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Superior Court of California,  
Sacramento  
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By \_\_\_\_\_, Deputy  
34-2022-00314949-CU-OI

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5 Attorneys for Plaintiffs CARLETON EDWARDS on behalf of himself  
6 and similarly situated employees

7 [additional parties continued on next page]

8  
9 **SUPERIOR COURT OF CALIFORNIA**

10 **FOR THE COUNTY OF SACRAMENTO**

11 **CARLETON EDWARDS, MICHAEL**  
12 **ADAMS, and PETER HALL, individually and**  
13 **on behalf of all other similarly situated**  
**employees,**

14 **Plaintiffs,**

15 **vs.**

16 **SUBURBAN PROPANE, L.P., a Delaware**  
17 **Limited Partnership; and DOES 1 to 100,**  
18 **inclusive,**

19 **Defendants.**

**Case No. 34-2022-00314949-CU-OE-GDS**

*Assigned for All Purposes to Hon. Jill Talley,  
Department 27*

**CLASS ACTION**

**EXHIBIT LIST AND EXHIBITS IN  
SUPPORT OF PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION AND PAGA SETTLEMENT**

Reservation No. 2720117

Date: June 30, 2023

Time: 9:00 a.m.

Dept.: 27

Judge: Hon. Jill Talley

Filed: February 2, 2022

FAC Filed: June 6, 2022

SAC Filed: March 10, 2023

Trial Date: None Set

**BY FAX**



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13 Attorneys for Plaintiff PETER HALL

<b><u>EXHIBIT</u></b>	<b><u>DESCRIPTION</u></b>
<b>A</b>	Joint Stipulation Regarding Class Action and PAGA Settlement and Release
<b>B</b>	Plaintiffs' Operative Complaint
<b>C</b>	Plaintiffs' Letters to the LWDA Regarding PAGA Claims
<b>D</b>	ILYM Group, Inc. Quote
<b>E</b>	Proposed Notice of Settlement
<b>F</b>	Proof of Submission of Proposed Settlement Agreement to LWDA

Dated: June 5, 2023

**Shimoda & Rodriguez Law, PC**

By: \_\_\_\_\_  
 Galen T. Shimoda  
 Justin P. Rodriguez  
 Renald Konini  
 Attorneys for Plaintiff  
 Carleton Edwards

# Exhibit A

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12 [additional parties and counsel continued on next page]

13  
14 **SUPERIOR COURT OF CALIFORNIA**  
15 **FOR THE COUNTY OF SACRAMENTO**

16 CARLETON EDWARDS, MICHAEL  
17 ADAMS, and PETER HALL, as individuals  
and on behalf of all other similarly situated  
18 employees,

19 Plaintiff,

20 vs.

21 SUBURBAN PROPANE, L.P., a Delaware  
22 Limited Partnership; and DOES 1 to 100,  
23 inclusive,

24 Defendants.  
25  
26  
27  
28

**Case No.: 34-2022-00314949**

**JOINT STIPULATION REGARDING CLASS  
ACTION AND PAGA SETTLEMENT AND  
RELEASE**

Filed: February 2, 2022

FAC Filed: June 6, 2022

SAC Filed: March 10, 2023

Trial Date: None Set

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1 This Joint Stipulation Regarding Class Action and PAGA Settlement and Release is made and  
2 entered into between the Plaintiffs Carleton Edwards, Michael Adams, and Peter Hall ("Plaintiffs"), on  
3 behalf of themselves, the Labor and Workforce Development Agency, Class Members, and Aggrieved  
4 Employees, and Defendants Suburban Propane, L.P., and Suburban Sales & Service, Inc. ("Defendants").  
5 This Agreement is subject to the terms and conditions set forth below and the approval of the Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meanings:

8 1.1 "Action" includes all of the following lawsuits: (1) *Edwards, et al. v. Suburban Propane,*  
9 *L.P.*, Sacramento County Superior Court, Case No. 34-2022-00314949 ("*Edwards Action*"); (2) *Hall v.*  
10 *Suburban Propane, L.P., et al.*, Los Angeles County Superior Court, Case No. 22STCV00670 ("*Hall Class*  
11 *Action*"); (3) *Hall v. Suburban Propane, L.P., et al.*, Los Angeles County Superior Court, Case No.  
12 22AVCV00103 ("*Hall PAGA Action*"); and (4) *Adams v. Suburban Propane, L.P., et al.*, Sacramento  
13 County Superior Court, Case No. 34-2022-00316279 ("*Adams Action*").

14 1.2 "Aggrieved Employee(s)" means all non-exempt employees who worked for Defendants in  
15 California during the PAGA Claim Period. The estimated number of Aggrieved Employees is 327.

16 1.3 "Agreement" or "Settlement" or "Settlement Agreement" means this Joint Stipulation  
17 Regarding Class Action and PAGA Settlement and Release.

18 1.4 "Class Counsel" means Galen T Shimoda and Justin P. Rodriguez of Shimoda & Rodriguez  
19 Law, PC ("SRL"), Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw,  
20 Jeffrey S. Herman, and Sergio J. Puche Blumenthal of Nordrehaug Bhowmik DeBlouw, LLP ("BNBD"),  
21 and Mark D. Potter and James M. Treglio of Potter Handy LLP ("PH").

22 1.5 "Class Member(s)" includes all individuals within the Reimbursement Subclass and the  
23 Wage Subclass as defined in Sections 1.31 and 1.38, respectively. The estimated number of Class Members  
24 is 634.

25 1.6 "Class Period" includes the Reimbursement Subclass Period and the Wage Subclass Period  
26 as defined in Sections 1.32 and 1.39, respectively.

27 1.7 "Class Representatives" means Plaintiffs Carleton Edwards, Michael Adams, and Peter  
28 Hall.

1           1.8     “Class Representatives’ Released Claims” means all claims arising from, could have been  
2 asserted, or related in any way to the Class Representatives’ employment with Defendants, under federal,  
3 state, or local laws, and/or ordinances, or tort or contract theories, whether known or unknown, and whether  
4 anticipated or unanticipated, including without limitation statutory, constitutional, contractual or common  
5 law claims for lost wages, unpaid wages, emotional distress, punitive damages, special damages, damages,  
6 unpaid costs, penalties, liquidated damages, interest, attorneys’ fees, litigation costs, restitution, equitable  
7 relief or other similar relief or claims. The Class Representatives’ Released Claims exclude claims for  
8 workers’ compensation, unemployment insurance benefits, or other claims that cannot be released as a  
9 matter of law.

10           1.9     “Complaint” means the operative Complaint on file with the Court in *Edwards, et al. v.*  
11 *Suburban Propane, L.P.*, Sacramento County Superior Court, Case No. 34-2022-00314949.

12           1.10    “Court” means the Sacramento County Superior Court.

13           1.11    “Defendants” means Suburban Propane, L.P, and Suburban Sales & Service, Inc.

14           1.12    “Defendants’ Counsel” means Efthalia S. Rofos and Megan A. Childress of Barber Ranen,  
15 LLP.

16           1.13    “Enhancement Payment” means the amount approved by the Court to be paid to the Class  
17 Representatives in recognition of the time and effort expended on behalf of Class Members for the benefit  
18 of Class Members, which is in addition to any Individual Settlement Amount paid to the Class  
19 Representatives as Participating Class Members.

20           1.14    “Effective Date” means the Final Approval Date unless there is a timely objection lodged  
21 that has not later been withdrawn, in which case the Effective Date will be either (a) the 60th calendar day  
22 after a signed order approving this settlement has been filed provided no appellate proceeding having been  
23 filed; or (b) seventh (7th) calendar day after any appellate proceeding opposing the settlement has been  
24 finally dismissed with no material change to the terms of this settlement and there is no right to pursue  
25 further remedies or relief, whichever is later.

26           1.15    “Fernandez Action” means *Michell Fernandez, et al. v. Suburban Propane, LP*, Fresno  
27 County Superior Court Case No. 16CECG00418, that previously settled a class of all employees of  
28 defendant employed as either: 1) a Customer Service Representative (“CSR”) and Customer Relations



1 Specialist ("CRS") employed by Suburban Propane, LP in California from February 10, 2012 through  
2 March 24, 2021; or 2) a Service Technician ("ST") employed by Suburban in California from November  
3 2, 2013 through March 24, 2021.

4 1.16 "Final Approval Date" means the date a signed order granting final approval of this  
5 Agreement is filed with the Court.

6 1.17 "Gross Settlement Amount" is the sum of Nine Hundred Forty-Five Thousand Dollars and  
7 Zero Cents (\$945,000.00), which is the total amount to be paid by Defendants as provided by this  
8 Agreement except as provided in Section 5 below. This Gross Settlement Amount is an all-in amount  
9 without any reversion to Defendants, and excludes any employer payroll taxes, if any, due on the portion  
10 of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and  
11 shall be the separate additional obligation of Defendants.

12 1.18 "Individual Settlement Amount" means an individual Class Member's and Aggrieved  
13 Employee's allocation of the Net Settlement Amount and PAGA Payment respectively, as defined in  
14 Sections 1.20, 1.24, 5.5, and 5.8-5.8.4.

15 1.19 "LWDA" means the California Labor and Workforce Development Agency.

16 1.20 "Net Settlement Amount" is the portion of the Gross Settlement Amount available for  
17 distribution to Class Members, as described in this Agreement, after deduction of Class Counsel's  
18 attorneys' fees and litigation costs, Settlement Administrator Costs, the PAGA Payment, and Enhancement  
19 Payment to the Class Representatives.

20 1.21 "Notice of Settlement" means the document substantially in the form attached hereto as  
21 Exhibit 1.

22 1.22 "Notice Period" means sixty (60) calendar days from the initial mailing of the Notice of  
23 Settlement to Class Members and Aggrieved Employees.

24 1.23 "PAGA" means Private Attorneys General Act.

25 1.24 "PAGA Payment" means the amount allocated from the Gross Settlement Amount towards  
26 resolving claims under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

27 1.25 "PAGA Claim Period" means November 1, 2020, through February 12, 2023.

28 1.26 "Parties" mean Defendants and Plaintiffs.

1 1.27 "Participating Class Member" means any and all Class Members who have not made any  
2 timely request to opt-out of the Agreement.

3 1.28 "Preliminary Approval Date" means the date a signed order granting preliminary approval  
4 of this Agreement is filed with the Court.

5 1.29 "QSF" means a Qualified Settlement Fund set up by the Settlement Administrator for the  
6 benefit of the Participating Class Members and/or Aggrieved Employees and from which the payments  
7 under this Agreement shall be made. Any amounts Defendants have agreed to pay under this Agreement  
8 shall remain the property of Defendants until the payments required under the Agreement are made.

