounted estimated liability in light of merits-based risk factors, even if a class were certified, and the claims were brought to trial. Plaintiffs' Counsel reduced Defendants' estimated liability by an additional 10-90% for Plaintiffs' meal and rest period claims, minimum wage and overtime claims, unreimbursed business expenses claim, §203 claim and §226 claim (Khachaturian Decl. ¶¶ 38-65). The specific estimated-liability reductions for each claim are discussed in the Declaration of Theodore Khachaturian.

Finally, as to Plaintiffs' PAGA claims, there was a 75% discount applied to account for the risks associated with establishing manageability, a discount of 75% was applied to account for the risks associated with succeeding on the merits, establishing liability, and proving the extent of penalties that are warranted, and a discount of 75% was applied in light of the unique risks to PAGA including the likely discretionary reduction of penalties by the Court given the circumstances of the Action and outside considerations. Khachaturian Decl. ¶ 72. This resulted in an adjusted liability of $40,642.50. The slightly higher figure ($50,000.00) achieved on behalf of the Aggrieved is warranted. Accordingly, in light of the Parties' respective legal positions and the risks to potential recovery, it is clear that the Gross Settlement Amount is fair, adequate, and reasonable. Khachaturian Decl.

VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

Code of Civil Procedure § 382 provides that three basic requirements must be met in order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined community of interest in the question of law or fact affecting the parties to be represented; and (3) certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class is superior to other methods. See Dunk, supra, 48 Cal.App.4th at 1806. Plaintiffs contend that this matter, which is primarily based upon Defendants' wage and hour policies and practices, satisfies the class certification requirements under California Code of Civil Procedure § 382.

Defendants denied Plaintiffs' allegations, but for purposes of this Settlement only, Defendants have stipulated to certification of the proposed class action.

A. An Ascertainable and Numerous Class Exists

Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of the class, and (3) the means of identifying the class members. See Miller v. Woods, 148 Cal.App.3d 862, 873 (1983). In this case, all three considerations strongly favor class certification. Here, the Class is defined as all current and former hourly-paid, non-exempt employees of Kids Empire Anaheim, LLC, Kids Empire Antelope Marketplace (CA), Kids Empire Bakersfield (CA), LLC, Kids Empire Clovis, LLC, Kids Empire Covina (CA), LLC, Kids Empire Fullerton (CA), LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Moreno Valley, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Otium, LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Ventura Pacific View Mall (CA), LLC, Kids Empire Woodland Hills, LLC, KESG Holdings, LLC, and Haim Elbaz, who were employed in the state of California for claims arising in California at any time from July 6, 2017 until the date of preliminary approval of the Settlement by the Court. Settlement Agreement, Exh.1 § 1.5, 1.12. This provides a clear and definite scope for the proposed class. Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity requirement. Under the Federal Rules, the minimum number of a class is one-hundred individuals. Under California law, that number is significantly less. See e.g., Rose v. City of Haywood, 126 Cal.App.3d 926, 934 (1981) (holding forty-two class members sufficient to satisfy numerosity). Here, the estimated Class size of 957 Class Members plainly favors class certification.

Finally, the question whether class members are easily identifiable turns on whether a plaintiff can establish "the existence of an ascertainable class." Daar v. Yellow Cab Co., 67 Cal. 2d 695 at 706 (1967). The existence of an ascertainable class in this case can be established through Defendants' payroll records, and the class definition is sufficiently specific to enable the

Parties, potential Class Members and the Court to determine the parameters of the Class. See Clothesrigger, Inc. v. GTE Corp., 191 Cal. App. 3d at 617 (proposed class defined as all persons nationwide subscribing to telephone service since January 1, 1981, who were charged for long distance calls deemed "plainly" ascertainable).

B. The Class Shares a Well-Defined Community of Interest

The community of interest requirement embodies three factors: (1) predominant questions of law and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. Dunk, supra, 48 Cal.App.4th at 1806. Plaintiffs easily satisfy all three requirements.

The commonality criterion requires the existence of common question of law or fact and is generally established with the issues of predominance and typicality. See Daar, supra, 67 Cal. 2d 695, 706. What is required is that a common question of fact or law exist which predominates over issues unique to individual plaintiffs. The existence of individual issues or facts—generally present in any case arising from employment—is not a bar to class certification as long as they do not render class litigation unmanageable or predominate over the common issues. See B.W.I. Custom Kitchen v. Owens-Illinois, Inc., 191 Cal.App.3d 1341, 1354 (1987).

In this matter, the alleged claims present sufficient common issues of law and fact that predominate and warrant class certification. Plaintiffs allege that Defendants denied compliant meal and rest periods to employees, failed to properly compensate employees for missed meal or rest periods, failed to compensate employees for daily overtime, and failed to fully compensate employees for all time worked. (Khachaturian Decl., ¶¶ 11-20.) These policies and practices mean that Defendants failed to pay minimum and overtime wages, and other related claims. Plaintiffs allege that these practices were uniform as to all Class Members and thus, class treatment is appropriate.

To satisfy the typicality requirement, California law does not require that a plaintiff have claims identical to the other class members. Rather, the test of typicality for a class representative is whether other members have the same or similar injury, whether the action is

based on conduct which is not unique to the named plaintiff, and whether other class members have been injured by the same alleged course of conduct. See Seastrom v. Neways, Inc., 149 Cal.App.4th 1496, 1502 (2007). The typicality requirement for a class representative refers to the nature of the claim or defense of the representative, and not to the specific facts from which it arose or the relief sought. See Id. Here, Plaintiff alleges that her claims are similar to those of the other Class Members. Plaintiff alleges their claims arise out of the same alleged facts and course of conduct giving rise to the claims of the other Class Members. (Khachaturian Decl., ¶¶ 11-20.) Finally, Plaintiff's claims are typical of the other Class Members because they seek the same relief for the alleged violations. Because Plaintiff's claims are based upon the same alleged conduct and practices as those of Class Members, the typicality requirement has been satisfied.

Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney qualifies to conduct the proposed litigation in the plaintiff's interest or not antagonistic to the interests of the class." McGee v. Bank of America, 60 Cal.App.3d 442, 450 (1976). Here, these considerations are satisfied. Counsel for Plaintiff include well-regarded and accomplished lawyers who are qualified and experienced in employment-related, class-action litigation. Khachaturian Decl. ¶77. Plaintiff will vigorously, adequately and fairly represent the interests of the Class. Because Plaintiff's claims are typical of other Class Members and are not based on unique circumstances, there is no antagonism between the interests of Plaintiff and the Class.

C. Class Action is Superior to a Multiplicity of Litigation

Under the circumstances, proceeding as a class action is a superior means of resolving the Actions, as the Class Members and the court will derive substantial benefits. Class certification would serve as the only means to deter and redress the alleged violations. See Linder v. Thrifty Oil Co., 23 Cal.4th 429, 434 (2000) (relevant considerations include the probability that each class member will come forward to prove his or her separate claim and whether the class approach would actually serve to deter and redress the alleged wrongdoing). Further, individual actions arising out of the same operative facts would unduly burden the courts and could lead to inconsistent results. Therefore, class action proceedings are superior to individual litigation.

VII. THE REQUESTED CLASS REPRESENTATIVE ENHANCEMENT PAYMENT IS REASONABLE

Plaintiff in the class action and PAGA lawsuit, Yanira Rosas, is eligible for a reasonable incentive payments as compensation "for the expense or risk they have incurred in conferring a benefit on other members of the class." Munoz v. BCI Coca-Cola Bottling Co.,186 Cal.App.4th 399, 412 (2010). Courts routinely grant approval of class action settlement agreements containing enhancements for the class representatives, which are necessary to provide incentive to represent the class and are appropriate given the benefit the class representatives help to bring about for the class. See Van Vranken v. Atlantic Richfield Co., 901 F.Supp. 294, 299 (N.D. Cal. 1995) (approving $50,000 enhancement). Plaintiff initiated and stepped forward in this Action on behalf of her former co-workers and the LWDA, who will now benefit from the Settlement. Plaintiff invested substantial time and effort into the Action, including their own research, reviewing documents, responding to verified discovery, and extensive discussions with Plaintiffs' Counsel. Khachaturian Decl. ¶ 78. Further, the requested amount is also extremely reasonable given the benefit gained by other Class Members. For these reasons, Plaintiff would request that the Court award her an enhancement payment of $10,000.00.

VIII. REQUESTED ATTORNEYS' FEE AND COSTS

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." Lealao v. Beneficial Cal, Inc., 82 Cal.App.4th 19, 41 (2000). California law provides that attorney fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk incurred. Id. at 47. In cases where class members present claims against a common fund and the defendant agrees to the use of a percentage of the fund as part of the settlement, use of the percentage method is appropriate. Id. at 32.

Here, the requested attorneys' fees of $144,167, which is thirty-three (33%) of the common fund, are disclosed to Class Members in the proposed Notice of Proposed Class Action Settlement ("Class Notice"). See Exhibit A to Settlement Agreement. The requested fee was freely negotiated, is common in the legal marketplace, and is not opposed by Defendants. The

Motion for Final Approval will elaborate on the nature of the legal services provided and will also support Plaintiffs' Counsel's request for the reimbursement of litigation costs not to exceed $20,000.00. Khachaturian Decl. ¶87.

IX. NOTICE TO THE CLASS, THE OPT OUT, AND OBJECTION PROCESS MEETS DUE PROCESS REQUIREMENTS

The Parties have jointly drafted a Class Notice which will be delivered to the Class Members and have agreed to having CPT Group, Inc. to administer the Settlement subject to the Court's Approval. Khachaturian Decl. ¶ 37; see Exh. A to Settlement Agreement, Exh. 1. The Class Notice will include information regarding the nature of the lawsuit, a summary of the terms of the Settlement, the Class definition, information on how to object and opt-out, information regarding the release of the class and PAGA claims, and the date of the Final Approval Hearing. The Class Notice will also list each Class Member's total workweeks and the approximate Individual Class Payment and Individual PAGA Payment (if applicable). Id. The Class Notice will indicate that the Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate and reasonable, and a final determination of such issues will be made at the final hearing. Id.

No later than fifteen (15) days after the Court grants preliminary approval of the Settlement, Defendants will provide the Class List to the Settlement Administrator including the name, last known home address, last known telephone number, social security number, dates of employment as a non-exempt employee, and workweeks worked during the Class Period and PAGA Period for all Class Members amongst other information. Khachaturian Decl. ¶ 37; Settlement Agreement §4.2. The Settlement Administrator shall perform any searches necessary for confirmation of the Class Members' addresses and shall mail the Class Notice to the Class Members no later than seven (7) days after receiving the Class List from Defendants. Settlement Agreement, Exh.1 §1.10, 4.42, Exh. 1 to Khachaturian Decl.

In determining whether to approve a settlement of a class action, a trial court has virtually complete discretion as to the manner of giving notice to class members, and review on appeal is governed by the abuse of discretion standard. See In re Cellphone Fee Termination Cases,

186Cal.App.4th 1380 (2010). Here, Plaintiffs' Counsel is not aware of an alternative method of providing notice to the Class which would result in a higher likelihood of actual notice. Khachaturian Decl. ¶ 89. The original source of the mailing addresses are from each Class Member, who provided the information to Defendants. As a fail-safe, additional searches will be performed on any notice returned as non-deliverable.

Any Class Member who wishes to be excluded from the Settlement must mail the Settlement Administrator a signed and dated request for exclusion including their name and a clear statement that they do not wish to be included in the Class. The request for exclusion must be postmarked no later than forty-five (45) days after mailing of the Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). Settlement Agreement, §1.43, Exh.1 to Khachaturian Decl. Any Class Member wishing to object to the approval of this Settlement shall provide a signed and dated written statement that includes the name of the case and the specific reasons for the Class Member's objection. Objections must also be mailed to the Settlement Administrator within forty-five (45) days after following the mailing of the Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). Class Members may also appear and object at the final approval hearing, regardless of whether they have submitted a written objection. Settlement Agreement, § 7.72, Exh. 1 to Khachaturian Decl.

X. CONCLUSION

Based on the foregoing arguments and authorities, Plaintiff respectfully requests that this Court grant Plaintiff's Motion for Preliminary Approval and the relief requested herein.

WORKPLACE RIGHTS LAW GROUP, LLP

Dated: January 14, 2025

By: _____
THEODORE S. KHACHATURIAN
Attorneys for Plaintiffs,
YANIRA ROSAS

DECLARATION OF THEODORE KHACHATURIAN IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL

I, Theodore Khachaturian, if called as a witness herein, would and could competently testify to the following facts based on my firsthand knowledge.

1. I am an attorney licensed to practice law within the State of California. My firm Workplace Rights Law Group represents Plaintiff Yanira Rosas, in this action. I am a partner in my firm and I am one of the attorneys assigned to handle this lawsuit. This declaration is submitted in support of Plaintiff's Unopposed Motion for Approval of Class Action/PAGA Settlement. Prior to filing I sent a copy of Plaintiff's Motion to Defendants' counsel, who do not oppose it.

A. Introductory Information

2. On 9/24/2021, I filed a Private Attorneys General Act complaint with the LWDA. A true and correct copy of this LWDA Notice is attached as Exhibit 2. The original Class Action Complaint was filed on 7/6/2021. The first amended complaint was filed on or about 2/7/2022.

3. An Amended LWDA letter was filed on September 12, 2024. A true and correct copy of this letter is attached as Exhibit 3.

4. I caused to be submitted a copy of the Settlement Agreement to the LWDA on January 14, 2025, along with notice of Plaintiff's request for preliminary approval of the settlement. A true and correct copy of this submission to the LWDA is attached hereto as Exhibit 4.

5. The original Complaint, filed on July 6, 2021, included the following allegations: 1. Failure to Timely Pay Wages (Labor Code §§201, 202, 203); 2. Unpaid Overtime (Labor Code §§ 510 and 1198); 3. Minimum Wages (Labor Code §§ 204, 204b, 1194.2, 1197, 1182.12, 1194, 1197.1, 1198, Wage Order No. 10,2); 4. Non-Compliant Wage Statements and Failure to Maintain Payroll Records (Labor Code §§ 226(a), 1174(d) and 1198); 5. Failure to Provide Meal Periods (Labor Code §§ 226.7, 512 and 1198); 6. Failure to Authorize and Permit Rest Breaks (Labor Code §§ 226.7 and 1198); 7. Denial of Right to Record Inspection and Production (Labor

Code §§ 226(b) and 1198.5); 8. Unfair Business Practices (B&P 17200). Plaintiff demanded a jury trial. The Complaint named various "Kids Empire" LLCs as Defendants and alleged that they were centrally controlled. I believe this to be the case. Each "Kids Empire" store was set up with a separate LLC.

6. The Kids Empire Defendants filed a Demurrer on December 22, 2021.Plaintiff opposed the Demurrer. The Court overruled Defendants' Demurrer for the most part, in an Order issued on January 26, 2022, finding that the Complaint alleged sufficient allegations of "alter ego," that Plaintiff's status as a minor "does not render her an inadequate class representative" and that Plaintiff's allegations were sufficient for other causes of action in the Complaint. However, the Court did sustain Defendant's Demurrer to the first cause of action for waiting time penalties.

7. As noted above, Plaintiff's First Amended Complaint was filed on 2/7/2022. The Kids Empire Defendants thereafter answered that FAC on 3/10/2022. Plaintiff's First Amended Complaint added three additional claims: (a) a 7th COA for Failure to Pay Sick Pay at Regular Rate (Labor Code §246); (b) an 8th COA for Failure to Reimburse for Necessary Business Expenses (Labor Code §2802); and a 10th COA for Claim for Penalties for Violation of California Labor Code, Pursuant to PAGA, Labor Code §§ 2698, et seq.

8. On or about February 1, 2022, Plaintiff served discovery requests, including Special Interrogatories, Form Interrogatories (General and Employment) and Requests for Production of Documents on the Kids Empire Defendants. The Kids Empire Defendants responded in March of 2022. In response to Plaintiff's Interrogatories, several of the Kids Empire Defendants indicated that they were not the employer of the class members, but that the temp-agency/PEO companies who placed its workers were the actual "employer." As a result, Plaintiff added the named-PEO Defendants to the Complaint by amendment. The added, non-Kids Empire Defendants included: Shiftpixy Staffing, Inc, Avitus Group, Cingular HR, Shiftable HR, Vensure Employer Services and Shiftpixy, Inc. Plaintiff also added other Kids Empire Defendants that were identified in Defendants' discovery responses. This includes Holding IP

Parks, LLC and Holding IP Parks USA. The new Defendants eventually answered Plaintiffs' First Amended Complaint.