9 1.30 "Qualifying Workweeks" are weeks worked by Class Members and/or Aggrieved  
10 Employees during the Class Period and/or PAGA Claim Period, respectively, in California. For Class  
11 Members, their total weeks worked shall be calculated by taking the total length of service (in days) in  
12 California during the Class Period divided by seven. For Aggrieved Employees workweeks shall be  
13 calculated by taking the total length of service (in days) in California during the PAGA Claim Period  
14 divided by seven. The calculation of a Class Member's and/or Aggrieved Employee's workweeks and a  
15 determination as to whether a Class Member and/or Aggrieved Employee was actively employed in  
16 California in a particular workweek shall be construed from Defendants' records.

17 1.31 "Reimbursement Subclass" means all employees who are class members in the *Fernandez*  
18 Action and worked for Defendants in California during the Reimbursement Subclass Period.

19 1.32 "Reimbursement Subclass Period" means January 7, 2018, to March 24, 2021.

20 1.33 "Released Class Claims" means the following for Class Members within the Wage  
21 Subclass: Any and all claims that are alleged in the operative Complaint, and any additional wage and hour  
22 claims that could have been brought based on the facts alleged in the operative Complaint, through the  
23 Wage Subclass Period. This release excludes the release of reimbursement claims and other claims not  
24 permitted by law including claims for vested benefits, wrongful termination, violation of the Fair  
25 Employment and Housing Act, unemployment insurance, disability, social security, workers'  
26 compensation, and California class claims outside of the Class Period. For Class Members within the  
27 Reimbursement Subclass, "Released Class Claims" means any and all reimbursement claims that are  
28 alleged in the operative Complaint, and any additional reimbursement claims that could have been brought

1 based on the facts alleged in the operative Complaint through the Reimbursement Subclass Period. This  
2 release excludes the release of any wage and hour claims that are not reimbursement claims and other  
3 claims not permitted by law including claims for vested benefits, wrongful termination, violation of the  
4 Fair Employment and Housing Act, unemployment insurance, disability, social security, workers'  
5 compensation, and California class claims outside of the Class Period.

6 1.34 "Released PAGA Claims" means any and all claims for civil penalties that were brought  
7 under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the operative Complaint  
8 and any additional wage and hour PAGA claims that could have been brought based on the facts alleged  
9 in the operative Complaint during the PAGA Claim Period. Aggrieved Employees cannot opt out of this  
10 waiver of claims. The Released PAGA Claims do not include other PAGA claims, underlying wage and  
11 hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and  
12 worker's compensation, and PAGA claims outside of the PAGA Claim Period.

13 1.35 "Released Parties" means Defendants, as well as Defendants' officers, shareholders,  
14 directors, agents, employees, attorneys, and insurers.

15 1.36 "Settlement Administrator" means and refers to ILYM Group, Inc., the third-party entity  
16 that will administer the Agreement as outlined in Sections 4 and 7, or any other third-party administrator  
17 agreed to by the Parties and approved by the Court for the purposes of administering this Agreement. The  
18 Parties each represent that they do not have any financial interest in the Settlement Administrator.

19 1.37 "Settlement Administrator Costs" means the fees and expenses reasonably incurred by the  
20 Settlement Administrator as a result of the procedures and processes expressly required by this Agreement,  
21 and shall include all costs of administering the Agreement, including, but not limited to, all tax document  
22 preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees  
23 associated with preparing, issuing and mailing any and all notices and other correspondence to Class  
24 Members and/or Aggrieved Employees; all costs and fees associated with communicating with Class  
25 Members and/or Aggrieved Employees, Class Counsel, and Defendants' Counsel; all costs and fees  
26 associated with computing, processing, reviewing, and paying the Individual Settlement Amounts, and  
27 resolving disputes; all costs and fees associated with calculating tax withholdings and payroll taxes, if any,  
28 making related payment to federal and state tax authorities, if any, and issuing tax forms relating to

1 payments made under the Agreement; all costs and fees associated with preparing any tax returns and any  
2 other filings required by any governmental taxing authority or agency; all costs and fees associated with  
3 preparing any other notices, reports, or filings to be prepared in the course of administering Individual  
4 Settlement Amounts; and any other costs and fees incurred and/or charged by the Settlement Administrator  
5 in connection with the execution of its duties under this Agreement.

6 1.38 “Wage Subclass” means employees who are class members in the *Fernandez* Action and  
7 who worked for Defendants in California between March 25, 2021 and February 12, 2023, and all other  
8 non-exempt employees (*i.e.* employees who were not part of the release of claims in the *Fernandez* Action)  
9 who worked for Defendants in California during the time period of Wage Subclass Period.

10 1.39 “Wage Subclass Period” means March 25, 2021, to February 12, 2023, for employees who  
11 are class members in the *Fernandez* Action, and January 7, 2018, through February 12, 2023, for all other  
12 individuals within the Wage Subclass.

## 13 2. DESCRIPTION OF THE LITIGATION

14 2.1 Prior to filing their respective lawsuits, Plaintiffs sent notice to the LWDA to exhaust  
15 administrative remedies under the PAGA for alleged violations of the California Labor Code, including  
16 the failure to pay overtime wages, the failure to pay minimum wages, the failure to provide meal periods  
17 or pay meal period premiums in lieu thereof, the failure to provide rest periods or pay rest period premiums  
18 in lieu thereof, the failure to provide accurate wage statements, the failure to pay wages when due, including  
19 final wages, the failure to reimburse expenses, the failure to maintain accurate records, and the failure to  
20 provide paid sick leave. Plaintiff Michael Adams sent notice on November 1, 2021, Plaintiff Peter Hall  
21 sent notice on November 16, 2021, and Plaintiff Carleton Edwards sent notice on January 28, 2022. The  
22 LWDA did not respond to the notices within the statutorily required time frame and, as such, Plaintiffs  
23 became authorized to act as Private Attorneys General on all alleged PAGA claims.

24 2.2 The dates each of the lawsuits within the Action were filed are as follows: (1) *Hall* Class  
25 Action<sup>1</sup> – January 7, 2022; (2) *Edwards* Action – February 2, 2022; (3) *Hall* PAGA Action – February 16,  
26 2022; (4) *Adams* Action – March 3, 2022. The operative complaints in each of these lawsuits allege wage  
27

28 <sup>1</sup> Plaintiff Peter Hall also asserted a Constructive Discharge claim, but this was brought by him on an individual basis.

1 and hour class action and/or PAGA claims based on the alleged violations of the California Labor Code  
2 outlined above as well as derivative claims for unfair competition under the California Business and  
3 Professions Code sections 17200 *et seq.*

4 2.3 Through informal discovery, Defendants and Defendants' Counsel provided Class  
5 Counsel with copies of all applicable versions of its policies and procedures, employee handbooks,  
6 information on Class Members including, but not limited to, Class Members' workweeks, dates of  
7 employment, total number of Class Members, their rates of pay and pay periods, and timecard data and  
8 payroll reports for a randomly selected sample of Class Members. This was in addition to Class Counsel's  
9 independent investigations of the asserted claims. Plaintiffs, therefore, obtained sufficient documents and  
10 information to sufficiently investigate the claims such that Plaintiffs' investigation was sufficient to satisfy  
11 the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794,  
12 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

13 2.4 After Class Counsel received the data, the Parties engaged global mediation to attempt  
14 resolution of all claims asserted in the Action. An all-day mediation was held on December 12, 2022,  
15 utilizing the experienced and well-respected Louis Marlin, Esq., as mediator. At the conclusion of the  
16 mediation, the Parties were able to memorialize the core terms of a settlement in a Memorandum of  
17 Understanding based upon a mediator's proposal. Thereafter, the Parties continued to negotiate the  
18 remaining details of the settlement, which are contained in this Agreement. Discussions between Plaintiffs  
19 and Class Counsel, between counsel for the Parties, document productions, extensive legal analysis, the  
20 provision of information by Defendants to Plaintiffs and the detailed analysis of the records, have permitted  
21 each side to assess the relative merits of the claims and the defenses to those claims. At all times, the  
22 Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

23 2.5 The Parties agree that the above-described investigation and evaluation, as well as discovery  
24 and the information exchanged to date, are more than sufficient to assess the merits of the respective  
25 Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiffs, Class Counsel,  
26 Defendants, and Defendants' Counsel have concluded that it is desirable that the Action be settled in a  
27 manner and upon such terms and conditions set forth herein in order to avoid further expense,  
28 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the



1 Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action.  
2 Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel are of the opinion that the Agreement for  
3 the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and  
4 circumstances.

5       2.6 Defendants have denied each of Plaintiffs' claims and Defendants have denied that this  
6 Action is appropriate for class certification for anything other than settlement purposes. The agreed upon  
7 Gross Settlement Amount was reached after evaluating the Parties' theories of potential exposure for the  
8 underlying claims and the class data supporting these claims. The Parties, with the assistance of the  
9 mediator, also assessed appropriate discounts to the potential liability based on Defendants' factual and  
10 legal contentions and defenses.

11       2.7 In connection with seeking Court approval of the Agreement, the Parties have agreed to file  
12 a Second Amended Complaint, which is the operative Complaint, in the *Edwards* Action that consolidates  
13 all parties, claims, and allegations asserted within each lawsuit in the Action in order to avoid the expense,  
14 delay, and potential confusion by Class Members that may arise if there were multiple approval  
15 proceedings occurring concurrently in separate jurisdictions, and, thereafter, to dismiss without prejudice  
16 the separate *Hall* and *Adams* Actions. It is the intent of the Parties that the allegations and claims asserted  
17 in the Complaint encompass all claims asserted in the Action such that the release of claims contained  
18 within this Agreement will likewise encompass all claims asserted in the Action.

### 19 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

20       3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose of  
21 settling the Action. This Agreement and the settlement it evidences are made in compromise of disputed  
22 claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final  
23 approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a  
24 conditional basis. If the Effective Date does not occur, or if the Court's approval of the settlement is  
25 reversed or materially modified on appellate review, this Agreement shall be deemed null and void; it shall  
26 be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and  
27 the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California  
28

1 Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of  
2 evidence that may be applicable.

3       3.2 Defendants have denied all claims as to liability, damages, liquidated damages, penalties,  
4 interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendants  
5 have agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or  
6 the Effective Date does not occur, Defendants do not waive, but rather expressly reserve, all rights to  
7 challenge all such claims and allegations in the Action upon all procedural and factual grounds, including,  
8 without limitation, the ability to challenge class or collective treatment on any grounds, as well as to assert  
9 any and all other potential defenses or privileges.