9. In July of 2022, the Kids Empire Defendants moved to compel arbitration of Plaintiff's individual claims. The PEO-Defendants, which had been added to the lawsuit as Defendants, joined the motion. Plaintiff opposed. The basis of Plaintiff's opposition was that Plaintiff did not sign the arbitration agreement and regardless, Plaintiff was a minor (under 18) at the time the arbitration agreement was supposedly executed and therefore the agreement was not enforceable. The Court denied Defendants' motion to compel arbitration on August 29, 2022. Plaintiff served a Notice of Ruling on September 1, 2022.

10. Following the denial of Defendants' motion to compel arbitration, the Parties continued to engage in written discovery and exchange of documents.

B. Dunk/Kullar Analysis

1. Summary of the case, including the legal and factual basis for each claim

11. First COA for "Unpaid Overtime (Labor Code §§ 510 and 1198)." Under subdivision (a) of section 510, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." Labor Code 1198 simply allows the IWC to set the "maximum hours of work and the standard conditions of labor for employees." Those "standards" are described in Wage Order No. 10 and 2, which both require payment of daily overtime, for "beyond eight (8) hours in any workday or more than six (6) days in any workweek" (Cal. Code Regs., tit. 8, § 11100.) Kids Empire did not pay daily overtime. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

12. Second COA for "Minimum Wages (Labor Code §§ 204, 204b, 1194.2, 1197, 1182.12, 1194, 1197.1, 1198, Wage Order No. 10,2)." This claim is derivative of the claim for failure to pay overtime. The claim is that Defendants failed to pay any wages for daily time,

including minimum wages. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

13. Third COA for "Non-Compliant Wage Statements and Failure to Maintain Payroll Records (Labor Code §§ 226(a), 1174(d) and 1198)". This is a derivative claim as well. Kids Empire's wage statements violate Section 226 in several ways. The wage statements do not reflect daily overtime, because Kids Empire did not pay daily overtime in violation of Section 510 as discussed above. And as discussed above, the wage statements do not reflect meal period or rest break premiums, because Kids Empire did not pay such premiums in violation of Section 226.7. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

14. Fourth COA for "Failure to Provide Meal Periods (Labor Code §§ 226.7, 512 and 1198)". The claim is that meal periods are permitted at Kids Empire *if* the store was not busy. Otherwise, they are disallowed. Employees at Ms. Rosas's store in Rialto were told, "to go on [their] lunch break if it wasn't busy by Samari or Stella, whichever manager was on duty." Employees were instructed to clock in and out for their breaks, which is unusual, but permitted if the employee is paid for his/her time. The "ConnectTeam" app that employees used to clock in and out on the iPad at the store was rigged against the employees. For example, when employees would clock "out" for their rest break, the timer on the app would start at two minutes. Thus, employees were effectively permitted to take eight (8) minute breaks only. Plaintiff complained to corporate, who instructed her to restart the tablet. Plaintiff did so, but the issue remained. Kids Empire did not pay meal period premiums. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

15. Fifth COA for "Failure to Authorize and Permit Rest Breaks (Labor Code §§ 226.7 and 1198)". Kids Empire did not pay rest break premiums either. Many Kids Empire employees have come forward and described being interrupted during rest breaks, particularly when stores were busy. But aside from that, Kids Empire's records show that the company did not pay premiums when their own time records reflect that employees did not take a full ten

minute rest break. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

16. Sixth COA for "Denial of Right to Record Inspection and Production (Labor Code §§ 226(b) and 1198.5)". This claim alleges that Kids Empire failed to permit inspection of their personnel files and wage records and that Kids Empire failed to maintain such records. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

17. Seventh COA for "Failure to Pay Sick Pay at Regular Rate (Labor Code §246)". This claim alleges that Kids Empire failed to provide sick pay in violation of Section 246. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

18. Eight COA for "Failure to Reimburse for Necessary Business Expenses (Labor Code §2802)". This claim alleges that Kids Empire failed to reimburse for necessary business expenses incurred by employees. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

19. Ninth COA for "Unfair Business Practices (B&P 17200)". This is a derivative claim. An unfair business practices claim extends the statute of limitations on wage-related claims an additional year, making the total limitations period four years. Also, a Plaintiff can demand injunctive relief for unfair business practices, which Plaintiff demands in her FAC. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

20. Tenth COA for "Penalties for Violation of California Labor Code, Pursuant to PAGA, Labor Code §§ 2698, et seq." California Labor Code §§ 2698 et seq. ("PAGA") permits Plaintiff to recover for civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code Labor Code sections 201, 202, 203, 204, 204b, 221, 226(a), 226(b), 226.3, 226.7, 226.8, 246, 246.5, 248, 248.5, 256, 510, 510(a), 512, 558, 1174(d), 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198, and California Wage Order Nos. 2 and 10 (and other Wage Orders). The penalty is ($100) for each aggrieved

employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation." PAGA is basically a derivative claim in this lawsuit, entitling aggrieved employees for a penalty for each pay period they were not paid proper overtime, did not receive a proper wage/meal break, and were not paid a proper premium for that. Plaintiff alleged that the class members suffered the same violations as Plaintiff did for this claim.

21. In March of 2024, the Parties filed a "Stipulation and [Proposed] Order Regarding Employment Status, Correcting Party Names, and Dismissing Non-Employer Defendants." In the stipulation the Parties agreed to dismiss the PEO-Defendants on the basis that the Kids Empire entities agreed that they would be responsible for any judgment in the action, as an employer of the individuals who worked in the "Kids Empire" stores in California. The goal of the stipulation was to streamline the litigation. The PEO Defendants were dismissed without prejudice. The Court signed the proposed Order.

2. <u>Summary of the investigation and discovery conducted, including the specific documents reviewed prior to agreeing to settle the case</u>

22. We served a substantial amount of discovery in this case, and I reviewed a substantial amount of documents prior to the settlement:

a. Plaintiff's Requests for Production Set One. We served RFPs on at least 13 Kids Empire entities. The RFPs requested: (a) all policies that applied to the class members; (b) onboarding documents provided to the class members; (c) templates of all writings signed by class members; (d) documents related to Plaintiff including her time and payroll records; and (e) messages from HR.

b. Plaintiff's Special Interrogatories, Set One. We served Special Interrogatories on at least 13 Kids Empire entities. Plaintiff asked that: (a) Defendants identify their corporate managers, members, directors and owners; (b) the identity of Defendants' employees; (c) the names of all companies that supplied employees to Defendants; (d) the software Defendants' used to track employees' time and process payroll; (e) the identity of Defendants' HR employees; (f)

c. Plaintiff's Form Interrogatories, Set One. Plaintiff asked for details about Defendants' insurance and the nature of Defendants' businesses.

23. On or about May 6, 2022, Kids Empire produced its first batch of documents including Plaintiff's payroll (wage statements) and time records, and personnel records. I reviewed all of the records of course, to understand Defendant's methodology of payroll processing and practices.

24. We met and conferred regarding Defendants' responses and had an IDC on June 8, 2022. We complained that Defendant had not produced policies or employee handbooks, onboarding documents, corporate governance documents, HR communications. We also complained that Defendants had not produced the names and contact information of employees pursuant to the Belaire-West case.

25. At some point in 2022, discovery was stayed until the Court heard Defendant's motion to compel arbitration. That motion was heard and denied on August 29, 2022. Thus, as a result of the denial, the stay was lifted. The Parties went back to Court for another informal discovery conference on or about November 28, 2022. The prior issues regarding the non-production of certain documents and the lack of Belaire-West cooperation was at issue again in November.

26. We served discovery on the PEO-Defendants in October of 2022. The discovery was similar to what had been served on the Kids Empire Defendants: Form Interrogatories, Special Interrogatories, and Requests for Production. We sought Defendants' policies, on-boarding documents, corporate governance documents, and the identity of Defendants' employees (through a *Belaire-West* process.)

27. A *Belaire-West* Notice was finally sent and we received the list around April of 2023. The list included about 385 names. My office made efforts to contact these employees and survey them about their experience at Kids Empire. We contacted dozens of Kids Empire employees. Many of them had experiences similar to Plaintiff Rosas.

28. Shortly following our receipt of the Belaire list, we propounded a second set of discovery on Defendants asking for the payroll and time records for the individuals who

appeared on the list. Our goal was to analyze such records to understand the scope of the violations alleged in the Complaint.

29. Plaintiff Rosas's deposition took place on or about June 7, 2023, at Littler's office in Century City. I appeared personally to defend my client.

30. Defendant Vensure Employer Services produced about 528 pages of documents on November 13, 2023. The documents were a sample of Vensure's payroll and time records for Kids Empire employees, as well as Vensure's policies. I reviewed all of the records. The records helped me understand Vensure's payroll and timekeeping practices.

31. In January of 2024 we received an additional batch of names in response to the Belaire Notice. I was told that the original list included several individuals who were not class members. This renewed list corrected that issue. Again, we contacted and spoke with dozens of class members and surveyed them about their experience at Kids Empire.

32. Following our receipt of the Belaire List, we served a third set of Requests for Production on the Defendants, requesting the payroll and time records of the individuals on the renewed Belaire list.

33. I took a PMQ deposition of Kids Empire on March 27, 2024. The PMQ was designated to testify regarding Kids Empire's organizational structure, their website, the nature of their business. Hiam Elbaz was Kids Empire's designee.

34. Prior to the July 2024 mediation (discussed below), Kids Empire's counsel Steven Groode assured me that I would receive a large sample of records for the class members to evaluate the claims and defenses. In March of 2024, we received large batches of payroll and time records for all of the Kids Empire entities, including Anaheim, Bakersfield, Covina, KESG, Monrovia, Montclair, Northridge, Ontario, Pomona, Rialto, and Woodland Hills. This amount to over 7 gigabytes of documents. The documents were a large sample spanning the period covered by this lawsuit for Defendants' stores. I reviewed all of these records.

35. Kids Empire also produced records around July 9, 2024. This consisted of thousands of pages of policy and personnel records for several of Defendants' stores including Monrovia, Northridge, Pomona, Rialto, Woodland Hills, Monclair, Covina, Anaheim and

Ontario. I reviewed these records to understand the nature of violations at Defendants' stores. I learned from this production that Kids Empire had largely fixed the problem of not having consistent policies across its stores that existed prior to 2022, during which time Kids Empire relied on the PEO companies to issue employment policies. In 2022 however, the Kids Empire entities issued their own uniform employee handbooks and had the employees acknowledge receiving the handbooks. Also, in 2022 (with some exceptions in late 2021 after this lawsuit was filed), many Kids Empire employees signed meal period waivers in which they waived their right to receive a meal period if they worked less than 6 hours in a shift.

3. Summary of settlement negotiations, including when the settlement was reached, and whether the parties were assisted by a mediator

36. The Parties' counsel first started to discuss mediation in 2022. We first agreed on Todd Smith as mediator and initially had a mediation set in September 2022. However, when it became clear that more discovery was needed, the parties rescheduled the mediation to April 2023. At the PMQ deposition I conducted, I learned that there had a been a change at the C-suite level of Kids Empire USA, LLC. Defendants' counsel informed me thereafter that as a result, Defendants were not ready to proceed with mediation in April 2023. Essentially, the company had new management who were not up to speed with the nature of the allegations and the damages claimed by Plaintiff. I was informed by defense counsel that the mediation date needed to be continued. Of course, I agreed. I wanted Defendants' new management to understand the nature of our claims and allegations before agreeing to a settlement.

37. We later agreed to mediate with Retired Judge Amy Hogue, highly respected mediator with particular experience in wage and hour class actions. The mediation took place on July 30, 2024. My colleague Gregory Wolflick and I appeared for Plaintiff and Plaintiff was present as well. Steven Groode and Julie Holden appeared for Defendants. The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. Defendants at all times maintained that they had complied with California wage and hour laws. Likewise, Plaintiffs were prepared to vigorously litigate the Action. The proposed settlement was reached at the end of a process that was neither fraudulent nor collusive and was

reached only after a full day of mediation which allowed the Parties to reach a compromise of the hotly disputed claims with the help of the mediator. The Mediator, Judge Amy Hogue (Ret.), provided us valuable feedback on the strengths and weaknesses of Plaintiff's claims. After a day long mediation, the case settled. At all times, we were willing and prepared to litigate this matter if no settlement was reached. The Parties executed a Memorandum of Understanding the day of the mediation, outlining the basic terms of the settlement. The long-form settlement was executed in October of 2024. A true and correct copy of the long-form settlement agreement is attached hereto as Exhibit 1.

4. A summary of the risks, expenses, complexity, and duration of further litigation if the settlement is not approved

38. Plaintiffs' Counsel analyzed all available data and arguments presented by Defendants at mediation, and estimated Defendants' ***maximum*** potential exposure at approximately $3,378,501 assuming the litigation was successful at trial on the claims at issue, and then reduced this exposure analysis based on the likelihood of obtaining class certification, prevailing at trial, and other attendant risks. At the time of mediation discussions, there were approximately 23,957 workweeks at issue. Based on the average rate of pay during the Class Period of $15.00/hour and finding a presumptive meal period violation rate of 30%, we estimated the maximum total meal break damages of $107,806.50 for all Class Members (23,957 workweeks x $15/hr x 30% violation rate.) Rest breaks were recorded at Kids Empire as well. Based on Plaintiffs' investigation and discovery into the same types of practices that were leading to employees missing meal breaks, or receiving short and late meal periods, we estimated a 30% violation rate with respect to rest breaks as well, which resulted in an estimated total rest break damages of $107,806.50 for all class members (23,957 workweeks x $15/hr x 30% violation rate.) Plaintiffs' claims for overtime and minimum wage were based on a theory that Kids Empire did not pay daily overtime. In other words, Kids Empire paid weekly overtime (hours over 40) but the rule in California is that if the daily overtime (hours over 8) exceeds the weekly overtime, the employer should pay the higher amount. However, it was very uncommon for Kids Empire workers to work any overtime and especially daily overtime. Plaintiff appears

to be the exception, and even for Plaintiff, daily overtime was very uncommon. On the rare occasion when Plaintiff worked daily overtime and her daily overtime hours exceeded Plaintiff's weekly overtime hours, Plaintiff was paid overtime, albeit the lower amount. For these reasons, we value the overtime/minimum wage claim very low because of a low violation rate of 5%. That is $17,967.75 (23,957 workweeks x $15 x 5% violation rate.) The claim for failure to provide itemized, accurate wage statements under Labor Code Sec. 226 is basically a derivative claim based on a theory that because of Defendants' failure to pay all meal/rest break premiums and occasional failure to pay all wages due, the wage statements were also inaccurate. Labor Code Sec. 226 penalties have a one-year statute of limitations and Defendants' information was that there would be 10,838 pay periods for this claim, the same as the PAGA claim. Assuming the same violation rate as the meal and rest break claim, 30%, and assuming the maximum penalty is issued ($100), we get a total maximum damages for the Labor Code § 226 claim of $325,140 (10,838 pay periods x $100 x 30% violation rate.) The claim for unreimbursed business expenses under Labor Code §2802 was based on Defendants failure to pay any amount for employees' cellular phones and any data plans. The evidence showed that employees clocked in and out using on-site computers. However, employees also an app on their phones to communicate with their employer about scheduling, to request time off, and for other communication. The §2802 claim was based on a monthly, not weekly analysis, because expense charges are occur on a monthly basis. There are 5,989 months in the class period based on the information provided by Defendants. Assuming $20 reimbursement for cell phones bills for each month, the result is $119,780. For the claim for violation of Labor Code § 203, employees not fully paid at the time of their termination are entitled to 30 days wages. Our theory was that because terminated employees were not paid their meal and rest period premiums and overtime at the time of their termination, they were also entitled to a penalty under § 203. Defendant's counsel informed us that there were approximately 750 terminated employees during the class period. Using an average hourly rate, the maximum damages are thus, $2,700,000. (30 days x 8 hours a day x $15/hour x 750 employees.) Finally, with regard to the maximum potential PAGA recovery, our calculation was: $650,280. That number is based on a

total of 10,838 pay periods for the PAGA case, a maximum imposed penalty of $200 per violation and a 30% violation rate (10,838 pay periods x $200 x 30% rate.)