#### 10 **4. SCOPE OF THE CLASS**

11       4.1 The scope of the class of individuals encompassed under the Agreement and subject to all  
12 obligations and duties required under the Agreement, shall include all Class Members as defined in Section  
13 1.5 and all Aggrieved Employees as defined in Section 1.2. However, it shall not include any Class  
14 Members who submit valid and timely requests to opt-out of the Agreement and settlement, as set forth in  
15 Section 7.5.1.

16       4.2 Only Participating Class Members and Aggrieved Employees are entitled to recover under  
17 this Agreement.

18       4.3 Any person who believes that he or she is a Class Member or Aggrieved Employee and  
19 wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name  
20 did not appear on the class list provided to the Settlement Administrator prior to mailing, may submit a  
21 data request to the Settlement Administrator. The data request must contain all of the following  
22 information: (a) the full name and, if applicable, Social Security Number of the individual making the  
23 request; (b) the name used by such employee as of the time his or her employment with Defendants ended;  
24 (c) the individual's dates of employment with Defendants; and (d) a return address to which a response  
25 may be sent. Every data request must be postmarked on or before the conclusion of the Notice Period or  
26 otherwise submitted to the Settlement Administrator such that it is received before the conclusion of the  
27 Notice Period. Upon receipt of any data requests, the Settlement Administrator shall promptly (in no event  
28



1 more than two business days) transmit the data requests to Defendants' Counsel and request that  
2 Defendants review their records.

3 4.4 If Defendants agree that the person listed in a data request is a Class Member and/or  
4 Aggrieved Employee, the Settlement Administrator shall promptly mail a Notice of Settlement to the  
5 person who submitted the data request, at the address designated for that purpose in the data request. All  
6 provisions of this Agreement relating to the Notice of Settlement shall apply to Notice of Settlements sent  
7 in response to data requests, and any person who submits a data request and is sent a Notice of Settlement  
8 in response shall be treated by the Settlement Administrator as a Class Member and/or Aggrieved  
9 Employee for all other purposes.

10 4.5 If Defendants do not agree that the person listed in a data request is a Class Member and/or  
11 Aggrieved Employee, Defendants' Counsel and Class Counsel shall attempt to resolve any such dispute in  
12 good faith within seven (7) calendar days of Class Counsel being advised in writing of the data request  
13 dispute. Defendants' records shall control unless the individual submitting the data request provides  
14 persuasive evidence to doubt the accuracy of those records. Each data request dispute that Defendants'  
15 Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator. The  
16 Settlement Administrator must accept and weigh all the evidence provided in a good faith attempt to resolve  
17 the dispute. The Settlement Administrator must resolve any dispute submitted to it within seven (7)  
18 calendar days after Defendants' Counsel and Class Counsel submit the dispute to the Settlement  
19 Administrator. The decision by the Settlement Administrator shall be final as between the parties, subject  
20 to Court review.

## 21 **5. TERMS OF THE SETTLEMENT**

22 The Parties agree as follows:

23 5.1 Gross Settlement Amount: In consideration and exchange for the releases described in  
24 Section 6, Defendants shall pay the Gross Settlement Amount (\$945,000.00). Funding of the Gross  
25 Settlement Amount shall occur within 21 calendar days after the Effective Date to be held in trust in a QSF  
26 by the Settlement Administrator. The Gross Settlement Amount includes payments to Participating Class  
27 Members, Aggrieved Employees, all attorneys' fees, costs and litigation expenses related to the Action  
28 incurred to date, as well as all such fees and costs incurred in documenting the Agreement, administering

1 the Agreement (including Settlement Administrator Costs), and obtaining final approval of the Agreement,  
2 the Enhancement Payment to the Class Representatives and the PAGA Payment. Any monies necessary  
3 to satisfy Defendants' tax obligations (e.g. employer FICA, FUTA and SDI contributions on wage  
4 payments) on any monies attributed as wages and to be distributed to Participating Class Members will be  
5 paid in addition to the Gross Settlement Amount.

6       5.2    Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of one-  
7 third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$ 315,000, that shall be paid  
8 from the Gross Settlement Amount. Defendants have agreed to not oppose Class Counsel's application for  
9 attorneys' fees so long as it does not exceed the 1/3 threshold. Attorneys' fees shall be divided among  
10 Class Counsel as follows: \$108,333.33 to Shimoda & Rodriguez Law, PC; \$108,333.33 to Potter Handy,  
11 LLP; and \$98,333.34 to Blumenthal Nordrehaug Bhowmik DeBlouw, LLP. To the extent the Court awards  
12 less than the full amount of attorneys' fees requested, each firm's share of fees will be reduced pro rata.  
13 Class Counsel will also be entitled to reimbursement for advanced litigation expenses not to exceed  
14 \$25,000.00, which shall be paid from the Gross Settlement Amount. Defendants have agreed to not oppose  
15 Class Counsel's request for reimbursement for advanced litigation expenses so long as they do not exceed  
16 the \$25,000.00 threshold. The Settlement Administrator will issue Class Counsel an IRS Form 1099 for  
17 the attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than the  
18 requested attorney's fees and/or costs, the portion of the requested amounts not awarded to Class Counsel  
19 shall be added to the Net Settlement Amount to be distributed to Participating Class Members on a pro rata  
20 basis.

21       5.3    Settlement Administrator Costs: The Settlement Administrator Costs shall be paid from the  
22 Gross Settlement Amount and shall not exceed \$17,500.00. The difference between any actual costs and  
23 the allocated \$17,500.00 shall be added to the Net Settlement Amount to be distributed to Participating  
24 Class Members on a pro rata basis.

25       5.4    Enhancement Payment: Class Counsel, on behalf of Plaintiffs, shall apply to the Court for  
26 an Enhancement Payment to each of the Class Representatives in an amount not to exceed Ten Thousand  
27 Dollars and Zero Cents (\$10,000.00) to compensate for the risks, time, and expense of their involvement  
28 in the Action and securing the benefits of this Agreement for Class Members. The Enhancement Payment

1 is in addition to the Individual Settlement Amount Plaintiffs would otherwise be due under the Agreement  
2 as a Participating Class Member, and would also be in addition to any amounts paid to Plaintiff Peter Hall  
3 under any individual settlement of his constructive discharge claim as set out in Section 6.3.2. Defendants  
4 have agreed to not oppose Class Counsel's request for an Enhancement Payment to Plaintiffs so long as it  
5 does not exceed the amount stated herein. The Enhancement Payment will be designated as a non-wage  
6 payment and reported on an IRS Form 1099-MISC. In the event that the Court awards less than the  
7 Enhancement Payment amount requested, then any portion of the requested amount not awarded to the  
8 Class Representatives shall be added to the Net Settlement Amount to be distributed to Participating Class  
9 Members on a pro rata basis.

10       5.5   PAGA Payment: Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross  
11 Settlement Amount shall be allocated to resolving claims under the PAGA. Seventy-Five percent (75%)  
12 (\$15,000) of the PAGA Payment will be paid to the LWDA and Twenty-Five percent (25%) (\$5,000) will  
13 be paid to Aggrieved Employees on a pro rata basis as described below in Section 5.8.4. Any amount not  
14 approved by the Court for the allocated PAGA Payment shall be added to the Net Settlement Amount to  
15 be distributed to Participating Class Members on a pro rata basis.

16       5.6   Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount or PAGA  
17 Payment allocated to Participating Class Members and/or Aggrieved Employees that were not claimed by  
18 cashing their respective settlement checks before the deadline to do so, that remaining amount shall be  
19 donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine  
20 of *cy pres*. No portion of the Gross Settlement Amount will revert to Defendants for any reason.

21       5.7   No Additional Benefits Contributions: All Individual Settlement Amounts paid to  
22 Participating Class Members and Aggrieved Employees shall be deemed to be income solely in the year in  
23 which such amounts were actually received. It is expressly understood and agreed that the receipt of such  
24 Individual Settlement Amounts will not entitle any Participating Class Member or Aggrieved Employee to  
25 any new or additional compensation or benefits under any company bonus or other compensation or benefit  
26 plan or agreement in place during the period covered by the Agreement, nor will it entitle any Participating  
27 Class Member Aggrieved Employee to any increased retirement, 401(k) and/or 403(b) benefits or matching  
28 benefits, or deferred compensation benefits. It is the intent of this Agreement that the Individual Settlement

1 Amounts provided for in this Agreement are the sole payments to be made by Defendants to the  
2 Participating Class Members and Aggrieved Employees in connection with this Agreement  
3 (notwithstanding any contrary language or agreement in any benefit or compensation plan document that  
4 might have been in effect during the period covered by this Agreement).

5       5.8   Pro Rata Distribution Formula: Payment to Participating Class Members and Aggrieved  
6 Employees of their Individual Settlement Amount will not require the submission of a claim form. A Net  
7 Settlement Amount will be determined by subtracting from the Gross Settlement Amount any amounts for  
8 approved attorneys' fees and costs, any Enhancement Payment to the Class Representatives, the Settlement  
9 Administrator Costs, and the PAGA Payment. Five percent (5%) of the Net Settlement Amount will be  
10 allocated to the Reimbursement Subclass for the release of claims specific to that subclass as identified in  
11 Section 1.33. The remaining ninety-five percent (95%) of the Net Settlement Amount will be allocated to  
12 the Wage Subclass for the release of claims specific to that subclass as identified in Section 1.33. Based  
13 on Defendants' records, Class Members will be assigned to either the Reimbursement Subclass or the Wage  
14 Subclass. To the extent a Class Member worked any amount of time within the Wage Subclass Period,  
15 they will be assigned to the Wage Subclass.

16               5.8.1 For Class Members in the Reimbursement Subclass, their share will be initially  
17 determined by dividing their total Qualifying Workweeks within the Reimbursement Subclass Period by  
18 the total Qualifying Workweeks of all Class Members within the Reimbursement Subclass within that same  
19 period. That fraction will then be multiplied by the Net Settlement Amount allocated to this subclass (*i.e.*  
20 5% of the Net Settlement Amount) to arrive at the Class Member's individual share.

21               5.8.2 For Class Members in the Wage Subclass, their share will be initially determined by  
22 dividing their total Qualifying Workweeks within the Wage Subclass Period by the total Qualifying  
23 Workweeks of all Class Members within the Wage Subclass within that same period. That fraction will  
24 then be multiplied by the Net Settlement Amount allocated to this subclass (*i.e.* 95% of the Net Settlement  
25 Amount) to arrive at the Class Member's individual share.

26               5.8.3 Any funds allocated to Class Members under this formula who timely opt out of the  
27 Settlement will be redistributed to Participating Class Members on a pro rata basis, *i.e.* each Participating  
28 Class Member's share will be determined by dividing their total Qualifying Workweeks within their

1 subclass by the total Qualifying Workweeks of all Participating Class Members within their subclass and  
2 that fraction will then be multiplied by the Net Settlement Amount allocated to the subclass to arrive at the  
3 Participating Class Member's individual share.

4           5.8.4 Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will  
5 be determined by dividing their total Qualifying Workweeks within the PAGA Claim Period by the total  
6 Qualifying Workweeks by all Aggrieved Employees within the PAGA Claim Period. That fraction will  
7 then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's  
8 individual share.

9           5.9 Tax Allocation: The Parties recognize that the Individual Settlement Amounts to be paid to  
10 Participating Class Members and/or Aggrieved Employees reflect a settlement of a dispute over claimed  
11 penalties and wages. The Settlement Administrator shall calculate the employer's share of payroll taxes  
12 on the amounts paid to Participating Class Members as wages as well as calculating all required  
13 withholdings and deductions from said wage payments. The characterization of Individual Settlement  
14 Amounts to Participating Class Members and Aggrieved Employees are as follows:

15           5.9.1 For Individual Settlement Amounts paid to Participating Class Members within the  
16 Wage Subclass: (a) Twenty Percent (20%) of each Participating Class Members' Individual Settlement  
17 Amount shall be allocated for payment of disputed wages and shall be subject to required employer taxes  
18 (the "Wage Portion"). Participating Class Members shall receive an IRS Form W-2 for reporting of this  
19 portion of their Individual Settlement Amount. (b) Eighty Percent (80%) of each Participating Class  
20 Members' Individual Settlement Amount shall be allocated for disputed statutory penalties and interest,  
21 and no amount shall be deducted for any taxes (the "Non-Wage Portion"). This portion of the Individual  
22 Settlement Amount consists of other income, not wages, for which the Participating Class Members shall  
23 receive an IRS Form 1099-MISC.

24           5.9.2 For Individual Settlement Amounts paid to Participating Class Members within the  
25 Reimbursement Subclass: The entirety (100%) of payments made under this subclass consists of other  
26 income, not wages, for which the Participating Class Member shall receive an IRS Form 1099-MISC.

27           5.9.3 The entirety (100%) of each Aggrieved Employee's share of the 25% portion of the  
28 PAGA Payment shall be allocated for payment of disputed civil penalties, and no amount shall be deducted



1 for any taxes. This portion of the Individual Settlement Amount consists of other income, not wages, for  
2 which the Aggrieved Employees shall receive an IRS Form 1099-MISC.

3 5.9.4 The Enhancement Payments to the Class Representatives shall also be classified as  
4 other income, not wages, for which they will receive an IRS Form 1099-MISC, in accordance with the  
5 terms set forth in Section 5.4, above.

6 5.10 Participating Class Members and Aggrieved Employees shall be solely responsible for the  
7 reporting and payment of their share of any federal, state and/or municipal income or other taxes on  
8 payments made pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendants'  
9 Counsel free and harmless from any claims resulting from treatment of such payments as non-taxable,  
10 including the treatment of such payments as not subject to withholding or deduction for payroll and  
11 employment taxes. No party has made any representation to any of the other Parties as to the taxability of  
12 any payments pursuant to this Agreement, including the payments to Participating Class Members, the  
13 payments to Aggrieved Employees, the payments to Class Counsel, the payments to the Class  
14 Representatives, the payroll tax liability of Defendants, or the allocation of the Net Settlement Amount or  
15 PAGA Payment to wage and non-wage income as provided in this Section, or otherwise as to tax  
16 implications of any provision of this Agreement.

17 5.11 No Additional Contribution by Defendants: Defendants' monetary obligation under this  
18 Agreement is limited to the Gross Settlement Amount and any employer side payroll taxes owed on  
19 amounts characterized as wages under this Agreement. All other costs and expenses arising out of or in  
20 connection with the performance of this Agreement shall be paid from the Gross Settlement Amount, unless  
21 expressly provided otherwise herein. However, in the event this agreement is deemed null and void as  
22 described in Section 3 because the Court, in its independent determination, finds that the Agreement does  
23 not meet the standards for settlement approval, then Defendants and Plaintiffs shall be equally responsible  
24 for the costs of the Settlement Administrator incurred between the date the Agreement was executed and  
25 the date of such event.

26 5.12 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement  
27 only, certification of the class as defined in Section 1.5 and 4.1 is appropriate and the requisites for  
28 establishing class certification have been met and are met.

1           5.13   Adequacy of Class Counsel and Class Representatives: The Parties agree that, for purposes  
2 of settlement only, Class Counsel and Plaintiffs are adequate representatives for Class Members and  
3 Aggrieved Employees.

4       **6.       RELEASE**

5           6.1   Release of Claims by Participating Class Members: Upon the Effective Date, all  
6 Participating Class Members will be deemed to fully, finally and forever release the Released Class Claims  
7 as to all Released Parties. In addition, on the Effective Date, all Participating Class Members and their  
8 successors in interest will be permanently enjoined and forever barred from prosecuting any of Released  
9 Class Claims against any of the Released Parties.

10          6.2   Release of Claims by Aggrieved Employees: Upon the Effective Date, all Aggrieved  
11 Employees will be deemed to fully, finally and forever release the Released PAGA Claims as to all  
12 Released Parties. In addition, on the Effective Date, all Aggrieved Employees and their successors in  
13 interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA  
14 Claims against any of the Released Parties.

15          6.3   Release by Plaintiffs: Upon the Effective Date, Plaintiffs will be deemed to fully, finally  
16 and forever release the Released Class Claims, Released PAGA Claims, and Class Representatives'  
17 Released Claims as to all Released Parties. In addition, on the Effective Date, Plaintiffs and any successors  
18 in interest will be permanently enjoined and forever barred from prosecuting any of the Released Class  
19 Claims, Released PAGA Claims, and Class Representatives' Released Claims against any of the Released  
20 Parties. This release does not extend to Plaintiff Peter Hall's claim for constructive discharge that he is  
21 separately settling.

22               6.3.1   Plaintiffs' Waiver of Rights Under Civil Code Section 1542. For purposes of the  
23 release of claims by Plaintiffs, excluding Plaintiff Peter Hall's constructive discharge claim he is  
24 separately settling, Plaintiffs expressly waives and relinquishes the provisions, rights, and benefits, if any,  
25 of section 1542 of the California Civil Code, which reads:

26                       A general release does not extend to claims that the creditor or releasing  
27                       party does not know or suspect to exist in his or her favor at the time of  
28                       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



1                   6.3.2 Plaintiff Peter Hall's Constructive Discharge Claim: Plaintiff Peter Hall has  
2 asserted an additional, individual claim against Defendants for constructive discharge. Plaintiff Peter  
3 Hall is separately settling this individual claim. Any payment to Plaintiff Peter Hall by Defendants for  
4 the settlement of his constructive discharge claims is separate from, and in addition to, the Gross  
5 Settlement Amount and will be memorialized in a confidential individual settlement agreement that will  
6 be separate from this Agreement. If the Court requires the Parties to submit the terms of the individual  
7 settlement agreement to obtain approval of the Agreement, the Parties agree that the individual settlement  
8 agreement will be submitted in camera under seal to the Court or as otherwise required by the Court.

9                   **7. SETTLEMENT ADMINISTRATION**

10               7.1 Duties of Settlement Administrator: The Settlement Administrator shall be responsible for:  
11 1) receiving Class Member and Aggrieved Employee contact information and confirming addresses are  
12 valid; 2) calculating estimated Individual Settlement Amounts and any and all taxes associated with the  
13 Individual Settlement Amounts, including employer taxes; 3) taking appropriate steps to trace and locate  
14 any individual Class Members and Aggrieved Employee whose address or contact information as provided  
15 to the Settlement Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class  
16 Members; 4) providing notification to the appropriate state and federal officials of this Agreement as  
17 required under the law; 5) receiving, independently reviewing, and resolving any challenges (in  
18 consultation with Class Counsel and Defendants' Counsel) from Class Members or Aggrieved Employees,  
19 including any associated documentation, regarding their Qualified Workweek calculations; 6) receiving  
20 and serving on Class Counsel, Defendants' Counsel, and the Court, copies of any written objections, and/or  
21 any opt out statements; 7) establishing a toll free telephone line and responding to inquiries and requests  
22 for information or assistance from Class Members and/or Aggrieved Employees; 8) maintaining a QSF; 9)  
23 determining and paying the final amounts due to be paid under the Agreement after resolution of all  
24 challenges, disputes, opt-outs, awarded attorneys' fees and costs, Settlement Administrator Costs, PAGA  
25 Payment, taxes, any Enhancement Payments, and for funds that cannot be distributed due to the inability  
26 to locate Class Members or Aggrieved Employees; 10) determining the validity of any disputes or late opt-  
27 outs by previously unidentified Class Members or Aggrieved Employees; 11) paying any residual funds  
28 from uncashed checks; 12) reporting to Class Counsel and Defendants' Counsel regarding the statistics of

1 the administration, including (a) the number of initial Notice of Settlements mailed; (b) the number of  
2 forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d) the number of  
3 total undeliverable Notice of Settlements; (e) the number of address traces performed for undeliverable  
4 Notice of Settlements; (f) the number of Notice of Settlements undeliverable from traced addresses; (g) the  
5 number of total objections received; (h) the number of opt-out requests received; (i) the number of disputes  
6 received; (j) the number of disputes resolved; 13) providing a declaration to the Court regarding the final  
7 statistics of the administration and compliance with all payment obligations under the Agreement; 14)  
8 completing all necessary tax reporting on the QSF and payment of the Individual Settlement Amounts to  
9 Participating Class Members and Aggrieved Employees; and 15) carrying out other related tasks as  
10 necessary to effectuate the terms of this Agreement and any Order of the Court. All disputes relating to  
11 the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if  
12 necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until  
13 all payments and obligations contemplated by the Agreement have been fully executed.

14       7.2    Notice to Class Members and Aggrieved Employees: The Notice of Settlement will provide  
15 Class Members and Aggrieved Employees with a summary of the terms and conditions of the Agreement,  
16 how to participate in the settlement, how to object to the Agreement, how to dispute the individual's  
17 Qualifying Workweeks and subclass placement, and how to opt-out from the Agreement. The Notice of  
18 Settlement will also inform Class Members and Aggrieved Employees of the Gross Settlement Amount,  
19 Net Settlement Amount, proposed attorneys' fees and costs allocations, any proposed Enhancement  
20 Payments, proposed Settlement Administrator Cost allocations, proposed PAGA Payment allocations, the  
21 scope of the class, the nature and extent of the released claims, dates set for a fairness hearing and hearing  
22 on Class Counsels' motion for attorneys' fees and costs. The Notice of Settlement shall include information  
23 regarding Class Member's and Aggrieved Employee's estimated Individual Settlement Amount. The  
24 Notice of Settlement will provide information on how to access electronic copies online of the Notice of  
25 Settlement, any motions for approval of the Agreement, any motions for approval of attorneys' fees and  
26 costs, and any other documents as the Court directs. Finally, the Notice of Settlement will be sent in  
27 English and Spanish to Class Members.