5. Summary of the risks of achieving and maintaining class action status

39. Class certification is appropriate when there is an "ascertainable class and a well-defined community of interest among class members." Sav-On Drug Stores, Inc. v. Super. Ct. (2004) 34 Cal. 4th 319, 326. The party seeking class certification has the burden to establish by a preponderance of the evidence that proceeding on a class basis will be a superior means of resolving the dispute. Id. at 332. In turn, the community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. Brinker, supra, 53 Cal. 4th at 1021.

40. There are facts in this case that make it likely that class certification would be granted. Discovery showed that the Kids Empire entities (the different LLCs with the "Kids Empire" name assigned for each store) *were* run by a common human resources department and *were* subject to the same wage-and-hour policies. Kids Empire's designated PMQ, Haim Elbaz, testified to this. In fact, Elbaz testified that he was the CEO and thus, effectively the head of this human resources department that was based in Downey. The policies and practices were the same for all Kids Empire workers: they all clocked in and out using the same type of electronic interface, they all clocked in and out for their breaks, and they were all subject to the same meal period and overtime policies and practices. Also, all of the class members basically had the same job. Plaintiff Yanira Rosas worked in a typical Kids Empire store in Rialto, California. Ms. Rosas interacted with and scheduled guests, made sure the toys were ready, cleaned up after guests, and completed other tasks related to operation of the store. Ms. Rosas sought to represent a class of workers who did the same job.

41. There were also risks to class certification. For one, there were several different PEOs involved in placement of the store employees and, at least for some period of time, Kids Empire collectively relied on the PEOs to implement employment policies for the PEOs' specific

employees. For example, Vensure had its own policies that would have been unique to Vensure-placed employees. This aspect of the case provides some measure of differentiation between the class members and created uncertainty regarding certification. There was also the issue of the arbitration agreements. This is not a situation in which the arbitration agreements were unlawful due to illegality of contract (as opposed to unenforceable against a minor). The arbitration agreement purportedly signed by Ms. Rosas (which she denied) was not binding against Ms. Rosas because she was a minor when it was purportedly executed. But that would not necessarily be true of some other employees who were over 18 at the time they signed arbitration agreements. Kids Empire had asserted that this would be a defense to class certification. Kids Empire had also argued that the fact that Ms. Rosas was a minor during her employment, precluded or limited certification of the class because it differentiated her from the class members. I am not sure whether this defense would have worked but it would have been a hurdle for us.

6. Specific information sufficient for the court to make an independent determination that the consideration being received for the release of class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation

42. Although the investigation and information discovered supports Plaintiffs' contentions, Defendants raised potential defenses and other circumstances that impacted the risk of proceeding on a class-wide basis. Defendants proffered defenses to both certification and the merits of Plaintiffs' claims, including that many employees had signed arbitration agreements. As with all class actions, these complex cases raise difficult management and proof issues and consideration of these risks factored into the decision to enter this Settlement.

Meal Period Analysis

43. A large portion of Defendants' estimated overall liability lies in Plaintiffs' meal and rest period claims. Plaintiffs' meal period theory of liability was based upon Defendants' failure to provide timely, full, and/or uninterrupted meal periods and failing to pay meal period premium for such meal periods. Plaintiff contended that Defendants' staffing practices, rigorous

performance expectations, and heavy and time-sensitive workloads prevented employees from receiving timely and uninterrupted meal periods. Plaintiffs contended that Defendants failed to pay meal period premiums for missed, late, short, or interrupted meal periods that arose as a result of these practices.

44. Based on a review of and analysis of a sampling of time and payroll data, our investigations, and after extensive discussions with Defense counsel, we estimated a meal period violation rate of approximately 30%. Accordingly, based upon information regarding the Class workweeks being at 23,957 and average rate of pay being $15.00/hr, we estimated potential meal period damages amounting to $107,806.50 (23,957 workweeks x $15/hr x 30%)].

45. However, meal period claims have been increasingly difficult to certify in recent years and Defendants argued that their meal period policies and practices throughout the Class Period were lawful. Defendants contended that to the extent that putative class members failed to take their meal periods or took a short or late meal period, they did so voluntarily. As such, Defendants contended the records that indicated non-compliant meal periods had been waived. Defendants argued that investigation into these meal periods would raise multiple individual issues that would pose challenges to certification, including and whether meal periods were non-compliant, why they were non-compliant, and whether they had been waived. Defendants contended that these highly individualized questions of fact would prevent class certification and serve as a defense even if this claim was certified.

46. While we disagreed with Defendants' arguments and factual contentions, we recognized the circumstances and realities of the case, applicable case law and regulations, costs and expenses of further litigation and certification, and risks to recovery, associated with this claim. Accordingly, Plaintiffs applied a 10% discount for risks associated with certification of this claim and for 55% discount rate the risks of succeeding on the merits, establishing liability, and proving damages, leaving a resulting value of $43,661.63 (23,957 workweeks x $15/hr x 30% violation rate x 10% class certification risk-discount x 55% merits risk-discount.)

Rest Break Analysis

47. Like Plaintiffs' meal period claims, the alleged rest period violations were based

primarily on what Plaintiffs believed was Defendants' practice of having employees work during purported breaks. Plaintiffs contended that Defendants failed to provide Class Members with timely, full, and uninterrupted rest periods. Plaintiffs also contended that rest periods, when provided, were regularly interrupted or cut short.

48. While rest periods were not required to be recorded, Kids Empire employees did clock in and out for their rest breaks, though this time was compensated by Kids Empire. The Plaintiffs estimated that the types of practices leading to meal period violations would likely have a similar impact on employees' ability to take a compliant rest period. Based on Plaintiffs' Counsel's investigation and discovery into the same types of practices that were leading to employees missing meal breaks, or receiving short and late meal periods, we estimated that putative class members received a non-compliant a rest period on average 30% of the time throughout the Class Period. Accordingly, based upon information regarding the Class workweeks being at 23,957, average rate of pay being $15/hr, Plaintiffs estimated rest period damages could amount to $107,806.50 for all class members (23,957 workweeks x $15/hr x 30% violation rate.)

49. Defendants argued that their practices were lawful and that all employees were provided with an opportunity to take a rest period for every four hours worked or major fraction thereof. Defendants argued that whether employees had received a compliant rest period, the reason why a putative class member failed to receive a compliant rest period, and whether such rest period was waived raised individual issues that could not be certified and that even if such a claim could be certified, Plaintiffs would be unable to adequately prove the alleged damages given the lack of records.

50. While we disagree with Defendants' arguments and factual contentions, there were significant risks associated with this claim. Accordingly, Plaintiffs applied a 10% discount for risks associated with certification of this claim and 55% discount for the risks of succeeding on the merits, establishing liability, and proving the extent of damages and ultimately obtaining this award. This resulted in a risk-based estimate of approximately $43,661.63 (23,957

workweeks x $15/hr x 30% violation rate x 10% risk-discount for certification and 55% merits risk-discount.)

Overtime/Minimum Wage Claim

51. Plaintiffs allege that Defendants failed to pay putative class members overtime (and minimum wages) as a result of uniform policies, practices, and procedures, that did not compensate employees for daily overtime hours that exceeded weekly overtime hours. We give overtime/minimum wage claim a low violation rate of 5%. It was very uncommon for Kids Empire employees to work overtime. That gives us $17,967.75 in potential damages (23,957 workweeks x $15 x 5% violation rate.)

52. Defendants contended that their overtime policies and practices comply with the law and that they paid putative class members over the minimum wage for all hours worked. Defendants also produced wage records reflecting overtime compensation paid to many of the putative class members. Defendants further contended that all employees were required to record all time worked and that Defendants were not aware that any work had been performed off-the-clock. Defendants also argued that individual liability issues predominate, including which PEO Defendant the employees worked for. Defendants argued that proving damages at trial would not be manageable.

53. Plaintiffs disagreed with Defendants' contentions but acknowledge that that the overtime claim involves substantial challenges in obtaining and maintaining class certification, establishing liability and providing damages, in light of potential individualized issues and the lack of records. Accordingly, we discounted their initial valuation of this claim by 10% to account for risks regarding certification and an additional 10% for the risks associated with succeeding on the merits, establishing liability, proving the extent of damages and ultimately obtaining this award. This resulted in a risk-based estimate of approximately $14,374.20 with respect to these claims ($17,967.75 maximum recovery with a 20% reduction for such risks.)

Wage Statement Claims

54. Plaintiffs contended that throughout the Class Period there were derivative violations arising from the claims alleged above such that the wage statements failed to include

the premium pay class members *should have* been receiving as a result of missed, delayed, or non-existent meal periods and rest breaks.

55. As discussed above, the penalties for Labor Code § 226(e) go back one year before the lawsuit was filed. Assuming the same violation rate as the meal and rest break claim, 30%, and assuming the maximum penalty is issued ($100), we get a total maximum damages for the Labor Code § 226 claim of $325,140 (10,838 pay periods x $100 x 30% violation rate.)

56. However, Naranjo v. Spectrum Security Services, Inc. (2024) 15 Cal.5th 1056 makes it more difficult to prevail on 226 claims. Naranjo held that "an employer's objectively reasonable, good faith belief that it has provided employees with adequate wage statements precludes an award of penalties under section 226, subdivision (e)(1). An employer that believes reasonably and in good faith, albeit mistakenly, that it has complied with wage statement requirements does not fail to comply with those requirements knowingly and intentionally." In other words, if a Defendant prevails on this defense, it could potentially wipe out any 226 penalties.

57. Defendants argued that there was no knowing and intentional violation based on Naranjo. We discounted our initial valuation by 20% for the risks associated with certifying the class and 65% for risks pertaining to the merits, proving the extent of damages, and ultimately obtaining this award. This resulted in a risk-based adjustment of $48,771 for this claim ($325,140 maximum violation x 20% discount for class certification and 65% merits-based discount.)

Waiting Time Penalties Claims

58. Plaintiffs allege that Defendants intentionally and willfully failed to pay Plaintiffs and other putative class members all wages due to them during employment and due to them upon termination, within the time period permissible under California law as a result of Defendants' failure to pay employees all wages due from off-the-clock work, as well as unpaid meal and rest period premiums. Based on the information provided by Defendants at mediation there were approximately 750 employees whose employment ended during the class period and who may be entitled to waiting time penalties. Under Labor Code §203, employees not fully paid

at the time of their termination are entitled to 30 days wages. Using an average hourly rate, the maximum damages are thus, $2,700,000. (30 days x 8 hours a day x $15 x 750 employees.)

59. However, there were substantial risks associated with Plaintiffs' waiting time penalties claims. First, these claims were derivative of Plaintiffs' previous claims and if those underlying claims are denied on manageability or for other reasons, these claims would also likely fail. Further, even if Plaintiffs prevailed on their underlying meal period, rest break, or overtime claims, they would still be required to demonstrate that Defendants' violations of Labor Code § 203 were willful violations, which is especially difficult as a result of recent caselaw (See Naranjo v. Spectrum Security Services, Inc. (2024) 15 Cal.5th 1056 ["Under long-established law, an employer cannot incur civil or criminal penalties for the willful nonpayment of wages when the employer reasonably and in good faith disputes that wages are due. . ."]) Accordingly, Plaintiffs' initial valuation of this claim was discounted by 90% to account for risks regarding certification and 90% for the risks associated with succeeding on the merits, establishing liability, proving the extent of damages, and ultimately obtaining this award. This resulted in a risk-based estimate of approximately $27,000 with respect to this claim ($2,700,000 initial evaluation x 90% discount x 90% discount).

Business Expense Claims

60. Plaintiffs contend that Defendants failed to reimburse Plaintiffs and other putative class members for necessary business expenses, which was the employees use of their personal cell phones to communicate with Kids Empire's managers and human resources for any purposes, including scheduling. As noted above, there are 5,989 months in the class period based on the information provided by Defendants. Assuming $20 reimbursement for cell phones bills for each month, the result is $119,780 (5,989 months x $20 per month.)

61. Based on our investigation, Defendants had an argument that employees did not need to use their cellular phones as part of their job duties. Also, Defendants had an argument that employees did not request reimbursement for such cellular phones, which is the Plaintiff's burden of proof. We did not find evidence that employees did request such reimbursement. Taking into consideration Defendants' points, we discounted the amount claim for cellular

phones by 10% for issues relating to certification of this claim and 80% for issues pertaining to the merits, establishing liability, proving damages, and ultimately obtaining an award. This resulted in a risk-based adjustment of $11,978 for this claim ($119,780 x 10% certification discount x 80% merits-base discount.)

General Considerations

62. For all claims and when considering the Settlement generally, we recognize that, even if Plaintiff prevailed at class certification, proving the amount of wages due to each Class Member would be an expensive, time-consuming, and extremely uncertain proposition. In order to prove liability and damages, Plaintiffs' Counsel will need to request and analyze thousands of pages of documents, obtain the Class Members' contact information, contact them and obtain numerous declarations at great expense. Obtaining the cooperation of current employees would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current employer. On the other hand, Defendants would likely be able to obtain the cooperation of their employees. Moreover, even if Plaintiffs prevailed at class certification and trial, possible appeals would substantially delay any recovery by the Class.

63. Therefore, taking into account the strengths and weaknesses of each claim, the unique risks associated therewith, the general risks associated with litigating the case, and the significant additional costs and expenses that would be incurred by both sides in litigating the Action through class certification, trial, and appeals, Plaintiffs' Counsel estimated an overall adjusted risk-based liability for all claims at issue of approximately $189,446.46.

64. The slightly higher figure ($196,833) achieved on behalf of the Class is more than fair based on the difficulty of proving claims of this type, in which the bulk of the damages is based on difficult to prove meal and rest break violations.

65. Based on these factors, I therefore submit that the Settlement is fair, reasonable, and adequate. The Settlement is in the best interest of the Class Members, PAGA Members, and State of California and is within the accepted range of recoveries for this type of litigation given the inherent risk of litigation, the risk of obtaining and maintaining class certification, and the costs of further litigation.

7. If approval of the settlement of class claims is requested together with approval of non-class claims (such as claims under the Labor Code's Private Attorney General Act (PAGA)) discuss why the amount allocated to the non-class claims is fair to those affected

PAGA Claims

66. We also separately contemplated the risks of proceeding with the PAGA claims and the potential liability Defendants could face from these claims. The Parties agreed during settlement negotiations to allocate $50,000 of the Settlement towards the PAGA claims, which represents approximately 11.5% of the Gross Settlement Amount. This percentage of the settlement allocated to the PAGA claims is well above the range in PAGA settlements regularly approved in both state and federal court for cases that include both a class and PAGA action. Courts have approved allocations of as little as 1% of the Gross Settlement Amount. See, e.g.,

a. *Davis v. Brown Shoe Co*., 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA Payment of $5,000 in a $1.5 million class settlement);

b. *Zamora v. Ryder Integrated Logistics, Inc*., 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) ($7,500 payment to LWDA for PAGA on a $1.5 million class settlement);

c. *Lusby v. Gamestop Inc*., 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015) (PAGA Payment of $5,000 in a $500,000 class settlement);

d. *Cruz v. Sky Chefs, Inc*., 2014 U.S. Dist. Lexis 17693 (N.D. Cal. 2014) (approving payment of $10,000 to the LWDA for PAGA out of $1,750,000 class settlement);

e. *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D. Cal. 2011) (approving PAGA payment of $7,500 to the LWDA out of $6.9 million common-fund settlement);

f. *Martino v. Ecolab Inc*., No. 3:14CV04358 (N.D. Cal. 2017) ($100,000 allotted a PAGA penalties or 0.48% of $21,000,000 settlement amount);

g. *East v. Comprehensive Educational Services Inc*., Case No. 11-CECG-04226 (2015) ($10,000 allotted as PAGA penalties or 0.13% of $7,595,846 settlement amount);

h. *Bararsani v. Coldwell Banker Residential Brokerage Company*, Case No. BC49576 (2016) ($10,000 allotted as PAGA penalties or 0.22% of $4,500,000 settlement amount);

i. *Rico v. Cardinal Health 200 Inc*., No. CIVRS-14-01451 (2017) ($5,000 allotted as PAGA penalties or 0.14% of $3,500,000 settlement amount);

j. *Moppin v. Los Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) ($15,000 allotted as PAGA penalties or 0.40% of $3,775,000 settlement amount);

k. *Scott-George v. PVH Corporation. No*., 2:13CV00441 (E.D. Cal. 2017) ($15,000 allotted as PAGA penalties or 0.46% of $3,250,000 settlement amount);

l. *Hart v. Parkview Community Hospital Medical Center*, No. RIC-14-06044 (2016) ($10,000 allotted as PAGA penalties or 0.39% of $2,550,000 settlement amount);

m. *Nehrlich v. RPM Mortgage Inc*., No. 30-2013-00666783-CU-OE-CXC (2017) ($10,000 allotted as PAGA penalties or 0.40% of $2,500,000 settlement amount);

n. *Kelley v. The Related Companies of California L.L.C*., No. CIVDS-13-07167 (2016) ($10,000 allotted as PAGA penalties or 0.50% of $2,000,000 settlement amount); and

o. *Castrejon v. O'Connell Landscape Maintenance Inc*., No. RIC-12-12798 (2015) ($5,000 allotted as PAGA penalties or 0.33% of $1,500,000 settlement amount).