1           7.3    Class Member Data and Mailing: No later than fourteen (14) calendar days after the  
2 Preliminary Approval Date, Defendants shall provide the Settlement Administrator with the name, last  
3 known mailing address, last known telephone number, Social Security Number, start and end date of  
4 employment (if any) of each Class Member and Aggrieved Employee, and any other information the  
5 Settlement Administrator needs to effectuate notice to Class Members and Aggrieved Employees as  
6 outlined herein. The Settlement Administrator shall review the data to determine the number of Qualifying  
7 Workweeks for each Class Member and Aggrieved Employee. No later than twenty-one (21) calendar  
8 days after receipt of such address information, the Settlement Administrator will perform a national change  
9 of address ("NCOA") search, update the addresses per the results of the NCOA search, and then mail the  
10 Notice of Settlement, substantially in the form attached as Exhibit 1, to each Class Member and Aggrieved  
11 Employee by first-class mail, postage prepaid. The Settlement Administrator shall maintain all information  
12 received from Defendants confidential to itself, and Defendants' Counsel. However, Class Counsel shall  
13 be able to review the breakdown of Qualified Workweeks, in total and within each subclass, and estimated  
14 Individual Settlement Amounts for Class Members and Aggrieved Employees prior to mailing for quality  
15 assurance provided the personal identifying information is redacted and/or omitted.

16           7.4    Returned and/or Re-mailed Notice of Settlements: In the event that a Notice of Settlement  
17 is returned to the Settlement Administrator as undeliverable on or before the conclusion of the Notice  
18 Period, the Notice of Settlement shall be sent to the forwarding address affixed thereto within five (5)  
19 calendar days. If no forwarding address is provided, then the Settlement Administrator shall promptly  
20 attempt to determine a correct address using a skip-trace, computer or other search using the name, address  
21 and/or Social Security number of the individual involved, and shall then perform a single re-mailing within  
22 five (5) calendar days to any more recent address found as a result of the search. Following each search  
23 that does not result in a corrected address, for those Class Members who appear to be current employees  
24 of Defendants at the time of the Preliminary Approval Date, the Settlement Administrator shall contact  
25 Defendants' Counsel for assistance and Defendants shall cooperate in good faith with the Settlement  
26 Administrator's reasonable efforts to obtain valid mailing addresses for Class Members to the extent they  
27 are active employees of Defendants. In the event the Notice of Settlement is forwarded to a new address  
28 and/or re-mailed to a Class Member, the deadline for the Class Member to submit any request to opt-out,

1 a dispute, or an objection shall be the end of the Notice Period or 10 days from the date of the re-  
2 mailing/forwarding to a new address, whichever is later. In the event the procedures in this Section are  
3 followed and the Class Member does not timely and properly request to opt-out, the Class Member shall  
4 be bound by all terms of the Agreement, including the releases contained in Section 6.

5       7.5     Responses to Notice of Settlement:

6             7.5.1 *Opt-Outs:* The Notice of Settlement shall provide that Class Members who wish to  
7 exclude themselves from the Agreement must submit a request to opt-out as provided in this Section. The  
8 request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that he or  
9 she does not want to be a Class Member, does not want to participate in the settlement, and/or wants to be  
10 excluded from the settlement; (c) identify the case name and number (*i.e. Edwards, et al. v. Suburban*  
11 *Propane, L.P.*, Case No. 34-2022-00314949); (d) be signed; and (e) be post-marked no later than the  
12 conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Class Member must  
13 personally sign the request to opt-out. No request to opt-out may be made on behalf of a group of Class  
14 Members. The date of the postmark on the return-mailing envelope shall be the exclusive means used to  
15 determine whether a request to opt-out has been timely submitted. Any Class Member who requests to  
16 opt-out of the Agreement will not be entitled to any portion of the Net Settlement Amount nor will they  
17 have any right to object, appeal or comment thereon. The name of any Class Member who submits a valid  
18 and timely opt out request will be specifically identified in any proposed order granting final approval.  
19 Class Members who fail to submit a valid and timely request to opt-out shall be bound by all terms of the  
20 Agreement and any order or final judgment thereon. Regardless of whether an Aggrieved Employee opts  
21 out of being a Class Member, they will still receive their share of the PAGA Payment as Aggrieved  
22 Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims.

23             7.5.2 *Objection Procedures:* Any Class Member who does not opt-out but who wishes to  
24 object to this Agreement or otherwise to be heard concerning this Agreement shall send their written  
25 objections to the Settlement Administrator. The Notice of Settlement shall make clear that the Court can  
26 only approve or deny the Agreement, not change the terms of the Agreement. The written objection must  
27 (a) state the Class Member's full name and date of birth; (b) provide evidence that the individual is, in fact,  
28 a Class Member; (c) state the reasons for the objection(s), including any supporting documentation; (d)

1 identify the case name and number (*i.e. Edwards, et al. v. Suburban Propane, L.P.*, Case No. 34-2022-  
2 00314949); (e) be signed; and (f) be post-marked no later than the conclusion of the Notice Period or the  
3 re-mailing timeline stated in Section 7.4. The Notice of Settlement will inform the Class Member that they  
4 should also file a notice of intent to appear with the Court and serve the notice on Class Counsel and  
5 Defendants' Counsel, if they intend to appear at the final approval hearing. In addition to a written  
6 objection, Class Members may appear at the final approval hearing to make an oral objection.

7           7.5.3 *Dispute Procedures:* Any Class Member who disputes the number of Qualifying  
8 Workweeks on the Notice of Settlement or their assigned subclass shall contact the Settlement  
9 Administrator. The dispute must (a) identify the nature of the dispute; (b) provide any information or  
10 documentation supporting the dispute; (c) identify the case name and number (*i.e. Edwards, et al. v.*  
11 *Suburban Propane, L.P.*, Case No. 34-2022-00314949); (d) be signed; and (e) be post-marked no later than  
12 the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Settlement  
13 Administrator shall promptly (in no event more than two business days) forward all such disputes to  
14 Defendants' Counsel and request that Defendants review the dispute. Defendants' records shall  
15 presumptively control unless the Class Member can produce documentation evidencing other periods of  
16 employment worked. If Defendants agree with submitted information, the Class Member shall be credited  
17 or subtracted Qualifying Workweeks, and/or assigned to a different subclass, in accordance with their  
18 submitted dispute and that final number of Qualified Workweeks or assigned subclass shall govern the  
19 calculation of that Class Member's Individual Settlement Amount. If Defendants disagree with the  
20 submitted information, Defendants' Counsel will promptly advise Class Counsel of the dispute, which  
21 includes turning over any documentation submitted by the Class Member as part of the dispute.  
22 Defendants' Counsel and Class Counsel shall attempt in good faith to resolve any such dispute within five  
23 (5) calendar days of Class Counsel being advised of the dispute. Each dispute that Defendants' Counsel  
24 and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator, subject to Court  
25 review.

26           7.5.4 *Deficient Opt-Outs, Objections, or Disputes:* In the event that a deficient opt-out,  
27 objection, or dispute is received on or before the conclusion of the Notice Period, the Settlement  
28 Administrator shall mail a letter to the Class Member within five (5) calendar days informing them of the



1 deficiency. If a deficiency letter is mailed to a Class Member, the deadline for the Class Member to cure  
2 the deficiency shall be the end of the Notice Period or 10 calendar days from the date of the deficiency  
3 letter, whichever is later.

4       7.6     Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1  
5 to 7.5.4 shall constitute due and sufficient notice to Class Members of the Action and the Agreement and  
6 shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class  
7 Counsel or Defendants' Counsel to provide notice of the proposed Agreement.

8       7.7     Settlement Administrator Declaration Regarding Notice Period: Within fourteen (14)  
9 calendar days after the conclusion of the Notice Period, the Settlement Administrator shall provide Class  
10 Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete  
11 and detailed report regarding the statistics and responses of settlement administration to date and all the  
12 Settlement Administrators' obligations under Sections 5.8 to 5.9.3 and 7.1 to 7.5.4.

13       7.8     Settlement Administrator Payments to Participating Class Members, Class Counsel and  
14 Plaintiffs: Within seven (7) calendar days after the Effective Date and the Court's determination of the  
15 amount of attorneys' fees and costs payable to Class Counsel, the Enhancement Payment payable to  
16 Plaintiffs, the PAGA Payment, and Settlement Administrator Costs, the Settlement Administrator shall  
17 calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class  
18 Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these  
19 calculations Class Counsel and Defendants' Counsel. Defendants shall wire the Gross Settlement Amount  
20 and applicable taxes necessary to fund the Settlement as described in Section 5.1 to the Settlement  
21 Administrator within twenty-one (21) calendar days after the Effective Date to be held in trust in a  
22 QSF. Within seven (7) calendar days after Defendants fund the settlement, the Settlement Administrator  
23 shall deliver payment of Class Counsels' attorney's fees and costs, the Enhancement Payment payable to  
24 Plaintiffs, the 75% portion of the PAGA Payment payable to the LWDA, Settlement Administrator Costs,  
25 and payment to Participating Class Members and/or Aggrieved Employees as required under this  
26 Agreement and approved by Court.

27               7.8.1 The Settlement Administrator shall wire the Court-approved attorneys' fees and  
28 costs to Class Counsel unless another method is requested by Class Counsel. Class Counsel shall provide

1 the Settlement Administrator with the pertinent taxpayer identification number and payment instructions  
2 after the Final Approval Date.

3 7.8.2 The Settlement Administrator shall send a check by mail for the Court-approved  
4 Enhancement Payment to the Class Representatives, care of Class Counsel, unless another method is  
5 requested by Class Counsel.

6 7.8.3 Only Participating Class Members and Aggrieved Employees will receive their  
7 Individual Settlement Amount.

8 7.8.4 The Settlement Administrator shall remit and report the applicable portions of the  
9 payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this  
10 Agreement. Defendants agree to reasonably cooperate with the Settlement Administrator to the extent  
11 necessary to determine the amount of the payroll tax payment required.