67. In allocating $50,000.00 to Plaintiffs' PAGA claims, Plaintiffs' Counsel considered that PAGA penalties would be subject to the same defenses and risks as Plaintiffs' Class claims, as well as defenses unique to PAGA.

68. For instance, Defendants contended that violations of multiple provisions of the California Labor Code do not give rise to cumulative penalties, but that instead, the initial violation penalty and subsequent violation penalty provided by statute, should only apply once per pay period, if at all, rather than cumulatively for each separate California Labor Code

provision that is, arguably, violated during a pay period. For example, Plaintiff's claimed a penalty for violation of section 226.7 relating to failure to provide meal periods and a resulting penalty under section 226 for failure to provide accurate wage statements that listed such premiums. Defendants argued that Plaintiffs were not entitled to stack penalties to double-recover for such violations.

69. Defendants denied and continue to deny that they ever violated any provision of the California Labor Code and Defendants would likely have argued, that, even if, *arguendo*, such violations occurred, heightened penalties should not apply because Defendants had not received notice from a labor agency or Court that they were violating the law. *See, e.g., Amaral v. Cintas Corp. No. 2*, 163 Cal.4th 1157, 1209 (2008).

70. Defendants also contended that when determining whether or not to assess a penalty, the court exercises the same discretion as the Labor Commissioner and may reduce the penalties to be assessed against the employer pursuant to California Labor Code section 2699(e)(1)-(2). As such, Defendants contended that, with respect to a PAGA claim, the Court was unlikely to assess cumulative penalties because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where certain conduct may be governed by multiple provisions of the. California Labor Code that are interrelated and work in tandem. Defendants also contended that adjudication of claims arising under PAGA would not be manageable and that the individualized inquiries Defendants argued would defeat certification of the alleged claims would also prevent Plaintiffs from demonstrating that the PAGA claim could be successfully managed and adjudicated without abridging Defendants' due process rights. The California Supreme Court ruled in the Estrada v. Royalty Carpet Mills, Inc. (2024) 15 Cal.5th 582, 598 that "striking a PAGA claim on manageability grounds alone, as the trial court did in this case, is inconsistent with a plaintiff's statutory right to bring such a claim and is beyond a trial court's inherent authority. And while we do not foreclose the possibility that a defendant could demonstrate that a trial court's use of case management techniques so abridged the defendant's right to present a defense that its right to due process was violated, that showing has not been

made here." Thus, while Defendants' position on manageability may have been weakened under Estrada, such defenses were not eliminated. It depends on the context.

71. Defendants maintained that, in addition to their strong arguments against the underlying claims, taking the current unsettled state of law, it would be unjust to award the maximum potential PAGA penalties. There was a dearth of law and guidance regarding trials and/or assessments of penalties under the PAGA statute, and there is no clearly established methodology for the valuation and/or assessment of PAGA penalties.

72. As noted above, the information provided by Defendants indicates that there are 10,838 pay periods for the PAGA. The PAGA settlement of $50,000 thus provides almost $5 or $4.61 under the circumstances. This is more than fair under the circumstances and, as indicated above, is more than many PAGA settlements that have been approved in the past. Using the maximum penalty of $200 per violation for the 10,838 pay periods, with a 30% violation rate, the result is $650,280. We applied a discount of 75% to account for the risks associated with establishing manageability, a discount of 75% was applied to account for the risks associated with succeeding on the merits, establishing liability, proving the extent of penalties that are warranted, and a discount of 75% in light of the unique risks to PAGA including the likely discretionary reduction of penalties by the Court given the circumstances of the Action and outside considerations. The result is $40,642.50, which is a fair valuation of the PAGA claim under these circumstances.

C. Class Certification

The elements of class certification are met here:

1. *Numerosity:*

73. There are 957 employees in the putative class. There is only one class: "All persons who worked for DEFENDANTS within four years prior to the filing of this complaint until the date of trial" ('Class')." There are no subclasses. The numerosity requirement is satisfied.

2. Ascertainability:

74. There are no ascertainability problems in this case. The class members worked at "Kids Empire" stores in California and were classified as non-exempt by Defendants. Also, as noted above, each of the "Kids Empire" LLC-Defendants was its own separate store. For example, "Kids Empire Rialto, LLC" was the LLC just for the Rialto store. So we know that class definition above will capture all of the non-exempt employees working in that store. Defendants have assured us that they have the names and last known addresses of these individuals.

3. Community of Interest:

75. As there are no community of interest problems in this case either. Plaintiff Yanira Rosas worked in the Kids Empire Rialto store. Kids Empire's PMQ confirmed that all of the non-exempt employees in the Kids Empire stores in California performed the same basic tasks by interacting with customers, preparing for parties, cleaning the stores, and preparing toys and activities. There is no differentiation between their tasks. There is also no differentiation between Defendants' policies and practices with regard to the class members. I have reviewed large batches of time and payroll records for all of the Kids Empire entities and can confirm that they in the same format and Plaintiff was subject to the same practices as the other employees. For example, all the Kids Empire employees clocked in and out for the their rest breaks. And Defendants' policies are the same for all of the entities. The same employee handbook and the same language for meal period waivers.

4. Typicality:

76. Plaintiff's claims are typical of the class in that other members have the same or similar injury, the action is based on conduct which is not unique to the named plaintiff, and other class members have been injured by the same alleged course of conduct. As with the other class members, our analysis has shown that Plaintiff was not paid meal premiums for all hours worked, Plaintiff was forced to work through meal periods and rest breaks because of understaffing at the stores, Plaintiff did not receive daily overtime when such overtime exceeded

weekly overtime, and Plaintiff was not compensated for her cellular phone which she used for her job.

5. Adequacy of representation.

77. My firm and I are adequate class representatives. While Workplace Rights Law Group is a relatively young Plaintiffs firm, over the past ten (10) years we have been practicing labor and employment defense at Wolflick, Khachaturian and Bouayad, APC, which I continue to work at while also working at Workplace Rights Law group. A large portion of my cases (if not the majority) for Wolflick, Khachaturian & Bouayad, involve collective PAGA actions and class actions. During my tenure at Workplace Rights Law Group, my firm has prosecuted the following PAGA and/or class actions in the Los Angeles Superior Court: *Peter Neil v. The Verge Company*, et al., et al., Case No. 20ETCV10184; *Sinnathamby Raj Selvarajah, et al. v. World Oil Marketing Co*., et al., Los Angeles County Superior Court, Case No. 20STCV15659; *Chris Haas, et al. v. Driven Deliveries, Inc*., et al., Case No. 20STCV19564; *Anthony Lopez v. Revline, LLC*, Riverside Case No. CVRI2102037; and *Martis v. Rescue Services International, Ltd*., et al. Case No. 20STCV11133. My firm and I have extensive experience litigating wage and hour cases like this one. We respectfully requests that Workplace Rights Law Group, LLP be appointed as class counsel.

6. Class Representative(s):

78. As discussed in the concurrently-filed declaration of Yanira Rosas, Ms. Rosas has agreed to be class representative in this matter and understands her obligations and responsibilities. Ms. Rosas has been the class representative since this action was filed in July of 2021. Ms. Rosas has sat for deposition at Defendants' request. Ms. Rosas has responded to all of the discovery served by Defendants. Ms. Rosas has made herself available for the mediation and participated in Plaintiff's successful opposition to Defendants' motion for class certification. Plaintiff has conducted all of the tasks asked of any class representative in a wage and hour case.

D. Claim Requirement (if applicable)

79. The Class Members need not do anything to participate in the Settlement and receive money, based on the number of workweeks they worked for Defendants. As stated in the

"**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**," attached to the Settlement Agreement (Exhibit 1), "You Don't Have to Do Anything to Participate in the Settlement." Also, "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)."

80. The Settlement Agreement (Exh. 1) also allows the class members the opportunity to opt out of the Class Settlement, but not the PAGA Settlement and challenge their specific workweek-calculation.

E. Miscellaneous

81. This Settlement Agreement (Exhibit 1) does not release claims not raised in the First Amended Complaint or that are outside the scope of the FAC. The Settlement specifically excludes claims not raised such as "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." (Settlement, Exh. 1, Sec. 5.2.) The Notice attached to the Settlement Agreement is in English but I will make sure that the Administrator sends a Spanish-language version of the Settlement as well.

82. Under the Settlement Agreement (Exh.1) class counsel is obligated to prepare the present Motion for Preliminary Approval of Settlement, prepare a Motion for Final Approval of Settlement, and cooperate with defense counsel and the administrator to make sure the settlement is effectuated. As discussed in the Notice to the class members, class members need not do anything to be paid under the Settlement. Class members may choose to object to a settlement and attend the hearings but they need not do so.

83. Counsel for Plaintiff do not have a fee splitting agreement in this case, as Workplace Rights Law Group, LLP is the only counsel for Plaintiff and the putative class members.

84. The Settlement Agreement does not provide for injunctive relief.

85. ***Class representative enhancement.*** As part of the Settlement Agreement, Plaintiff Yanira Rosas is requesting a reasonable enhancement payment of $10,000.00. This payment is imminently reasonable given the time and effort Plaintiff spent on the Action, and the benefit to the other putative Class Members, PAGA Members, and State of California as a result of Plaintiff's actions. As discussed, Plaintiff Rosas fully participated in this action, appeared for deposition and responded to discovery, provided necessary declarations and was the face of the lawsuit since 2021. Plaintiff should be rewarded for these efforts.

86. Notice of the requested enhancement payment is disclosed to the Settlement Class Members in the Class Notice and should be preliminarily approved by the Court. (*See* Settlement Agreement, Ex. 1, page 29, Sec. 3(B).

F. Attorney Fees and Costs

87. Plaintiffs' Counsel's fees incurred are in line with the common fund requested. Plaintiffs' Counsel are seeking thirty-three percent (33.33%) of the Gross Settlement Amount or $144,167. Plaintiffs' Counsel have achieved an excellent result for the Class during hard fought negotiations. Plaintiffs' Counsel have extensive experience in wage and hour disputes and were able to use their extensive experience and skills to achieve this result. The Motion for Final Approval will elaborate on the nature of the legal services provided, the time incurred in performing those services, and Plaintiffs' Counsel's hourly rates. The Motion for Final Approval will also elaborate on the reimbursement for costs sought by Plaintiffs' Counsel, which are currently estimated not to exceed $20,000.00. Notice of Plaintiffs' Counsel's requested fees are disclosed to the Class in the Class Notice. Settlement Agreement, Ex. 1, pp.6-7, §§3.2.2.

G. The Method of Notice is Very Likely to Give Actual Notice

88. Subject to the Court's Approval, the Parties have agreed to have CPT Group to administer the Settlement. See Settlement Agreement, Exh. 1, p. 1, §1.2. Plaintiff and her Counsel have no financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. Id.

89. No later than fifteen (15) days after the Court grants preliminary approval of the Settlement, Defendants will provide to the Settlement Administrator the following information

for each Class Member: name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods. (See Settlement Agreement, Exh. 1, p. 1, §§1.8, 4.2.)

90. The Settlement Administrator will run all the addresses provided through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information. (See Settlement Agreement, Exh. 1, p. 2, § 1.10.)

91. No later than fourteen (14) days after receiving the Class Data, the Settlement Administrator shall mail the Notice by U.S. First Class to the Class Members. Settlement Agreement, Exh. 1, p. 13, §7.4.2.

92. I am not aware of an alternative method of providing notice to the Class which would result in a higher likelihood of actual notice. The original source of the mailing addresses is from each Class Member, who provided the information to Defendants. As a fail-safe to this highly reliable method, skip tracing will be performed if necessary. Under the terms of the Settlement, the Settlement Administrator will track any and all opt outs, objections, and disputes. (See Settlement Agreement, Exh. 1, p.2, §§1.10, 4.4.2).

93. Any Class Member who wishes to be excluded from the Settlement must mail, email or fax the Settlement Administrator a signed request for exclusion including their name and a clear statement that they do not wish to be included in the Class. The request for exclusion must be postmarked no later than forty five (45) days after mailing of the Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). Settlement Agreement, Exh. 1, p. 14, §7.5.1.

94. Likewise, Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment. (See Settlement Agreement, Exh. 1, p. 15, § 7.7.1.)

I swear under the penalty of perjury under the laws of the State of California that the foregoing is true and correct based on my firsthand knowledge.

Dated: January 14, 2025 By:_____
THEODORE KHACHATURIAN

DECLARATION OF YANIRA ROSAS IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL

I, Yanira Rosas, declare as follows:

1. I am over 18 years of age and a resident of California. I am the Class Representative in the action entitled *Yanira Rosas v. Kids Empire Anaheim, LLC, et al*., Case No. 21STCV24645. I have personal knowledge of the facts stated herein and if called as a witness I could and would competently testify thereto.

2. I was employed by Defendant Kids Empire Rialto, LLC ("Kids Empire") from approximately March of 2020 to approximately May 2023. During my employment with Defendants, I was employed as an hourly-paid, non-exempt employee, and was paid an hourly rate for the work I performed.

3. In 2021, I decided to seek legal advice about my experiences working for Kids Empire Rialto, LLC. I contacted Class Counsel and spoke with their attorneys. I had several concerns. For one, I was not consistently getting my rest breaks and meal periods at Kids Empire. There would be days when the store was very crowded and I was told that I could not take a break. There were also issues with timekeeping. I felt that the timekeeping system was not accurately keeping track of my time worked. After speaking with Class Counsel, I decided to take steps to make sure that Kids Empire was held accountable for not compensating their hourly employees for all time worked and failing to comply with California's wage and hour laws.

4. After speaking with my attorneys and investigating complex wage-and-hour actions and in general, I agreed to serve as a Class Representative and PAGA Representative in the PAGA action entitled *Yanira Rosas v. Kids Empire Rialto, LLC*, Los Angele County Superior Court, Case No. 21STCV24645. When the lawsuit was originally filed, I was under 18 and my mother, Diana Tapia was included as my "guardian ad litem." I turned 18 on August 6, 2021.

5. As part of becoming a Class Representative and PAGA Representative, I understood that I had a responsibility to the Class, PAGA Members, and State of California.

6. My duties were explained to me by my attorneys. I understood that in representing the interests of other employees, I must consider their interest above my own interests in the Action. I am not aware of any interests that I have had that are contrary to the interests of the proposed Class Members or the PAGA Members. I also do not know of any conflict of interests that would keep me from adequately representing the Class or the PAGA Members.

7. I was also aware that becoming a Class Representative and PAGA Representative could involve additional work including searching for documents, my deposition being taken, and that I might have to take time off to participate in the cases. I still agreed to serve as the Class Representative and PAGA Representative in order to help others recover these wages and penalties.

8. After agreeing to serve as a Representative, I spoke with my attorneys extensively.

9. Since my case was filed, I have spent considerable time discussing the lawsuit with my attorneys and fulfilling my responsibilities as a Representative which included searching for documents I might have related to the lawsuits, reviewing documents with my attorneys, discussing issues regarding Kids Empire's policies, practices, and procedures, and providing guidance regarding the duties of other non-exempt employees and generally my employment with Defendants. I also helped my attorneys develop a strategy as to what documents and information to obtain from Defendants. I routinely checked in with my attorneys and their staff to make sure they had all of my most current information and any additional information that I had obtained. I wanted to do whatever I could to make sure Defendants paid me and other employees what I believe was owed to us for all the hours we worked and for what I believe were non-compliant meal and rest breaks. I believed that the lawsuits could help not only myself but others who I believe had similar difficulties working for Defendants.

10. On June 7, 2023, I sat for my deposition at Kids Empire's counsel's office in Century City. I also helped respond to all of Kids Empire's discovery and I reviewed the responses and helped produce the documents they requested.

11. Around July of 2022, Kids Empire filed a motion to compel arbitration against me, which we successfully opposed. For our opposition, I helped prepare a declaration in which I described some of my experience working for Kids Empire.