12 7.9 Settlement Check Expiration and Uncashed Checks: The Settlement Administrator shall  
13 issue Individual Settlement Amounts to Participating Class Members and Aggrieved Employees in the  
14 form of a check, which shall become null and void if not deposited within one hundred eighty (180)  
15 calendar days of issuance. After one hundred eighty (180) calendar days of issuance, the checks shall be  
16 voided and funds from all uncashed checks shall be transmitted in accordance with Section 5.6. The  
17 Settlement Administrator shall deliver these funds within fourteen (14) calendar days after the check  
18 cashing deadline.

19 7.10 Settlement Administrator Declaration Regarding Compliance and Settlement  
20 Administration: Within twenty-one (21) calendar days after the last day for Participating Class Members  
21 and Aggrieved Employees to cash their settlement checks, the Settlement Administrator shall provide Class  
22 Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete  
23 and detailed report regarding the settlement administration documenting that all payments under the  
24 Agreement have been made, that the Court's final approval order has been complied with, and that all the  
25 obligations of the Settlement Administrator have been completed.

26 **8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE**

27 8.1 The schedule may be modified depending on whether and when the Court grants necessary  
28 approvals, orders notice to Class Members and Aggrieved Employees, and sets further hearings. The



schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures carrying out the Agreement is as follows:

Last day for Defendants to provide Settlement Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Settlement Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 21 calendar days after the Settlement Administrators' receipt of Class Members' information from Defendants
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement
Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees

Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

## 9. DUTIES OF THE PARTIES

9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final approval. Within one week of signing this Agreement Class Counsel shall provide a draft of the Preliminary Approval Motion to Defendants' Counsel. Defendants' Counsel will provide comments and/or proposed revisions within one week after receipt of the draft Preliminary Approval Motion from Class Counsel. With regard to the final approval documents, a similar one-week maximum review and response time shall be observed by the Parties. The Parties will request that the Court's preliminary approval of this Agreement be embodied in an Order Granting Preliminary Approval of Class Action and PAGA Settlement.

9.1.1 Plaintiffs' motion shall seek an order: 1) Preliminarily approving the Agreement; 2) Approving as to form and content the proposed Notice of Settlement; 3) Directing the mailing of the Notice of Settlement by first class mail to Class Members and Aggrieved Employees; 4) Preliminarily appointing Plaintiffs and Class Counsel as representatives of Class Members; 5) Preliminarily approving settlement administration services to be provided by the Settlement Administrator; 6) Preliminarily approving the proposed Enhancement Payment to Plaintiffs; 7) Preliminarily approving the application for payment of

1 reasonable attorneys' fees and reimbursement of litigation-related expenses to Class Counsel; and 8)  
2 Scheduling a fairness hearing on the question of whether the proposed Agreement should be finally  
3 approved as fair, reasonable and adequate as to the Class Members.

4 9.1.2 Defendants shall not oppose Plaintiffs' motion for approval of the proposed  
5 Agreement.

6 9.1.3 The Parties shall cooperate with each other and the Settlement Administrator during  
7 the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and  
8 appropriate to assure effective communication to individual Class Members of information about their  
9 rights and obligations under this Agreement.

10 9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the  
11 Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if  
12 any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the  
13 Agreement, a declaration by the Settlement Administrator of due diligence and proof of mailing of the  
14 Notice of Settlement required to be mailed to Class Members by this Agreement, and of the delivery results  
15 of the Settlement Administrator's mailings including tracing and re-mailing efforts. The Settlement  
16 Administrator declaration shall identify, by name, any Class Member who submitted a timely and valid  
17 request to opt out during the Notice Period.

18 9.2.1 Class Counsel and Defendants shall work in good faith to draft a mutually agreeable  
19 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment. The  
20 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment shall  
21 include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair, reasonable  
22 and adequate, and directing that its terms and provisions be carried out; 2) Approving the payment of an  
23 Enhancement Payment to the Class Representatives; 3) Approving Class Counsel's application for an  
24 award of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4) Approving the  
25 Settlement Administrator Costs; and 5) Providing that the Court will retain jurisdiction to oversee  
26 administration and enforcement of the terms of the Agreement and the Court's orders.

27 9.2.2 Following entry of the Court's order granting final approval of the Agreement, the  
28 Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the following:

1) Should an appeal be taken from the final approval of the Agreement or motion to set aside the judgement be filed, all parties will support the final approval order on appeal or otherwise; 2) Class Counsel will assist the Settlement Administrator as needed or requested in the process of identifying and locating Participating Class Members and Aggrieved Employees entitled to payments under the Agreement and assuring delivery of such payments; 3) Class Counsel and Defendants' Counsel will cooperate with each other and assist the Settlement Administrator as needed or requested in completing the distribution of any residual amounts, as specified above, to the *cy pres* beneficiaries; 4) Class Counsel, in conjunction with the Settlement Administrator, will certify to the Court completion of all payments required to be made by this Agreement.

9.3 Final Judgment: If the Court approves this Agreement at the final approval and fairness hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment.

9.4 Notice to LWDA: Plaintiffs will provide notice to the Labor and Workforce Development Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

## 10. MISCELLANEOUS TERMS

10.1 Defendants' Right to Withdraw Based on Opt-Outs: If, prior to the Final Approval Date, 10% or more of the Class Members have submitted proper and timely requests to opt-out in accordance with the provisions of the Agreement, Defendants may rescind the Agreement and all actions taken in its furtherance will be thereby null and void. Defendants must exercise this right of rescission, in writing, to Class Counsel, within seven (7) calendar days after the Settlement Administrator notifies the Parties of the total number of opt-outs. If the option to rescind is exercised, then any Settlement Administrator Costs shall be paid by Defendants.

10.2 Class Work Weeks, Aggrieved Employee Pay Periods, and Escalator Clause. Based on their records, Defendants have represented that there are no more than 38,068 workweeks during the Wage Subclass Period and no more than 21,913 workweeks during the Reimbursement Subclass Period. Should the number of Wage Subclass workweeks increase by more than 10% of what was represented at the mediation (*i.e.*, by more than 3,807 workweeks, or in other words, if the Wage Subclass workweeks between March 25, 2021, and December 12, 2022, exceed 41,875), Defendants will have the option to either a) increase the Gross Settlement Amount proportionally or b) to shorten the release period

1 to the date on which the number of Wage Subclass workweeks reaches 41,875. Should the number of  
2 Reimbursement Subclass workweeks increase by more than 10% of what was represented at the  
3 mediation (*i.e.*, by more than 2,191 workweeks, or in other words, if the Reimbursement Subclass  
4 workweeks between January 7, 2018, and March 24, 2021, exceed 24,104), Defendant will have the  
5 option to either a) increase the Gross Settlement Amount proportionally or b) to shorten the release period  
6 to the date on which the number of Reimbursement Subclass workweeks reaches 24,104.

7       10.3 Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF  
8 THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT  
9 OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND  
10 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN  
11 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR  
12 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH  
13 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON  
14 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT  
15 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS  
16 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX  
17 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS  
18 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE  
19 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY  
20 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR  
21 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX  
22 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO  
23 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT  
24 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX  
25 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON  
26 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX  
27 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY  
28 THIS AGREEMENT.



1           10.4 No Prior Assignments: The Parties represent, covenant, and warrant that they have not  
2 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to  
3 any person or entity any portion of any liability, claim, demand, action, cause of action or right released  
4 and discharged in this Agreement.

5           10.5 Attorney Fee Split Acknowledgement: In signing this Agreement, the Plaintiffs  
6 acknowledge and agree that they are aware a division of awarded attorneys fees will be made, that they are  
7 aware of the identity of the law firms that are parties to the division, that they consent to the division of  
8 fees outlined in the Agreement, and that they have been advised that the total fee charged will not be  
9 increased solely by reason of the agreement to divide fees.

10          10.6 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by  
11 signing this Agreement Defendants are waiving any rights to appeal from the Court's approval of the  
12 settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement  
13 Plaintiffs are waiving any right or ability to opt out of this Agreement during the Notice Period or otherwise.

14          10.7 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set  
15 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this  
16 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

17          10.8 Judgment and Retention of Jurisdiction to Enforce: Upon the Effective Date, judgment will  
18 be entered according to this Agreement. The Parties stipulate and agree that the Sacramento County  
19 Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil  
20 Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of the  
21 Agreement after default by the other party may recover reasonable attorney's fees and costs related thereto.

22          10.9 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish  
23 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to, execution  
24 of such other documents and the taking of such other action as may reasonably be necessary to fulfill the  
25 terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts  
26 contemplated by this Agreement and any other efforts that may become necessary by Court order, or  
27 otherwise, to effectuate this Agreement and the terms set forth herein.  
28



1           10.10 No Admission of Liability: Neither the acceptance nor the performance by Defendants of  
2 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to  
3 be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the  
4 Complaint, the representative character of the Action, the validity of any of the claims that were or could  
5 have been asserted by Plaintiffs and/or Class Members in the Action, or of any liability or guilt of  
6 Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by  
7 Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiffs, the Class Members,  
8 or any other person, and Defendants specifically disclaim any liability, culpability, negligence, or  
9 wrongdoing toward Plaintiffs, the Class Members, or any other person. Each of the Parties has entered  
10 into this Stipulation with the intention to avoid further disputes and litigation.

11           10.11 Notices: Unless otherwise specifically provided herein, all notices, demands, or other  
12 communications given hereunder shall be in writing and shall be deemed to have been duly given as of the  
13 third business day after mailing by United States certified mail, return receipt requested, addressed as  
14 follows:

15                   To Plaintiffs and the Class:

16                   Galen T. Shimoda  
17                   Justin P. Rodriguez  
18                   Renald Konini  
19                   Shimoda & Rodriguez Law, PC  
                    9401 East Stockton Boulevard, Suite 120  
                    Elk Grove, CA 95624

20                   Mark D. Potter  
21                   James M. Treglio  
22                   POTTER HANDY LLP  
23                   100 Pine St., Ste 1250  
                    San Francisco, CA 94111

24                   Norman B. Blumenthal  
25                   Kyle R. Nordrehaug  
26                   Aparajit Bhowmik  
27                   Nicholas J. De Blouw  
28                   Blumenthal Nordrehaug Bhowmik De Blouw LLP  
                    2255 Calle Clara  
                    La Jolla, CA 92037

To Defendants:

Efthalia S. Rofos  
Megan A. Childress  
Barber Ranen LLP  
4695 MacArthur Court, Suite 900  
Newport Beach, CA 92660

10.12 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Agreement.

10.13 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys acting for, or purporting to act for, the Class, Class Members, or Plaintiffs, may recover or seek to recover any amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except as expressly provided in this Agreement.

10.14 No Modifications: This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be discharged except by performance in accordance with its terms.