12. As the lawsuit moved forward, I provided substantial information regarding Defendants' policies, practices, and procedures. I had several additional phone calls with my attorneys throughout the lawsuits and attempted to respond promptly whenever Counsel contacted me or needed additional information. I spoke with my attorneys for many hours, including extensively before the mediation and attempted to provide any help I could on the lawsuits. I proactively monitored the status of the lawsuits and reached out to my Counsel regarding ongoing developments. I attended the mediation on July 30, 2024.

13. When the Action settled as a result of the mediation, I reviewed the Settlement Agreement and discussed its terms with my attorneys. When I had additional questions about the Settlement, I contacted my attorneys and reviewed the provisions of the Settlement Agreement where I was unclear. I kept in contact with my attorneys throughout the settlement process and will continue to actively participate in the Action and monitor the Action until it is finalized.

14. I believe I took on a substantial risk in agreeing to serve as the Class Representative and PAGA Representative despite being made aware that there was no certainty regarding the outcome of the lawsuits or how long it would take to recover the wages owed to myself and the other Class Members and PAGA Members.

15. Although I was concerned and afraid about being the representative in a public lawsuit, I decided to put my own interests aside and bring a lawsuit that would be beneficial not just for myself, but for all employees. I have not yet suffered any adverse consequences as a result of this lawsuit, but neither have I received any benefit for representing the Class, the PAGA.

16. Members, or for the help I provided my attorneys. I have not entered into any undisclosed settlement agreements, nor have I received any undisclosed compensation in the lawsuits. The only compensation I will receive is whatever amount the Court awards as a Class

Representative Enhancement Payment, as well as my share of the settlement fund as a Class Member.

17. Furthermore, as part of the Settlement, I have agreed to a much broader individual release than the more limited release made by other Class Members.

18. I believe that I have done everything that my attorneys have asked of me and have tried to the best of my ability to represent the Class Members, State of California, and PAGA Members. I think my efforts helped to get the results obtained in the Action, and as the Class Representative, I respectfully request that the Court award me an Enhancement Payment in the amount of $10,0000.00 for my active participation in the lawsuits. Taking into consideration the time I have dedicated to the litigation, the risks I took in order to recover on behalf of not just myself but others, and the general release I have entered on my own behalf, I believe that this amount is reasonable.

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

Dated 13/01/25.

Yanira Rosas
Yanira Rosas (Jan 13, 2025 12:31 PST)
Yanira Rosas

Decl of Yanira Rosas

Final Audit Report 2025-01-13

Created:	2025-01-13
By:	Theodore Khachaturian (theo@wolfsim.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAlH3xLJUlo2UXnuX67E-gr-ZoGNU6g2CU

"Decl of Yanira Rosas" History

Document created by Theodore Khachaturian (theo@wolfsim.com)
2025-01-13 - 7:32:56 PM GMT- IP address: 70.230.225.224

Document emailed to Yanira Rosas (yanirarosas164@gmail.com) for signature
2025-01-13 - 7:32:59 PM GMT

Email viewed by Yanira Rosas (yanirarosas164@gmail.com)
2025-01-13 - 8:30:56 PM GMT- IP address: 66.249.84.70

Document e-signed by Yanira Rosas (yanirarosas164@gmail.com)
Signature Date: 2025-01-13 - 8:31:25 PM GMT - Time Source: server- IP address: 174.218.116.214

Agreement completed.
2025-01-13 - 8:31:25 PM GMT

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 Yanira Rosas ("Plaintiff") and defendant Kids Empire USA, LLC ("KE USA") on behalf of itself and its direct and indirect subsidiaries that operate store locations in California, and Haim Elbaz (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 *Yanira Rosas v. Kids Empire Anaheim, et al.*, Case No. 21STCV24465 initiated on July 6, 2021 and pending in Superior Court of the State of California, County of Los Angeles.

1.2. "Administrator" means CPT Group, Inc., 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 employees of Defendants in California and classified as non-exempt who worked for Defendants during the PAGA Period.

1.5. "Class" means all persons who are or were employed by Defendants in California and classified as non-exempt during the Class Period.

1.6. "Class Counsel" means Workplace Rights Law Group, LLP; Theodore S. Khachaturian, Esq., Gregory D. Wolflick, Esq., and Adam N. Bouayad, Esq.

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 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 July 6, 2017 to the date the Court grants preliminary approval of this settlement.

1.13. "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Los Angeles.

1.16. "Defendants" means named Defendants Holding IP Parks USA LLC, Kids Empire Anaheim, LLC, Kids Empire Bakersfield (CA), LLC, Kids Empire Covina (CA), LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Moreno Valley, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Woodland Hills, LLC, KESG Holdings, LLC, and Haim Elbaz, and all direct and indirect subsidiaries that own and/or operate store locations in California, including Kids Empire Otium, LLC, Kids Empire Antelope Marketplace (CA), Kids Empire Clovis, LLC.

1.17. "Defense Counsel" means Littler Mendelson, P.C.; Steven A. Groode, Esq. and Jacob R. Lahana, Esq.

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 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 $432,500, which is the total amount Kids Empire USA, LLC agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses and Costs, Class Representative Service Payment and the Administrator's Expenses.

1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, 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, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.

1.31. "PAGA Period" means the period from July 6, 2020 to the date the Court grants preliminary approval of this settlement.

1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.33. "PAGA Notice" means Plaintiff's September 24, 2021 letter to the named Defendants and the LWDA and Plaintiff's September 13, 2024 letter to Defendants and the LWDA 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 ($37,500) and the 75% to LWDA ($12,500) 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 Yanira Rosas, 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 6.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 6.2 below.

1.41 "Released Parties" means: Kids Empire Anaheim, LLC, Kids Empire Antelope Marketplace (CA), Kids Empire Bakersfield (CA), LLC, Kids Empire Clovis, LLC, Kids Empire Covina (CA), LLC, Kids Empire Fullerton (CA), LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Moreno Valley, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Otium, LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Ventura Pacific View Mall (CA), LLC, Kids Empire Woodland Hills, LLC, KESG Holdings, LLC, Haim Elbaz, and any of his/its/their former and present parents, subsidiaries, affiliates, and their insurers, insurance policies, and benefit plans; each of the former and present officers, directors, employees, equity holders (partners, shareholders, holders of membership interests, etc.), agents, representatives, administrators, fiduciaries, and attorneys of the entities and plans described in this sentence; any Professional Employer Organizations that contracted with or performed services for Defendants during the Class Period, including Shiftable HR, Vensure Employer Services, Inc., Avitus, Inc., Avitus Group, Inc. Shiftpixy, Inc., ShiftPixy Staffing, Inc., and Cingular HR, Inc., and any other predecessors, successors, transferees, and assigns of each of the persons and entities described in this sentence.

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 that 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 July 6, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action for (1) Failure to Timely Pay Wages (Labor Code §§ 201-203); (2) Unpaid Overtime (Labor Code §§ 510 and 1198); (3) Minimum Wages (Labor Code §§ 204, 204b, 1194.2, 1197, 1182.12, 1194, 1197.1, 1198, Wage Order No. 10,2); (4) Non-Compliant Wage Statements and Failure to Maintain Payroll Records (Labor Code §§ 226(a), 1174(d) and 1198); (5) Failure to Provide Meal Periods (Labor Code §§ 226.7, 512 and 1198); (6) Failure to Authorize and Permit Rest Breaks (Labor Code §§ 226.7 and 1198); (7) Denial of Right to Record Inspection and Production (Labor Code §§ 226(b) and 1198.5); (8) Unfair Business Practices (B&P 17200). On February 7, 2022, Plaintiff filed a First Amended Complaint] alleging causes of action (1) Overtime Wages (Labor Code §§ 510 and 1198); (2) Minimum Wages (Labor Code §§ 204, 204b, 1194.2, 1197, 1182.12, 1194, 1197.1, 1198, Wage Order No. 10,2); (3) Non-Compliant Wage Statements and Failure to Maintain Payroll Records (Labor Code §§ 226(a), 1174(d) and 1198); (4) Failure to Provide Meal Periods (Labor Code §§ 226.7, 512 and 1198); (5) Failure to Authorize and Permit Rest Breaks (Labor Code §§ 226.7 and 1198); (6) Denial of Right to Record Inspection and Production (Labor Code §§ 226(b) and 1198.5);(7) Failure to Pay Sick Pay at Regular Rate (Labor Code §246); (8) Failure to Reimburse for Necessary Business Expenses (Labor Code § 2802); (9) Unfair Business Practices (B&P 17200); and (10) Claim for Penalties for Violation of California Labor Code, Pursuant to PAGA, Labor Code §§ 2698, et seq.. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in 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 gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.

2.3. On July 30, 2024, the Parties participated in an all-day mediation presided over by Hon.

Amy Hogue (Ret.), which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through formal and informal discovery, written discovery responses, documents, deposition testimony and information related to the causes of action, defenses, and putative class members and aggrieved employees. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar"*).

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay $432,500 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. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 6.1 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: Class Representative Service Payment to the Class Representative of not more than $10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be $144,167 and a Class Counsel Litigation Expenses

Payment of not more than $20,000. Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of 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 $11,500 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 $11,500, 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 67% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for 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 $50,000 to be paid from the Gross Settlement Amount, with 75% ($37,500) allocated to the LWDA PAGA Payment and 25% ($12,500) 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 ($12,500) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimates there are 957 Class Members who collectively worked a total of 23,957 Workweeks, and 787 of Aggrieved Employees who worked a total 10,838 of PAGA Pay Periods through June 28, 2024.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have 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 Defendants 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. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after 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 Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are retuned 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") Neighborhood Legal Services. 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 funds 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 his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 6.2, below ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under 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 (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including, but not limited to, wage and hour claims based on Defendants' failure to pay for all hours worked, failure to provide meal periods and to properly provide premium pay in lieu thereof, failure to authorize and permit rest periods and to properly provide premium pay in lieu thereof, failure to timely pay wages during employment, failure to timely pay final wages at termination, failure to pay wages at the proper rate of pay, failure to furnish accurate itemized wage statements and/or maintain accurate payroll records, failure to indemnify employees for expenditures . 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 Non-Participating Class Members Who Are Aggrieved Employees: 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 PAGA Period facts stated in the Operative Complaint, and the PAGA Notice including, but not limited to, claims based on Defendants' failure to pay for all hours worked, failure to provide meal periods and to properly provide premium pay in lieu thereof, failure to authorize and permit rest periods and to properly provide premium pay in lieu thereof, failure to timely pay wages during employment, failure to timely pay final wages at termination, failure to pay wages at the proper rate of pay, failure to furnish accurate itemized wage statements and/or maintain accurate payroll records, failure to indemnify employees for expenditures.

6. MOTION FOR PRELIMINARY APPROVAL. Plaintiff will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1 Defendants Declaration in Support of Preliminary Approval. Within 21 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 the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator, and/or the proposed Cy Pres; (v) a signed declaration from Class Counsel 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. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 45 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting 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 Class Counsel has 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 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 substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, 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 6.2 and 6.3 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 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present 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 Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); and (b) the names of Class Members who have submitted invalid Requests for Exclusion. .

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 provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator's Declaration. Not later than 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. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE Based on their records, Defendants estimates that, as of June 28, 2024, (1) there are 957 Class Members and 23,929 Total Workweeks during the Class period and (2) there were 787 Aggrieved Employees who worked 10,838 Pay Periods during the PAGA Period. If the number of workweeks is more than 10% greater than the figures set forth in Paragraph 9, Defendants, at their option, shall have the option to 1) shorten the Class Period to reduce the number of workweeks to 26,322 workweeks and avoid application of the escalator clause; or 2) increase the Gross Settlement Sum on a proportional basis that reflects the percentage over 10%.

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

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

11. AMENDED JUDGMENT. If any amended judgment is required under 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 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 and Class Counsel, 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 and Class Counsel, agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and 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:

Theodore S. Khachaturian
Gregory D. Wolflick
Adam N. Bouayad
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To Defendants:

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Email: sgroode@littler.com
jlahana@littler.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.

PLAINTIFF:

Dated: 25/10/24

Yanira rosas
Yanira Rosas -Plaintiff, Class Representative, and Private Attorney General

Dated: 10/25/2024

WORKPLACE RIGHTS LAW GROUP, LLP

THEODORE S. KHACHATURIAN
GREGORY D. WOLFLICK
ADAM N. BOUAYAD
Attorneys for Plaintiff Yanira Rosas

DEFENDANT:

Dated: 10/21/2024

Kids Empire USA, LLC

By: Cyrille Bessiere
CEO

Dated: October 18, 2024

LITTLER MENDELSON, PC

Steven A. Groode
Jacob Lahana
Attorneys for Defendants

EXHIBIT A

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

Yanira Rosas v. Kids Empire Anaheim, LLC, et al., LASC Case No.21STCV24645

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

You may be eligible to receive money from an employee class action lawsuit ("Action") against Kids Empire USA, LLC and/or its subsidiary companies ("Defendants" is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by a former employee of Kids Empire Rialto, LLC -Yanira Rosas ("Plaintiff"), and seeks payment of (1) back wages, statutory penalties, and interest for a class of non-exempt employees ("Class Members") who worked for Defendants in California during the Class Period (July 6, 2017 to _____); and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt employees who worked for Defendantsd uring the PAGA Period July 6, 2020 to _____) ("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 Defendants' 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 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 worked for Defendants 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, including specifically Kids Empire Anaheim, LLC, Kids Empire Antelope Marketplace (CA), Kids Empire Bakersfield (CA), LLC, Kids Empire Clovis, LLC, Kids Empire Covina (CA), LLC, Kids Empire Fullerton (CA), LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Moreno Valley, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Otium, LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Ventura Pacific View Mall (CA), LLC, Kids Empire Woodland Hills, LLC, KESG Holdings, LLC, Haim Elbaz, and any of his/its/their former and present parents, subsidiaries, affiliates, and their insurers, insurance policies, and benefit plans; each of the former and present officers, directors, employees, equity holders (partners, shareholders, holders of membership interests, etc.), agents, representatives, administrators, fiduciaries, and attorneys of the entities and plans described in this sentence; any Professional Employer Organizations that contracted with or performed services for Defendants during the Class Period, including Shiftable HR, Vensure Employer Services, Inc., Avitus, Inc., Avitus Group, Inc. Shiftpixy, Inc., ShiftPixy Staffing, Inc., and Cingular HR, Inc., and any other predecessors, successors, transferees, and assigns of each of the persons and entities.

(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.

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SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	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).
You Can Opt-out of the Class Settlement but not the PAGA Settlement **The Opt-out Deadline is _____**	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. 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).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement **Written Objections Must be Submitted by _____**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section **7** of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section **8** of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods **Written Challenges Must be Submitted by _____**	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section **4** of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Kids Empire Rialto, LLC. The Action accuses Defendants of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Theodore S. Khachaturian, Gregory D. Wolflick, Adam N. Bouayad of Workplace Rights Law Group, LLP ("Class Counsel.")

Defendants strongly denies violating any laws or failing to pay any wages and contends 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 is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral retired judge to mediate their dispute in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and 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 $432,500 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, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court become final. The Judgment will be final on the date that the deadline to appeal the Judgment entered by the Court, 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 $144,167 (33.33% of the Gross Settlement] to Class Counsel for attorneys' fees and up to $20,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

    B. Up to $10,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

    C. Up to $11,500 to the Administrator for services administering the Settlement.

    D. Up to $50,000 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 interest and penalties] ("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 it owes on the Wage Portion.) The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her 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. Plaintiffs 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, _____ (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, 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 (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including but not limited to, wage and hour claims based on Defendants' failure to pay for all hours worked, failure to provide meal periods and to properly provide premium pay in lieu thereof, failure to authorize and permit rest periods and to properly provide premium pay in lieu thereof, failure to timely pay wages during employment, failure to timely pay final wages at termination, failure to pay wages at the proper rate of pay, failure to furnish accurate itemized wage statements and/or maintain accurate payroll records, failure to indemnify employees for expenditures. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and 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 Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice including, but not limited to, claims based on Defendants' failure to pay for all hours worked, failure to provide meal periods and to properly provide premium pay in lieu thereof, failure to authorize and permit rest periods and to properly provide premium pay in lieu thereof, failure to timely pay wages during employment, failure to timely pay final wages at termination, failure to pay wages at the proper rate of pay, failure to furnish accurate itemized wage statements and/or maintain accurate payroll records, failure to indemnify employees for expenditures.