10.15 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and 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 required to effectuate the terms of this Agreement.

10.16 Class Member Signatories: Because the Action has not yet been certified, and the Class Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement may be executed on behalf of all Class Members by the Class Representatives.

10.17 Counterparts: This Agreement shall become effective upon its execution by all of the undersigned. Plaintiffs, Class Counsel, Defendants and Defendants' Counsel may execute this Agreement in counterparts, and execution of counterparts shall have the same force and effect as if each had signed

1 the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force  
2 and effect of originals.

3 10.18 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been  
4 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and the  
5 rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance with,  
6 and governed by, the substantive laws of the State of California without giving effect to that State's choice  
7 of law principles.

8 10.19 Headings and Captions: Section titles or captions contained in the Agreement are inserted  
9 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of  
10 this Agreement, or any provision thereof.

11 10.20 No Retaliation or Discouragement: The Parties agree they will take no action that could be  
12 construed as retaliation against any Class Members for participating or seeking to participate in this class  
13 action settlement. The Parties will not discourage any class member from participating or seeking to  
14 participate in this class action settlement. This is a material term of the Agreement and non-breaching  
15 Parties will seek court intervention if this provision is breached.

16 10.21 Integrated Agreement: This Agreement sets forth the entire understanding between the  
17 Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof.  
18 Each party acknowledges that there is no representation, inducement, promise or agreement which has been  
19 made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which  
20 is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the  
21 terms of this Agreement are fully understood and voluntarily accepted by the Parties.

22 10.22 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to the  
23 benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

24 10.23 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the  
25 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with  
26 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

1 10.24 Waiver of Compliance: No waiver of any condition or covenant contained in this  
2 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply  
3 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

4 10.25 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation  
5 shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the  
6 signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial  
7 under CCP section 583.310 by no less than one (1) year starting from the date of signing the MOU by all  
8 Parties until the Effective Date or the date this Agreement shall no longer be of any force or effect

9 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized  
10 attorneys, as of the day and year herein set forth.

11 **For Plaintiffs:**

12 Date: \_\_\_\_\_

13 \_\_\_\_\_  
14 Carleton Edwards

15 Date: \_\_\_\_\_

16 \_\_\_\_\_  
17 Michael Adams

18 Date: \_\_\_\_\_

19 \_\_\_\_\_  
20 Peter Hall

21 **For Defendants:**

22 Date: 5/31/23

23 Shirley Hecht Leonard  
24 By:  
25 For Suburban Propane, L.P.

26 Date: 5/31/23

27 Shirley Hecht Leonard  
28 By:  
Suburban Sales & Service, Inc.

10.24 Waiver of Compliance: No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

10.25 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 by no less than one (1) year starting from the date of signing the MOU by all Parties until the Effective Date or the date this Agreement shall no longer be of any force or effect

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

**For Plaintiffs:**

Date: \_\_\_\_\_

Carleton Edwards

Date: 05/10/2023

Michael Adams  
D1A4BA1D6FC8CC62F38FD1BDF8E853CD readySign

## Michael Adams

Date: May 5, 2023

Peter Hall  
Peter Hall (May 5, 2023 07:33 PDT)

## Peter Hall

### For Defendants:

Date: \_\_\_\_\_

By:  
For Suburban Propane, L.P.

Date: \_\_\_\_\_

By:  
Suburban Sales & Service, Inc.



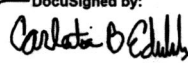
10.24 Waiver of Compliance: No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

10.25 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 by no less than one (1) year starting from the date of signing the MOU by all Parties until the Effective Date or the date this Agreement shall no longer be of any force or effect

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

**For Plaintiffs:**

Date: 5/4/2023

DocuSigned by:  
  
B45B8FD8B3FE400...

Carleton Edwards

Date: \_\_\_\_\_

Michael Adams

Date: \_\_\_\_\_

Peter Hall

**For Defendants:**

Date: \_\_\_\_\_

By:  
For Suburban Propane, L.P.

Date: \_\_\_\_\_

By:  
Suburban Sales & Service, Inc.

1 APPROVED AS TO FORM

**Shimoda & Rodriguez Law, PC**

2  
3 Dated: May 4, 2023

By: 

Galen T. Shimoda  
Justin P. Rodriguez  
Renald Konini  
Attorneys for Plaintiff Carleton Edwards

6 APPROVED AS TO FORM

**LEWIS BRISBOIS BISGAARD & SMITH  
LLP**

8  
9 Dated: \_\_\_\_\_

By: \_\_\_\_\_

Efthalia S. Rofos  
Megan A. Childress  
Attorney for Defendants

12 APPROVED AS TO FORM

**POTTER HANDY LLP**

14  
15 Dated: \_\_\_\_\_

By: \_\_\_\_\_

Mark D. Potter  
James M. Treglio  
Attorneys for Plaintiff Michael Adams

17 APPROVED AS TO FORM

**BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP**

19  
20 Dated: \_\_\_\_\_

By: \_\_\_\_\_

Norman B. Blumenthal  
Kyle R. Nordrehaug  
Aparajit Bhowmik  
Nicholas J. De Blouw  
Attorney for Plaintiff Peter Hall

1 APPROVED AS TO FORM

**Shimoda & Rodriguez Law, PC**

2  
3  
4 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Galen T. Shimoda  
Justin P. Rodriguez  
Renald Konini  
Attorneys for Plaintiff Carleton Edwards

6 APPROVED AS TO FORM

LEWIS BRISBOIS BISGAARD & SMITH  
LLP

8  
9 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Efthalia S. Rofos  
Megan A. Childress  
Attorney for Defendants

12 APPROVED AS TO FORM

POTTER HANDY LLP

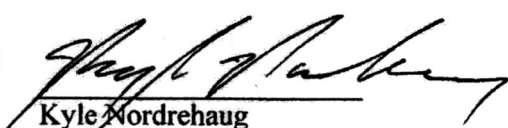
13  
14 Dated: 05/10/2023

By: James M. Treglio  
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Mark D. Potter  
James M. Treglio  
Attorneys for Plaintiff Michael Adams

16  
17 APPROVED AS TO FORM

BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP

18  
19 Dated: 5/10/23

By:   
Kyle Nordrehaug  
Aparajit Bhowmik  
Nicholas J. De Blouw  
Attorney for Plaintiff Peter Hall

1 APPROVED AS TO FORM

**Shimoda & Rodriguez Law, PC**

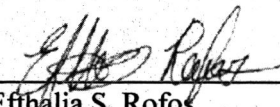
2  
3 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Galen T. Shimoda  
Justin P. Rodriguez  
Renald Konini  
Attorneys for Plaintiff Carleton Edwards

6 APPROVED AS TO FORM

**BARBER RANEN LLP**

8  
9 Dated: 6/1/2023

By:  \_\_\_\_\_  
Efthalia S. Rofos  
Megan A. Childress  
Attorney for Defendants

12 APPROVED AS TO FORM

**POTTER HANDY LLP**

14  
15 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Mark D. Potter  
James M. Treglio  
Attorneys for Plaintiff Michael Adams

17 APPROVED AS TO FORM

**BLUMENTHAL NORDREHAUG  
BHOWMIK DE BLOUW LLP**

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

By: \_\_\_\_\_  
Norman B. Blumenthal  
Kyle R. Nordrehaug  
Aparajit Bhowmik  
Nicholas J. De Blouw  
Attorney for Plaintiff Peter Hall

# Exhibit 1



CALIFORNIA SUPERIOR COURT  
FOR THE COUNTY OF SACRAMENTO

CARLETON EDWARDS, MICHAEL ADAMS,  
and PETER HALL, as individuals and on behalf  
of all other similarly situated employees,

Plaintiff,

vs.

SUBURBAN PROPANE, L.P., a Delaware  
Limited Partnership; and DOES 1 to 100,  
inclusive,

Defendants.

Case No. 34-2022-00314949

**NOTICE OF PROPOSED CLASS ACTION  
AND PAGA SETTLEMENT, AND HEARING  
DATE FOR FINAL COURT APPROVAL OF  
SETTLEMENT**

**ATTENTION:** All non-exempt employees who worked for Suburban Propane, L.P. and/or Suburban Sales & Service, Inc. in California during the time period of January 7, 2018, through February 12, 2023.

**PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.**

You are receiving this notice pursuant to an order from the Sacramento County Superior Court ("Court") granting Plaintiffs' motion for preliminary approval of a Joint Stipulation of Regarding Class Action PAGA Settlement and Release ("Agreement" or "Settlement") as fair, reasonable, and adequate. The Settlement was entered into between Plaintiffs Carleton Edwards, Michael Adams, and Peter Hall ("Plaintiffs" or "Class Representatives"), and Defendants Suburban Propane, L.P. and Suburban Sales & Service, Inc. ("Defendants") on behalf of Class Members. The terms of the Settlement are outlined herein. You are receiving this notice because Defendants' records indicate you fall within the definition of "Class Member" as defined below.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court's order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

**I. BACKGROUND OF THE CASE**

On February 2, 2022, Plaintiff Carleton Edwards filed a Complaint against Suburban Propane, L.P., in the Sacramento County Superior Court of California on behalf of himself and all Class Members. Plaintiff Michael Adams and Plaintiff Peter Hall had also filed separate class action lawsuits in California Superior Courts. The parties, claims, and allegations of all three lawsuits were consolidated into the lawsuit filed by Plaintiff Carleton Edwards in Sacramento County Superior Court on March 10, 2023, through the filing of a Second Amended Complaint. The term "*Edwards Action*" means this putative class action pending in Sacramento County Superior Court, Case No. 34-2022-00314949.

In the *Edwards Action*, Plaintiffs sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of themselves, Class Members, and Aggrieved Employees. Plaintiffs alleged that Defendants violated California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods or pay meal period premiums in lieu thereof, 4) failing to provide rest periods or pay rest period premiums in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to pay wages when due, including final wages, 7) failing to reimburse expenses, 8) failing to maintain accurate records, and 9) failing to provide paid sick leave. Plaintiffs have also asserted derivative claims under the Private Attorneys General Act ("PAGA") for civil penalties and derivative claims for unfair competition under California Business & Professions Code section 17200 *et seq.*

Defendants have denied all of Plaintiffs' allegations. The Action has been actively litigated and the claims are heavily disputed. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Based

upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this litigation, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to the following groups of individuals, which are collectively referred to as "Class Members:"

- Employees who are class members in the Fernandez Action (Fresno County Superior Court, Case No. 16CECG00418) and who worked for Defendants in California between March 25, 2021, and February 12, 2023, and all other non-exempt employees (*i.e.* employees who were not part of the release of claims in the Fernandez Action) who worked for Defendants in California during the time period of January 7, 2018, through February 12, 2023 ("Wage Subclass"); and
- All employees who are class members to the Fernandez Action and worked for Defendants in California between January 7, 2018, and March 24, 2021 ("Reimbursement Subclass").