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 $12,500 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 Defendants records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

   You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks and/or Pay Periods based on Defendants' 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 *Rosas v. Kids Empire*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to approve. At least _____ days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____(url)_____ or the Court's website _____(url)_____.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is** _____. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you

identify the Action _____ 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 _____ at _(time)__ in Department 1 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (https://www.lacourt.org/lacc/. Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything 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 entity)_____'s website at _____(url)___. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (http://www.lacourt.org/casesummary/ui/index.aspx) and entering the Case Number for the Action, Case No. _____. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:
Theodore S. Khachaturian
Gregory D. Wolflick
Adam N. Bouayad
WORKPLACE RIGHTS LAW GROUP, LLP
130 N. Brand Boulevard, Suite 420
Glendale, CA 91203
Telephone: (818) 844-5200
Email: theo@workplacerightslaw.com
greg@workplacerightslaw.com
adam@workplacerightslaw.com

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 will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

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

Signature: Yanira Rosas
Yanira Rosas (Oct 25, 2024 15:44 PDT)

Email: yanirarosas164@gmail.com

(Executed by Littler & KE) 10.18.24 Clean Version of Class and PAGA Settlement Agreement (Rosas v Kids Empire) 4888-7709-4129 180 4880-1119-6658 1 copy

Final Audit Report 2024-10-25

Created:	2024-10-25
By:	Theodore Khachaturian (theo@wolfsim.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfgo2Qx9tIrOMaB_n-HIDTo6H7wI0d2Gf

"(Executed by Littler & KE) 10.18.24 Clean Version of Class and PAGA Settlement Agreement (Rosas v Kids Empire) 4888-7709-4129 180 4880-1119-6658 1 copy" History

Document created by Theodore Khachaturian (theo@wolfsim.com)
2024-10-25 - 5:57:05 PM GMT- IP address: 70.230.225.224

Document emailed to Yanira Rosas (yanirarosas164@gmail.com) for signature
2024-10-25 - 5:57:09 PM GMT

Email viewed by Yanira Rosas (yanirarosas164@gmail.com)
2024-10-25 - 5:57:15 PM GMT- IP address: 74.125.212.65

Document e-signed by Yanira Rosas (yanirarosas164@gmail.com)
Signature Date: 2024-10-25 - 10:44:56 PM GMT - Time Source: server- IP address: 174.218.121.4

Agreement completed.
2024-10-25 - 10:44:56 PM GMT

EXHIBIT 2

WORKPLACE RIGHTS
LAW GROUP

Workplace Rights Law Group, LLP

(818) 844-5200 130 N. Brand Blvd., Suite 420 www.workplacerightslaw.com
Glendale, California 91203
Employment Law Attorneys

September 24, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator

Subject: YANIRA ROSAS v. KIDS EMPIRE ANAHEIM, LLC, KIDS EMPIRE BAKERSFIELD (CA), LLC, KIDS EMPIRE COVINA, LLC, KIDS EMPIRE MONROVIA, LLC, KIDS EMPIRE MONTCLAIR, LLC, KIDS EMPIRE NORTHRIDGE, LLC, KIDS EMPIRE ONTARIO, LLC, KIDS EMPIRE OTAY RANCH (CA), LLC, KIDS EMPIRE POMONA, LLC, KIDS EMPIRE RIALTO, LLC, KIDS EMPIRE RIVERSIDE, LLC, KIDS EMPIRE SOUTH GATE, LLC, KIDS EMPIRE USA, LLC, KIDS EMPIRE WOODLAND HILLS, LLC, HIAM ELBAZ, KESG HOLDINGS, LLC, KIDS EMPIRE

Dear PAGA Administrator:

This office represents YANIRA ROSAS, a minor, by and through her legal guardian DIANA TAPIA in connection with her claims under the California Labor Code. Ms. Rosas is an employee of KIDS EMPIRE ANAHEIM, LLC, KIDS EMPIRE BAKERSFIELD (CA), LLC, KIDS EMPIRE COVINA, LLC, KIDS EMPIRE MONROVIA, LLC, KIDS EMPIRE MONTCLAIR, LLC, KIDS EMPIRE) NORTHRIDGE, LLC, KIDS EMPIRE ONTARIO, LLC, KIDS EMPIRE OTAY RANCH (CA), LLC, KIDS EMPIRE POMONA, LLC, KIDS EMPIRE RIALTO, LLC, KIDS EMPIRE RIVERSIDE, LLC, KIDS EMPIRE SOUTH GATE, LLC, KIDS EMPIRE USA, LLC, KIDS EMPIRE WOODLAND HILLS, LLC, HIAM ELBAZ, KESG HOLDINGS, LLC (referred to herein as "**EMPLOYER**"). EMPLOYER owns and operates Kids Empire stores throughout California. EMPLOYER may be contacted directly at the addresses below:

Hiam Elbaz
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Ontario, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Anaheim, LLC
4600 Larson Way
Sacramento, CA 95822

Kids Empire Bakersfield (CA), LLC
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Kids Empire Covina, LLC
251 Little Falls Drive
Wilmington, DE 19808

Kids Empire Monrovia, LLC
4600 Larson Way
Sacramento, CA 95822

Kids Empire Montclair, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Northridge, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Otay Ranch (CA), LLC
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Kids Empire Pomona, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Rialto, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire USA, LLC
2804 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Kids Empire Woodland Hills, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

KESG Holdings, LLC,
8605 Santa Monica Blvd
West Hollywood, CA 90069

ROSAS is informed and believes that each of the corporate entities and individuals above were and are the alter ego of the other entities, and that at all times there existed such a unity of interest and ownership such that any separateness ceased to exist. Upon information and belief, HIAM ELBAZ is an owner and officer of all the entities named above, controls all of the entities, and created the corporate entities separately as an artificial ruse to avoid liability. Each of the corporate entities were, at all material times, the mere shell or instrumentality through which the other corporate entities carried out their business. Each corporate entity so exercised complete control over the other corporate entity, and each of them, and so dominated them and used them to achieve goals, and so commingled funds, and so ignored the business formalities, that any separateness was merely a fiction, and did not in fact exist and should be deemed not to exist.

YANIRA ROSAS ("ROSAS") by and through her guardian DIANA TAPIA ("TAPIA") intends to seek civil penalties, attorney's fees, costs, and other available relief against EMPLOYER for violations of the California Labor Code, which are recoverable under sections 2698 et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") ROSAS seeks to hold the named individuals above (including HAIM ELBAZ) liable under Labor Code Sec. 558, which states that "any employer or other person acting on behalf of an employer who violates"

the law, must pay a civil penalty described in that Section. ROSAS seeks relief on behalf of herself, the State of California, and other persons who were employed to work by EMPLOYER in California (or who were wrongfully classified as independent contractors).

ROSAS has been an employee of EMPLOYER for more than one year. ROSAS earned wages, including overtime, that EMPLOYER refused to pay. ROSAS was not compensated for rest breaks, in violation of the California Labor Code.

As discussed below, EMPLOYER violated the California Labor Code with regard to ROSAS and other California employees. Thus, ROSAS is an aggrieved employee.

Aggrieved employees

EMPLOYER committed one or more of the following Labor Code violations against ROSAS and/or the other aggrieved employees, the facts and theories of which follows, making them an "aggrieved employee" pursuant to California Labor Code section 2699, subd. (c).

"Aggrieved employees" includes all non-exempt employees of EMPLOYER (including any workers improperly classified as exempt or improperly classified as independent contractors) in the relevant time period.

VIOLATION OF CALIFORNIA LABOR CODE SECS. 201, 202 AND 203

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of the termination of employment.

EMPLOYER unlawfully failed to record and pay aggrieved employees for all of their time worked, including minimum and overtime wages, and bonuses/premiums for all of their missed meal and rest breaks, and for all of their time spent working off the clock.

EMPLOYER also failed to take into account and pay the regular rate of pay when paying any amounts for overtime and other wages and compensation owed, including meal period premiums and rest break premiums.

In addition, EMPLOYER willfully failed to pay aggrieved employees who are no longer employed by EMPLOYER all their earned wages, including, but not limited to, regular wages, overtime wages, minimum wages, and premium wages for missed meal and rest periods, either at the time of discharge, or within seventy-two (72) hours of their leaving EMPLOYER's employ in violation of California Labor Code sections 201, 202, and 203. Additionally, one or more aggrieved employees were terminated from employment but were not paid wages undisputedly owed on the day they were terminated.

ROSAS and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code §§201, 202, 203, 558, and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 510 and 1198

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 1/2) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

The aggrieved employees often worked more than eight hours per day and more than 40 hours per week. EMPLOYER willfully failed to pay all overtime wages and other wages owed to aggrieved employees. During the relevant time period, aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

VIOLATION OF THE MINIMUM WAGE LAWS (INCLUDING LABOR CODE SECS. 1194.2, 1197, 204, 204b, 1182.12, 1194, 1197.1, 1198, AND CALIFORNIA WAGE ORDER NO. 2 and 10)

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined by the applicable wage order as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

EMPLOYER failed to pay minimum wages for all of the aggrieved employees' work on a systemic basis. Aggrieved employees would log their hours in EMPLOYER's time keeping system and EMPLOYER would fail to pay aggrieved employees for all of their hours worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, 1197.1 and/or 2699(a), (f)-(g).

EMPLOYER violated Labor Code Sec. 1194. Under Labor Code Sec. 1194, "(a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

EMPLOYER violated Labor Code Sec. 1197. Under Labor Code Sec. 1197, "The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity."

EMPLOYER violated Labor Code Sec. 1197.1. Under Labor Code Sec. 1197.1,

> "(a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a *wage less than the minimum fixed by an applicable state or local law*, or by an order of the commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:
>
> (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
>
> (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
>
> (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

ROSAS is informed and believes and thereon alleges that EMPLOYER required aggrieved employees to work in California during the relevant time period but paid aggrieved employees less than the minimum wage required by law during the relevant time period.

Aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, 1197.1 and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE SEC. 226.7, 512(A) AND 1198

California Labor Code sections 226.7, 512(a) and 1198 and the applicable IWC Wage Order (including Wage Order Nos. 2 and 10) require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. Brinker Rest. Corp. v. Superior Court, 53 Cal. 4th l 004, l 041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 1/2) hours. To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties - including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." Augustus, et al. v. ABM Security Services, Inc. (2016) 2 Cal. 5th 257, 269-270.

EMPLOYER also has engaged in a company-wide practice and/or policy of not providing meal periods or rest breaks and paying meal and rest period premiums owed when compliant meal and rest periods are not provided. Because of this practice and/or policy, aggrieved employees have not received premium pay for missed meal and/or rest periods. EMPLOYER also failed to pay the regular rate of pay for any missed (or late or not taken, etc.) meal periods and rest breaks. As an example, EMPLOYER required aggrieved employees to clock in and out for their rest breaks and EMPLOYER did not pay aggrieved employees for this time in violation of the Labor Code.

EMPLOYER violated the statutes, rules and ordinances described above by failing to provide aggrieved employees compliant meal periods and by failing to authorize and permit aggrieved employees to take rest periods in violation of California Labor Code sections 226.7,

512(a) and 1198. Aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and 2699(t)-(g).

VIOLATION OF CALIFORNIA LABOR CODE SEC. 226, 226(A), 1174 AND 1198 AND WAGE ORDER NO. 2 AND 10

California Labor Code section 226(a) requires employers to furnish and maintain true, accurate and complete wage statements and employment records. EMPLOYER has not provided ROSAS and other aggrieved employees with compliant wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or $50.00 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not to exceed $4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

EMPLOYER has knowingly and intentionally provided ROSAS and other aggrieved employees with incomplete and inaccurate wage statements. The statements did not reflect the amounts aggrieved employees should have received as a result of meal periods that were not provide and rest breaks that were not authorized and permitted. The statements did not reflect the amounts aggrieved employees should have received as a result of the correct minimum wages. The statements did not reflect the amounts aggrieved employees should have received for wages for all worked performed. EMPLOYER deducted time from other aggrieved employees' records for meal periods that were interrupted or missed (and therefore time for which they should have been paid), and did not record the time aggrieved employees worked. The statements did not accurately reflect the amount of overtime aggrieved employees worked. The statements otherwise violated Section 226. The statements did not reflect the correct hourly rate that aggrieved employees should have received under the law. The statements did not reflect the correct total hours worked.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to.

California Labor Code section 1174(d) provides that"[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments..." Labor Code section 1174.5 provides that employers are subject to a $500 civil penalty if they fail to maintain

accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), EMPLOYER willfully failed to maintain accurate payroll records for aggrieved employees showing accurately the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, EMPLOYER failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for aggrieved employees in violation of section 1198.

EMPLOYER violated the sections above with regard to aggrieved employees. Because EMPLOYER failed to provide the accurate, itemized information required by Labor Code. Aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment and name of their employer, thereby causing them injury.

EMPLOYER violated California Wage Orders, including Wage Order 2 and 10, Section 7, which requires California employers like EMPLOYER to keep records that show information regarding employees, as well as “(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee(s). Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.”

Aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE § 204 AND 221

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for

weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

Under California Labor section 221, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

During the relevant time period, EMPLOYER failed to pay aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204. EMPLOYER violated Labor Code sec. 221 as well by collecting or receiving from aggrieved employees part of wages owed.

ROSAS and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE § 2810.5

Under Labor Code § 2810.5,

"(a)(1) At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information:

(A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.

(B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.

(C) The regular payday designated by the employer in accordance with the requirements of this code.

(D) The name of the employer, including any 'doing business as' names used by the employer.

(E) The physical address of the employer's main office or principal place of business, and a mailing address, if different.

(F) The telephone number of the employer.

(G) The name, address, and telephone number of the employer's workers' compensation insurance carrier.

(H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

(I) Any other information the Labor Commissioner deems material and necessary."

EMPLOYER failed to provide the aggrieved employees, with a Notice, which was required under section 2810.5. EMPLOYER thus violated section 2810.5 and the aggrieved employees are entitled to a penalty as a result as well as fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

VIOLATION OF LABOR CODE § 226(b) AND 1198.5

California Labor Code Sec. 226(b) states, "(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee."

Labor Code Sec. 1198.5 states in part, "(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. (b)(1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date the employer receives the request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to produce a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Except as provided in paragraph (2) of subdivision (c), the employer is not required to make those personnel records or a copy thereof available at a time when the employee is actually required to render service to the employer, if the requester is the employee. . . (k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars ($750) from the employer."

EMPLOYER violated these sections. Aggrieved employees are entitled to a penalty as a result as well as fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE 246 ET SEQ., 246.5, 248 ET SEQ. AND 248.5

Labor Code Sec.246.5 provides, "(a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes: (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. (2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1. (b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days. (c)(1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following: (A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article. (B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article. (C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

Under Labor Code Section 246, (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek."

EMPLOYER violated Section 246.5 as well as Section 246 et seq., 248 and 248.5. EMPLOYER unlawfully failed to pay Sick Pay days required under the law when required. EMPLOYER also unlawfully failed to pay aggrieved employees sick pay at the regular rate of pay as required by Labor Code Sec. 246(l).

CALIFORNIA LABOR CODE SEC. 226.8

Aggrieved employees also include any so-called "independent contractors" wrongfully classified as such under Labor Code Sec. 226.8, rather than being classified as "employees." ROSAS would seek penalties, attorney fees, costs and interest and behalf of those individuals as well.

CALIFORNIA LABOR CODE § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission

shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."

Accordingly, ROSAS and other aggrieved employees seeks the remedies set forth in Labor Code section 558 for themselves, the State of California, and all other aggrieved employees.

Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5 and 558, ROSAS, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against ROSAS for violations of the California Labor Code including sections 201, 202, 203, 204, 226(a), 226.7, 246, 246.5, 248, 248.5, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

Therefore, on behalf of all aggrieved employees, ROSAS and aggrieved employees seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

WORKPLACE RIGHTS LAW GROUP, LLP

Sincerely,

Theodore Khachaturian

TSK/gj

cc: KIDS EMPIRE ANAHEIM, LLC, KIDS EMPIRE BAKERSFIELD (CA), LLC, KIDS EMPIRE COVINA, LLC, KIDS EMPIRE MONROVIA, LLC, KIDS EMPIRE MONTCLAIR, LLC, KIDS EMPIRE NORTHRIDGE, LLC, KIDS EMPIRE ONTARIO, LLC, KIDS EMPIRE OTAY RANCH (CA), LLC, KIDS EMPIRE POMONA, LLC, KIDS EMPIRE RIALTO, LLC, KIDS EMPIRE RIVERSIDE, LLC, KIDS EMPIRE SOUTH GATE, LLC, KIDS EMPIRE USA, LLC, KIDS EMPIRE WOODLAND HILLS, LLC, HIAM ELBAZ, KESG HOLDINGS, LLC

EXHIBIT 3

WORKPLACE RIGHTS
LAW GROUP

Workplace Rights Law Group, LLP

(818) 844-5200 130 N. Brand Blvd., Suite 420 theo@workplacerightslaw.com
Glendale, California 91203
Employment Law Attorneys

September 12, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator

Subject: YANIRA ROSAS v. Holding IP Parks USA LLC, KESG Holdings, LLC, Kids Empire Anaheim, LLC, Kids Empire Bakersfield (CA), LLC, Kids Empire Covina, LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Woodland Hills, LLC, and Haim Elbaz, et al.

Dear PAGA Administrator:

We hereby amend our letter dated September 21, 2021 sent to your office in compliance with the reporting requirements of California Labor Code section 2699.3, attached hereto as Exhibit A. This office represents YANIRA ROSAS, in connection with her claims under the California Labor Code. Ms. Rosas is a former employee of Holding IP Parks USA LLC, KESG Holdings, LLC, Kids Empire Anaheim, LLC, Kids Empire Bakersfield (CA), LLC, Kids Empire Covina, LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Woodland Hills, LLC, Kids Empire Antelope Marketplace (CA), Kids Empire Clovis, LLC, Kids Empire Fullerton, LlC, Kids Empire Otium, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), LLC, Kids Empire Ventura Pacific View Mall (CA), LLC, and Haim Elbaz (referred to herein as "**EMPLOYER**"). EMPLOYER owns and operates Kids Empire stores throughout California. EMPLOYER.

YANIRA ROSAS ("ROSAS") is informed and believes that each of the corporate entities and individuals above were and are the alter ego of the other entities, and that at all times there existed such a unity of interest and ownership such that any separateness ceased to exist. Upon information and belief, HAIM ELBAZ is an owner and officer of all the entities named above, controls all of the entities, and created the corporate entities separately as an artificial ruse to avoid liability. Each of the corporate entities were, at all material times, the mere shell or instrumentality through which the other corporate entities carried out their business. Each corporate entity so exercised complete control over the other corporate entity, and each of them, and so dominated them and used them to achieve goals, and so commingled funds, and so ignored the business formalities, that any separateness was merely a fiction, and did not in fact exist and should be deemed not to exist.

Additionally, YANIRA ROSAS ("ROSAS") is informed and believes that EMPLOYER contracted with the following Professional Employer Organizations, each of which performed services for EMPLOYER or some of them: Shiftable HR, Vensure Employer Services, Inc., Avitus, Inc., Avitus Group, Inc., Shiftpixy, Inc., ShiftPixy Staffing, Inc., and Cingular HR, Inc. and each of whom are jointly liable for the conduct alleged herein.

("ROSAS") intends to seek civil penalties, attorney's fees, costs, and other available relief against EMPLOYER for violations of the California Labor Code, which are recoverable under sections 2698 et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") ROSAS seeks to hold the named individuals above (including HAIM ELBAZ) liable under Labor Code Sec. 558, which states that "any employer or other person acting on behalf of an employer who violates" the law, must pay a civil penalty described in that Section. ROSAS seeks relief on behalf of herself, the State of California, and other persons who were employed to work by EMPLOYER in California (or who were wrongfully classified as independent contractors).

ROSAS has been an employee of EMPLOYER for more than one year. ROSAS earned wages, including overtime, that EMPLOYER refused to pay. ROSAS was not compensated for rest breaks, in violation of the California Labor Code.

As discussed below, EMPLOYER violated the California Labor Code with regard to ROSAS and other California employees. Thus, ROSAS is an aggrieved employee.

Aggrieved employees

EMPLOYER committed one or more of the following Labor Code violations against ROSAS and/or the other aggrieved employees, the facts and theories of which follows, making them an "aggrieved employee" pursuant to California Labor Code section 2699, subd. (c).

"Aggrieved employees" includes all non-exempt employees of EMPLOYER (including any workers improperly classified as exempt or improperly classified as independent contractors) in the relevant time period.

VIOLATION OF CALIFORNIA LABOR CODE SECS. 201, 201.3, 201.5, 201.6, 201.8, 202 AND 203, 204, 223, 226.2

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of the termination of employment.

California Labor Code section 223 provides that "Where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract."

EMPLOYER unlawfully failed to record and pay aggrieved employees for all of their time worked, including minimum and overtime wages, and bonuses/premiums for all of their missed meal and rest breaks, and for all of their time spent working off the clock.

EMPLOYER also failed to take into account and pay the regular rate of pay when paying any amounts for overtime and other wages and compensation owed, including meal period premiums and rest break premiums.

In addition, EMPLOYER willfully failed to pay aggrieved employees who are no longer employed by EMPLOYER all their earned wages, including, but not limited to, regular wages, overtime wages, minimum wages, and premium wages for missed meal and rest periods, either at the time of discharge, or within seventy-two (72) hours of their leaving EMPLOYER's employ in violation of California Labor Code sections 201, 202, and 203. Additionally, one or more aggrieved employees were terminated from employment but were not paid wages undisputedly owed on the day they were terminated.

EMPLOYER also secretly paid a lower wage than agreed while purporting to pay the wage designated by statute or by contract.

EMPLOYER also violated and failed to comply with Labor Code Sec. 226.2, which requires that for employees paid on a piece rate basis, the wage statement state "The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period."

ROSAS and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code §§201, 202, 203, 218.5, 218.6, 558, and/or 2699(a), (f)-(g), Civil Code §§ 3287 and 3289.

Violation of California Labor Code §§ 510 and 1198

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 1/2) times the

regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

The aggrieved employees often worked more than eight hours per day and more than 40 hours per week. EMPLOYER willfully failed to pay all overtime wages and other wages owed to aggrieved employees. During the relevant time period, aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

VIOLATION OF THE MINIMUM WAGE LAWS (INCLUDING LABOR CODE SECS. 1194, 1194.2, 1197, 204, 204b, 1182.12, 1194, 1197.1, 1198, 1199, AND CALIFORNIA WAGE ORDER NO. 2 and 10)

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined by the applicable wage order as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

EMPLOYER failed to pay minimum wages for all of the aggrieved employees' work on a systemic basis. Aggrieved employees would log their hours in EMPLOYER's time keeping system and EMPLOYER would fail to pay aggrieved employees for all of their hours worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 218.5, 218.6, 558, 1194, 1197.1 and/or 2699(a), (f)-(g), Civil Code §§ 3287 and 3289.

EMPLOYER violated Labor Code Sec. 1194. Under Labor Code Sec. 1194, "(a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

EMPLOYER violated Labor Code Sec. 1197. Under Labor Code Sec. 1197, "The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity."

EMPLOYER violated Labor Code Sec. 1197.1. Under Labor Code Sec. 1197.1,

> "(a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a *wage less than the minimum fixed by an applicable state or local law*, or by an order of the commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:
>
> (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
>
> (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
>
> (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

ROSAS is informed and believes and thereon alleges that EMPLOYER required aggrieved employees to work in California during the relevant time period but paid aggrieved employees less than the minimum wage required by law during the relevant time period.

Aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, 1197.1 and/or 2699(a), (f)-(g), Civil Code §§ 3287 and 3289.

VIOLATION OF CALIFORNIA LABOR CODE SEC. 226.7, 512(A), 516 AND 1198

California Labor Code sections 226.7, 512(a) and 1198 and the applicable IWC Wage Order (including Wage Order Nos. 2 and 10) require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. Brinker Rest. Corp. v. Superior Court, 53 Cal. 4th l 004, l 041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay

at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 1/2) hours. To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties - including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." Augustus, et al. v. ABM Security Services, Inc. (2016) 2 Cal. 5th 257, 269-270.

EMPLOYER also has engaged in a company-wide practice and/or policy of not providing meal periods or rest breaks and paying meal and rest period premiums owed when compliant meal and rest periods are not provided. Because of this practice and/or policy, aggrieved employees have not received premium pay for missed meal and/or rest periods. As an example, EMPLOYER required aggrieved employees to clock in and out for their rest breaks and EMPLOYER did not pay aggrieved employees for this time in violation of the Labor Code.

EMPLOYER violated the statutes, rules and ordinances described above by failing to provide aggrieved employees compliant meal periods and by failing to authorize and permit aggrieved employees to take rest periods in violation of California Labor Code sections 226.7, 512(a) and 1198. Aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 218.5, 218.6, 558 and 2699(t)-(g), Civil Code §§ 3287 and 3289.

VIOLATION OF CALIFORNIA LABOR CODE SEC. 226, 226(A), 1174 AND 1198 AND WAGE ORDER NO. 2 AND 10

California Labor Code section 226(a) requires employers to furnish and maintain true, accurate and complete wage statements and employment records. EMPLOYER has not provided ROSAS and other aggrieved employees with compliant wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or $50.00 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not to exceed $4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

EMPLOYER has knowingly and intentionally provided ROSAS and other aggrieved employees with incomplete and inaccurate wage statements. The statements did not reflect the amounts aggrieved employees should have received as a result of meal periods that were not provide and rest breaks that were not authorized and permitted. The statements did not reflect the amounts aggrieved employees should have received as a result of the correct minimum wages. The statements did not reflect the amounts aggrieved employees should have received for wages for all worked performed. EMPLOYER deducted time from other aggrieved employees' records for meal periods that were interrupted or missed (and therefore time for which they should have been paid), and did not record the time aggrieved employees worked. The statements did not accurately reflect the amount of overtime aggrieved employees worked. The statements otherwise violated Section 226. The statements did not reflect the correct hourly rate that aggrieved employees should have received under the law. The statements did not reflect the correct total hours worked.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to.

California Labor Code section 1174(d) provides that"[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments..." Labor Code section 1174.5 provides that employers are subject to a $500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), EMPLOYER willfully failed to maintain accurate payroll records for aggrieved employees showing accurately the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, EMPLOYER failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for aggrieved employees in violation of section 1198.

EMPLOYER violated the sections above with regard to aggrieved employees. Because EMPLOYER failed to provide the accurate, itemized information required by Labor Code. Aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, aggrieved employees have

had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment and name of their employer, thereby causing them injury.

EMPLOYER violated California Wage Orders, including Wage Order 2 and 10, Section 7, which requires California employers like EMPLOYER to keep records that show information regarding employees, as well as "(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee(s). Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request."

Aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 218.5, 218.6, 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g), Civil Code §§ 3287 and 3289.

VIOLATION OF CALIFORNIA LABOR CODE § 204 AND 221

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

Under California Labor section 221, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

During the relevant time period, EMPLOYER failed to pay aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204. EMPLOYER violated Labor Code sec. 221 as well by collecting or receiving from aggrieved employees part of wages owed.

ROSAS and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210, 218.5, and/or 2699(a), (f)-(g), Civil Code §§ 3287 and 3289.

VIOLATION OF CALIFORNIA LABOR CODE § 227.3

Under Labor Code § 227.3, "Unless otherwise provided by a collective–bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an

employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served. . .”

EMPLOYER violated section 227.3 by terminating aggrieved employees without paying for vested vacations and/or paying them at the correct regular rate of pay.

VIOLATION OF CALIFORNIA LABOR CODE § 233 and 234

Under Labor Code § 233, “(c) An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5.”

EMPLOYER violated Section 233 by discharging and threatening to discharge aggrieved employees for attempting to exercise the right to use, sick leave to attend to an illness.

EMPLOYER also violated Section 234, which states “An employer absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.”

VIOLATION OF CALIFORNIA LABOR CODE § 2810.5

Under Labor Code § 2810.5,

> “(a)(1) At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information:
>
> (A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.
>
> (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.
>
> (C) The regular payday designated by the employer in accordance with the requirements of this code.
>
> (D) The name of the employer, including any ‘doing business as’ names used by the employer.
>
> (E) The physical address of the employer's main office or principal place of business, and a mailing address, if different.

(F) The telephone number of the employer.

(G) The name, address, and telephone number of the employer's workers' compensation insurance carrier.

(H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

(I) Any other information the Labor Commissioner deems material and necessary."

EMPLOYER failed to provide the aggrieved employees, with a Notice, which was required under section 2810.5. EMPLOYER thus violated section 2810.5 and the aggrieved employees are entitled to a penalty as a result as well as fees, costs, and interest thereon, pursuant to Labor Code sections 218.5, 218.6, 256 and/or 2699(a), (f)-(g) and Civil Code §§ 3287 and 3289.

VIOLATION OF LABOR CODE § 226(b), 432 and 1198.5

California Labor Code Sec. 226(b) states, "(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee."

Labor Code Sec. 1198.5 states in part, "(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. (b)(1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date the employer receives the request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to produce a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Except as provided in paragraph (2) of subdivision (c), the employer is not required to make those personnel records or a copy thereof available at a time when the employee is actually required to render service to the employer, if the requester is the employee. . . (k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in

this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars ($750) from the employer."

Labor Code Sec. 432 states "If an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request."

EMPLOYER violated these sections. EMPLOYER did not maintain the required records and did not make records available. Aggrieved employees are entitled to a penalty as a result as well as fees, costs, and interest thereon, pursuant to Labor Code sections 218.5, 218.6, 256 and/or 2699(a), (f)-(g), Civil Code §§ 3287 and 3289.

VIOLATION OF CALIFORNIA LABOR CODE 246 ET SEQ., 246.5, 248 ET SEQ. AND 248.5

Labor Code Sec.246.5 provides, "(a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes: (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. (2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1. (b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days. (c)(1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following: (A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article. (B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article. (C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

Under Labor Code Section 246, (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek."

EMPLOYER violated Section 246.5 as well as Section 246 et seq., 248 and 248.5. EMPLOYER unlawfully failed to pay Sick Pay days required under the law when required. EMPLOYER also unlawfully failed to pay aggrieved employees sick pay at the regular rate of pay as required by Labor Code Sec. 246(l).

VIOLATION OF LABOR CODE SEC. 1102.5

Under Labor Code Sec. 1102.5, "(a) An employer, or any person acting on behalf of the employer, shall not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties."

EMPLOYER violated section 1102.5 by enforcing unlawful rules and retaliating against aggrieved employees for exercising their rights and disclosing violations of the Labor Code by EMPLOYER.

VIOLATION OF LABOR CODE SECS. 2800, 2802, AND 2804

Labor Code Sec. 2800 provides that "An employer shall in all cases indemnify his employee for losses caused by the employer's want of ordinary care."

Labor Code Sec. 2802 provides that "(a) An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

Labor Code Sec. 2804 provides that "[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

EMPLOYER violated these sections by failing to reimburse aggrieved employees for business expenses and inappropriately charging employees for losses, and attempting to have employees waive their rights under Labor Code section 2800, et seq..

VIOLATION OF LABOR CODE § 6401 and 6403

California Labor Code § 6401 states, "Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees."

And California Labor Code § 6403 states "No employer shall fail or neglect to do any of the following: (a) To provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe. (b) To adopt and use methods and processes

reasonably adequate to render the employment and place of employment safe. (c) To do every other thing reasonably necessary to protect the life, safety, and health of employees."

EMPLOYER violated these statutes cited above by failing to furnish and provide proper safety devices and safeguard and by failing do everything necessary to keep the workplace safe. EMPLOYER also failed to adopt safety policies and practices.

VIOLATION OF UNFAIR AND UNLAWFUL COMPETITION LAW (BUS. AND PROF. CODE §§ 17200, 17203, 17208)

California Business and Professions Code § 17200 states, "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code."

Bus. and Prof. Code Section 17203 states, "Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state."

Bus. and Prof. Code § 17208 states "Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this section shall be revived by its enactment."

EMPLOYER violated these statutes by engaging in unfair or fraudulent business practices, by failing to comply with the California Labor Code and wage orders by paying aggrieved employees what they were owed under the law, and by failing to reimburse employee business expenses.

CALIFORNIA LABOR CODE SEC. 226.8

Aggrieved employees also include any so-called "independent contractors" wrongfully classified as such under Labor Code Sec. 226.8, rather than being classified as "employees." ROSAS would seek penalties, attorney fees, costs and interest and behalf of those individuals as well.

CALIFORNIA LABOR CODE § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be

subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."

Accordingly, ROSAS and other aggrieved employees seeks the remedies set forth in Labor Code section 558 for themselves, the State of California, and all other aggrieved employees.

Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5 and 558, ROSAS, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against ROSAS for violations of the California Labor Code including sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

Therefore, on behalf of all aggrieved employees, ROSAS and aggrieved employees seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

WORKPLACE RIGHTS LAW GROUP, LLP

Sincerely,

Theodore Khachaturian

cc: Holding IP Parks USA LLC, KESG Holdings, LLC, Kids Empire Anaheim, LLC, Kids Empire Bakersfield (CA), LLC, Kids Empire Covina, LLC, Kids Empire Monrovia, LLC, Kids Empire Montclair, LLC, Kids Empire Northridge, LLC, Kids Empire Ontario, LLC, Kids Empire Otay Ranch (CA), LLC, Kids Empire Pomona, LLC, Kids Empire Rialto, LLC, Kids Empire Riverside, LLC, Kids Empire South Gate, LLC, Kids Empire USA, LLC, Kids Empire Woodland Hills, LLC, Kids Empire Antelope Marketplace (CA), Kids Empire Clovis, LLC, Kids Empire Fullerton, LlC, Kids Empire Otium, LLC, Kids Empire Sacramento Florin Towne Center, LLC, Kids Empire Shaw and Brawley (CA), LLC, Kids Empire Ventura Pacific View Mall (CA), LLC, and Haim Elbaz

TSK/gj

Exhibit A

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Glendale, California 91203
Employment Law Attorneys

September 24, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator

Subject: YANIRA ROSAS v. KIDS EMPIRE ANAHEIM, LLC, KIDS EMPIRE BAKERSFIELD (CA), LLC, KIDS EMPIRE COVINA, LLC, KIDS EMPIRE MONROVIA, LLC, KIDS EMPIRE MONTCLAIR, LLC, KIDS EMPIRE NORTHRIDGE, LLC, KIDS EMPIRE ONTARIO, LLC, KIDS EMPIRE OTAY RANCH (CA), LLC, KIDS EMPIRE POMONA, LLC, KIDS EMPIRE RIALTO, LLC, KIDS EMPIRE RIVERSIDE, LLC, KIDS EMPIRE SOUTH GATE, LLC, KIDS EMPIRE USA, LLC, KIDS EMPIRE WOODLAND HILLS, LLC, HIAM ELBAZ, KESG HOLDINGS, LLC, KIDS EMPIRE

Dear PAGA Administrator:

This office represents YANIRA ROSAS, a minor, by and through her legal guardian DIANA TAPIA in connection with her claims under the California Labor Code. Ms. Rosas is an employee of KIDS EMPIRE ANAHEIM, LLC, KIDS EMPIRE BAKERSFIELD (CA), LLC, KIDS EMPIRE COVINA, LLC, KIDS EMPIRE MONROVIA, LLC, KIDS EMPIRE MONTCLAIR, LLC, KIDS EMPIRE) NORTHRIDGE, LLC, KIDS EMPIRE ONTARIO, LLC, KIDS EMPIRE OTAY RANCH (CA), LLC, KIDS EMPIRE POMONA, LLC, KIDS EMPIRE RIALTO, LLC, KIDS EMPIRE RIVERSIDE, LLC, KIDS EMPIRE SOUTH GATE, LLC, KIDS EMPIRE USA, LLC, KIDS EMPIRE WOODLAND HILLS, LLC, HIAM ELBAZ, KESG HOLDINGS, LLC (referred to herein as "**EMPLOYER**"). EMPLOYER owns and operates Kids Empire stores throughout California. EMPLOYER may be contacted directly at the addresses below:

Hiam Elbaz
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Ontario, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Anaheim, LLC
4600 Larson Way
Sacramento, CA 95822

Kids Empire Bakersfield (CA), LLC
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Kids Empire Covina, LLC
251 Little Falls Drive
Wilmington, DE 19808

Kids Empire Monrovia, LLC
4600 Larson Way
Sacramento, CA 95822

Kids Empire Montclair, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Northridge, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Otay Ranch (CA), LLC
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Kids Empire Pomona, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire Rialto, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

Kids Empire USA, LLC
2804 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

Kids Empire Woodland Hills, LLC
8605 Santa Monica Blvd
West Hollywood, CA 90069

KESG Holdings, LLC,
8605 Santa Monica Blvd
West Hollywood, CA 90069

ROSAS is informed and believes that each of the corporate entities and individuals above were and are the alter ego of the other entities, and that at all times there existed such a unity of interest and ownership such that any separateness ceased to exist. Upon information and belief, HIAM ELBAZ is an owner and officer of all the entities named above, controls all of the entities, and created the corporate entities separately as an artificial ruse to avoid liability. Each of the corporate entities were, at all material times, the mere shell or instrumentality through which the other corporate entities carried out their business. Each corporate entity so exercised complete control over the other corporate entity, and each of them, and so dominated them and used them to achieve goals, and so commingled funds, and so ignored the business formalities, that any separateness was merely a fiction, and did not in fact exist and should be deemed not to exist.

YANIRA ROSAS ("ROSAS") by and through her guardian DIANA TAPIA ("TAPIA") intends to seek civil penalties, attorney's fees, costs, and other available relief against EMPLOYER for violations of the California Labor Code, which are recoverable under sections 2698 et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") ROSAS seeks to hold the named individuals above (including HAIM ELBAZ) liable under Labor Code Sec. 558, which states that "any employer or other person acting on behalf of an employer who violates"

the law, must pay a civil penalty described in that Section. ROSAS seeks relief on behalf of herself, the State of California, and other persons who were employed to work by EMPLOYER in California (or who were wrongfully classified as independent contractors).

ROSAS has been an employee of EMPLOYER for more than one year. ROSAS earned wages, including overtime, that EMPLOYER refused to pay. ROSAS was not compensated for rest breaks, in violation of the California Labor Code.

As discussed below, EMPLOYER violated the California Labor Code with regard to ROSAS and other California employees. Thus, ROSAS is an aggrieved employee.

Aggrieved employees

EMPLOYER committed one or more of the following Labor Code violations against ROSAS and/or the other aggrieved employees, the facts and theories of which follows, making them an "aggrieved employee" pursuant to California Labor Code section 2699, subd. (c).

"Aggrieved employees" includes all non-exempt employees of EMPLOYER (including any workers improperly classified as exempt or improperly classified as independent contractors) in the relevant time period.

VIOLATION OF CALIFORNIA LABOR CODE SECS. 201, 202 AND 203

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of the termination of employment.

EMPLOYER unlawfully failed to record and pay aggrieved employees for all of their time worked, including minimum and overtime wages, and bonuses/premiums for all of their missed meal and rest breaks, and for all of their time spent working off the clock.

EMPLOYER also failed to take into account and pay the regular rate of pay when paying any amounts for overtime and other wages and compensation owed, including meal period premiums and rest break premiums.

In addition, EMPLOYER willfully failed to pay aggrieved employees who are no longer employed by EMPLOYER all their earned wages, including, but not limited to, regular wages, overtime wages, minimum wages, and premium wages for missed meal and rest periods, either at the time of discharge, or within seventy-two (72) hours of their leaving EMPLOYER's employ in violation of California Labor Code sections 201, 202, and 203. Additionally, one or more aggrieved employees were terminated from employment but were not paid wages undisputedly owed on the day they were terminated.

ROSAS and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code §§201, 202, 203, 558, and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 510 and 1198

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 1/2) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

The aggrieved employees often worked more than eight hours per day and more than 40 hours per week. EMPLOYER willfully failed to pay all overtime wages and other wages owed to aggrieved employees. During the relevant time period, aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

VIOLATION OF THE MINIMUM WAGE LAWS (INCLUDING LABOR CODE SECS. 1194.2, 1197, 204, 204b, 1182.12, 1194, 1197.1, 1198, AND CALIFORNIA WAGE ORDER NO. 2 and 10)

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined by the applicable wage order as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

EMPLOYER failed to pay minimum wages for all of the aggrieved employees' work on a systemic basis. Aggrieved employees would log their hours in EMPLOYER's time keeping system and EMPLOYER would fail to pay aggrieved employees for all of their hours worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, 1197.1 and/or 2699(a), (f)-(g).

EMPLOYER violated Labor Code Sec. 1194. Under Labor Code Sec. 1194, "(a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

EMPLOYER violated Labor Code Sec. 1197. Under Labor Code Sec. 1197, "The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity."

EMPLOYER violated Labor Code Sec. 1197.1. Under Labor Code Sec. 1197.1,

> "(a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a *wage less than the minimum fixed by an applicable state or local law*, or by an order of the commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:
>
> (1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
>
> (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.
>
> (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

ROSAS is informed and believes and thereon alleges that EMPLOYER required aggrieved employees to work in California during the relevant time period but paid aggrieved employees less than the minimum wage required by law during the relevant time period.

Aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, 1197.1 and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE SEC. 226.7, 512(A) AND 1198

California Labor Code sections 226.7, 512(a) and 1198 and the applicable IWC Wage Order (including Wage Order Nos. 2 and 10) require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. Brinker Rest. Corp. v. Superior Court, 53 Cal. 4th l 004, l 041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 1/2) hours. To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties - including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." Augustus, et al. v. ABM Security Services, Inc. (2016) 2 Cal. 5th 257, 269-270.

EMPLOYER also has engaged in a company-wide practice and/or policy of not providing meal periods or rest breaks and paying meal and rest period premiums owed when compliant meal and rest periods are not provided. Because of this practice and/or policy, aggrieved employees have not received premium pay for missed meal and/or rest periods. EMPLOYER also failed to pay the regular rate of pay for any missed (or late or not taken, etc.) meal periods and rest breaks. As an example, EMPLOYER required aggrieved employees to clock in and out for their rest breaks and EMPLOYER did not pay aggrieved employees for this time in violation of the Labor Code.

EMPLOYER violated the statutes, rules and ordinances described above by failing to provide aggrieved employees compliant meal periods and by failing to authorize and permit aggrieved employees to take rest periods in violation of California Labor Code sections 226.7,

512(a) and 1198. Aggrieved employees are therefore entitled to penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and 2699(t)-(g).

VIOLATION OF CALIFORNIA LABOR CODE SEC. 226, 226(A), 1174 AND 1198 AND WAGE ORDER NO. 2 AND 10

California Labor Code section 226(a) requires employers to furnish and maintain true, accurate and complete wage statements and employment records. EMPLOYER has not provided ROSAS and other aggrieved employees with compliant wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or $50.00 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not to exceed $4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

EMPLOYER has knowingly and intentionally provided ROSAS and other aggrieved employees with incomplete and inaccurate wage statements. The statements did not reflect the amounts aggrieved employees should have received as a result of meal periods that were not provide and rest breaks that were not authorized and permitted. The statements did not reflect the amounts aggrieved employees should have received as a result of the correct minimum wages. The statements did not reflect the amounts aggrieved employees should have received for wages for all worked performed. EMPLOYER deducted time from other aggrieved employees' records for meal periods that were interrupted or missed (and therefore time for which they should have been paid), and did not record the time aggrieved employees worked. The statements did not accurately reflect the amount of overtime aggrieved employees worked. The statements otherwise violated Section 226. The statements did not reflect the correct hourly rate that aggrieved employees should have received under the law. The statements did not reflect the correct total hours worked.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to.

California Labor Code section 1174(d) provides that"[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments..." Labor Code section 1174.5 provides that employers are subject to a $500 civil penalty if they fail to maintain

accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), EMPLOYER willfully failed to maintain accurate payroll records for aggrieved employees showing accurately the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, EMPLOYER failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for aggrieved employees in violation of section 1198.

EMPLOYER violated the sections above with regard to aggrieved employees. Because EMPLOYER failed to provide the accurate, itemized information required by Labor Code. Aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment and name of their employer, thereby causing them injury.

EMPLOYER violated California Wage Orders, including Wage Order 2 and 10, Section 7, which requires California employers like EMPLOYER to keep records that show information regarding employees, as well as “(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee(s). Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.”

Aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE § 204 AND 221

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for

weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

Under California Labor section 221, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

During the relevant time period, EMPLOYER failed to pay aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204. EMPLOYER violated Labor Code sec. 221 as well by collecting or receiving from aggrieved employees part of wages owed.

ROSAS and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE § 2810.5

Under Labor Code § 2810.5,

"(a)(1) At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information:

(A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.

(B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.

(C) The regular payday designated by the employer in accordance with the requirements of this code.

(D) The name of the employer, including any 'doing business as' names used by the employer.

(E) The physical address of the employer's main office or principal place of business, and a mailing address, if different.

(F) The telephone number of the employer.

(G) The name, address, and telephone number of the employer's workers' compensation insurance carrier.

(H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

(I) Any other information the Labor Commissioner deems material and necessary."

EMPLOYER failed to provide the aggrieved employees, with a Notice, which was required under section 2810.5. EMPLOYER thus violated section 2810.5 and the aggrieved employees are entitled to a penalty as a result as well as fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

VIOLATION OF LABOR CODE § 226(b) AND 1198.5

California Labor Code Sec. 226(b) states, "(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee."

Labor Code Sec. 1198.5 states in part, "(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. (b)(1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days from the date the employer receives the request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to produce a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request. Except as provided in paragraph (2) of subdivision (c), the employer is not required to make those personnel records or a copy thereof available at a time when the employee is actually required to render service to the employer, if the requester is the employee. . . (k) If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars ($750) from the employer."

EMPLOYER violated these sections. Aggrieved employees are entitled to a penalty as a result as well as fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

VIOLATION OF CALIFORNIA LABOR CODE 246 ET SEQ., 246.5, 248 ET SEQ. AND 248.5

Labor Code Sec.246.5 provides, "(a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes: (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. (2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1. (b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days. (c)(1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following: (A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article. (B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article. (C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

Under Labor Code Section 246, (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek."

EMPLOYER violated Section 246.5 as well as Section 246 et seq., 248 and 248.5. EMPLOYER unlawfully failed to pay Sick Pay days required under the law when required. EMPLOYER also unlawfully failed to pay aggrieved employees sick pay at the regular rate of pay as required by Labor Code Sec. 246(l).

CALIFORNIA LABOR CODE SEC. 226.8

Aggrieved employees also include any so-called "independent contractors" wrongfully classified as such under Labor Code Sec. 226.8, rather than being classified as "employees." ROSAS would seek penalties, attorney fees, costs and interest and behalf of those individuals as well.

CALIFORNIA LABOR CODE § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission

shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."

Accordingly, ROSAS and other aggrieved employees seeks the remedies set forth in Labor Code section 558 for themselves, the State of California, and all other aggrieved employees.

Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5 and 558, ROSAS, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against ROSAS for violations of the California Labor Code including sections 201, 202, 203, 204, 226(a), 226.7, 246, 246.5, 248, 248.5, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

Therefore, on behalf of all aggrieved employees, ROSAS and aggrieved employees seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

WORKPLACE RIGHTS LAW GROUP, LLP

Sincerely,

Theodore Khachaturian

TSK/gj

cc: KIDS EMPIRE ANAHEIM, LLC, KIDS EMPIRE BAKERSFIELD (CA), LLC, KIDS EMPIRE COVINA, LLC, KIDS EMPIRE MONROVIA, LLC, KIDS EMPIRE MONTCLAIR, LLC, KIDS EMPIRE NORTHRIDGE, LLC, KIDS EMPIRE ONTARIO, LLC, KIDS EMPIRE OTAY RANCH (CA), LLC, KIDS EMPIRE POMONA, LLC, KIDS EMPIRE RIALTO, LLC, KIDS EMPIRE RIVERSIDE, LLC, KIDS EMPIRE SOUTH GATE, LLC, KIDS EMPIRE USA, LLC, KIDS EMPIRE WOODLAND HILLS, LLC, HIAM ELBAZ, KESG HOLDINGS, LLC

EXHIBIT 4

Subject: Thank you for your Proposed Settlement Submission
Date: Tuesday, January 14, 2025 at 11:36:55 AM Pacific Standard Time
From: DIR PAGA Unit
To: Theo Khachaturian

01/14/2025 11:36:21 AM

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

Item submitted: Proposed Settlement
If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 130 North Brand Boulevard, Suite 410, Glendale, California 91203.

On January 14, 2025, I served the foregoing document described as:

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM; DECLARATIONS

on the interested parties set out as follows, by the method indicated below:

Steven Groode, Esq. (sgroode@littler.com)
Jacob Lahana, Esq. (jlahana@littler.com)
2049 Century Park East, Fifth Floor
Los Angeles, CA 90067
Phone: (310) 553-0308

XXX **(BY ELECTRONIC SERVICE)** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service **CASEANYWHERE**.

XXX **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 14, 2025, at Glendale, California.

Geri Johnston