To the extent a Class Member worked any amount of time within the Wage Subclass, they will be assigned to the Wage Subclass. The Agreement also applies to Aggrieved Employees, which are defined as all non-exempt employees who worked for Defendants from November 1, 2020, through February 12, 2023 in California. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

## **II. SUMMARY OF THE PROPOSED SETTLEMENT**

### **A. The Amount of the Settlement**

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Nine Hundred Forty-Five Thousand Dollars and Zero Cents (\$945,000.00) ("Gross Settlement Amount"). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, attorneys' costs not to exceed \$25,000.00, Settlement Administrator Costs estimated not to exceed \$17,500.00, Class Representatives' Enhancement Payments of \$10,000 to each of the named Plaintiffs, and \$20,000 for alleged PAGA penalties (the "PAGA Payment"), which will result in a "Net Settlement Amount" for distribution to Class Members as set forth in Section II.B below. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member's share of the Net Settlement Amount will depend on the number of weeks worked by Participating Class Members within each subclass. Of the \$20,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees.

The number of weeks you worked within each subclass during the relevant time periods and your estimated total share of the Net Settlement Amount and PAGA Payment ("Individual Settlement Amount") is stated in Section II.B. of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Participating Class Members (*i.e.*, those who do not opt out of the Settlement), the resolution of any disputes regarding workweeks and assigned subclasses, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees' allocations for the PAGA claims.

### **B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees**

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Defendants will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that, Individual Settlement Amounts paid to Participating Class Members will be characterized and taxed as follows: (1) Wage Subclass: (a) twenty percent (20%) shall be allocated for payment of disputed wages and shall be subject to required taxes and withholding for which an IRS Form W-2 will be issued, (b) eighty percent (80%) shall be allocated

for disputed statutory penalties and interest, and no amount shall be deducted for any taxes for which an IRS Form 1099-MISC will be issued; and (2) Reimbursement Subclass: the entirety (100%) of payments made under this subclass consists of other income, not wages, for which an IRS Form 1099-MISC will be issued. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties for which an IRS Form 1099-Misc will be issued.

Ninety-five percent (95%) of the Net Settlement Amount will be allocated to the Wage Subclass. Five percent (5%) of the Net Settlement Amount will be allocated to the Reimbursement Subclass. Each Participating Class Member's share will be determined by dividing their total weeks worked within their subclass period by the total weeks worked by all Participating Class Members within that same subclass period. That fraction will then be multiplied by the Net Settlement Amount allocated to the subclass to arrive at the Class Member's individual share of the Net Settlement Amount. To the extent a Class Member worked any amount of time within the Wage Subclass, they will be assigned to the Wage Subclass. Defendants' records indicate that you are part of the Wage/Reimbursement Subclass and worked \_\_\_\_\_ weeks during the applicable Wage/Reimbursement Subclass Period. Based on this information, your share of the Net Settlement Amount is estimated to be \_\_\_\_\_.

Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. The PAGA Claim Period is defined as November 1, 2020, through February 12, 2023. Defendants' records indicate that you worked \_\_\_\_\_ weeks during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be \_\_\_\_\_. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

**C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes**

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants' records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member or their assigned subclass. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks or different subclass assignment must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) identify the case name and number (i.e. *Edwards, et al. v. Suburban Propane, L.P., et al.*, Case No. 34-2022-00314949) (d) be signed; and (e) be post-marked no later than \_\_\_\_\_. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

**D. Release of Claims**

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class Members who do not opt out will be deemed to have released . . . [1.33]

Aggrieved Employees will be deemed to have released . . . [1.34]

The individuals released ("Released Parties") include [1.35].

Class Members and/or Aggrieved Employees can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

**III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER**

**A. Participating in the Settlement as a Class Member**

If you wish to be a Participating Class Member and believe your workweek and subclass information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation or subclass assignment, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

**B. Excluding Yourself from the Settlement as a Class Member**

The Court will exclude you from being a Class Member if you request this by \_\_\_\_\_. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (i.e., "opt out") by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or want to be excluded from this Settlement; (c) identify the case name and number (i.e. *Edwards, et al. v. Suburban Propane, L.P., et al.*, 34-2022-00314949); (d) be signed; and (e) be post-marked no later than \_\_\_\_\_. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by \_\_\_\_\_, your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and will not receive their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

**C. Objection to Settlement**

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (i.e. *Edwards, et al. v. Suburban Propane, L.P., et al.*, 34-2022-00314949); (e) be signed; and (f) be post-marked no later than \_\_\_\_\_. The objection must be sent to the Settlement Administrator at the address identified in Section III.B of this notice.

In addition to submitting a written objection as outlined above, you may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiffs and Defendants.

**IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS**

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and Aggrieved Employee, will release Defendants and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendants, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

**V. FINAL SETTLEMENT APPROVAL HEARING**

The Court will hold a hearing in Department \_\_\_, [address] on \_\_\_\_\_ at \_\_\_\_\_ to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representatives' Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

**VI. ADDITIONAL INFORMATION**

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents



required by the Court at the Settlement Administrator's website: [admin web address]. You can also contact Class Counsel or Defendants' Counsel as follows:

For Plaintiffs:

Galen T. Shimoda  
Justin P. Rodriguez  
Shimoda & Rodriguez Law, PC  
9401 East Stockton Blvd., Suite 120  
Elk Grove, CA 95624  
Telephone: (916) 525-0716

Mark D. Potter  
James M. Treglio  
POTTER HANDY LLP  
100 Pine St., Ste 1250  
San Francisco, CA 94111  
Telephone: (858) 375-7385

Norman B. Blumenthal  
Kyle R. Nordrehaug  
Aparajit Bhowmik  
Nicholas J. De Blouw  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
2255 Calle Clara  
La Jolla, CA 92037  
Telephone: (858) 551-1223  
[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

For Defendants:

Efthalia S. Rofos  
Megan A. Childress  
BARBER RANEN LLP  
4695 MacArthur Court, Suite 900  
Newport Beach, California 92660  
Telephone: 949-849-5005

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]**

**BY ORDER OF THE COURT**



## Exhibit B

**FILED/ENDORSED**

**MAR 10 2023**

By: T. Crowther  
Deputy Clerk

1 Galen T. Shimoda (Cal. State Bar No. 226752)  
2 Justin P. Rodriguez (Cal. State Bar No. 278275)  
3 Renald Konini (Cal. State Bar No. 312080)  
4 Shimoda & Rodriguez Law, PC  
5 9401 East Stockton Boulevard, Suite 120  
6 Elk Grove, CA 95624  
7 Telephone: (916) 525-0716  
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff CARLETON EDWARDS on behalf of himself  
10 and similarly situated individuals.

11 [additional parties continued on next page]

12 **SUPERIOR COURT OF CALIFORNIA**  
13 **FOR THE COUNTY OF SACRAMENTO**

14 **CARLETON EDWARDS, MICHAEL**  
15 **ADAMS, and PETER HALL, as individuals**  
16 **and on behalf of all other similarly situated**  
17 **employees,**

18 **Plaintiff,**

19 **vs.**

20 **SUBURBAN PROPANE, L.P., a Delaware**  
21 **Limited Partnership; and DOES 1 to 100,**  
22 **inclusive,**

23 **Defendants.**

**Case No. 34-2022-00314949**

**CLASS ACTION**

**SECOND AMENDED COMPLAINT FOR DAMAGES:**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Expenses
8. Unfair Competition
9. Private Attorneys General Act
10. Constructive Discharge and Other Adverse Employment Actions In Violation of Public Policy

**BY FAX**

**DEMAND FOR JURY TRIAL**

1 **POTTER HANDY LLP**

2 Mark D. Potter (SBN 166317)

3 mark@potterhandy.com

4 James M. Treglio (SBN 228077)

5 jmt@potterhandy.com

6 100 Pine St., Ste 1250

7 San Francisco, CA 94111

8 (858) 375-7385

9 Fax: (888) 422-5191

10 Attorneys for Plaintiff MICHAEL ADAMS and the Putative Class

11 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

12 Norman B. Blumenthal (State Bar #068687)

13 Kyle R. Nordrehaug (State Bar #205975)

14 Aparajit Bhowmik (State Bar #248066)

15 Nicholas J. De Blouw (State Bar #280922)

16 2255 Calle Clara

17 La Jolla, CA 92037

18 Telephone: (858) 551-1223

19 Facsimile: (858) 551-1232

20 Website: www.bamlawca.com

21 Attorneys for Plaintiff PETER HALL

Plaintiffs CARLETON EDWARDS, PETER HALL, and MICHAEL ADAMS (collectively "Plaintiffs"), on behalf of themselves and all other similarly situated employees, hereby file this Second Amended Complaint against Defendants SUBURBAN PROPANE, L.P., a Delaware Limited Partnership; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as "Defendants"). On information and belief, Plaintiffs allege the following:

## INTRODUCTION

1. This is a class action and Private Attorneys General Act ("PAGA") lawsuit brought by Plaintiffs for Failure to Pay Overtime Wages, Failure to Pay Minimum Wages, Meal Period Violations, Rest Period Violations, Wage Statement Violations, Waiting Time Penalties, Failure to Reimburse Expenses, and Unfair Competition.

### **JURISDICTION AND VENUE**

2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to California Code of Civil Procedure section 410.10 to determine alleged violations of the California Labor Code, California Business and Professions Code, and Wage Order No. 7.

3. Venue is proper pursuant to Civil Procedure Code §§ 395(a), 395.2, and 395.5, in that Defendant resides in Sacramento County and/or are foreign entities and have not designated any county in California as being where they maintain their principal offices. In addition, some of the wrongful acts and violations of law asserted herein occurred within Sacramento County, and Defendant's obligation to pay wages arose in Sacramento County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414 (1984).

4. Plaintiffs have sought permission pursuant to California Labor Code section 2699 *et seq.* to pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of themselves and other similarly situated employees. Pursuant to California Labor Code section 2699.3, Plaintiff Edwards gave written notice via online submission to the Labor and Workforce Development Agency ("LWDA") on approximately January 28, 2022, while Plaintiff Adams submitted his LWDA notice on or about November 1, 2021. Plaintiff Hall submitted his LWDA notice on November 16, 2021. Plaintiffs provided facts and legal bases for their claims within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause of action. Plaintiffs

1 also submitted the \$75.00 filing fee. The notices were also sent via certified mail to Defendants on the  
2 same day. To date, the LWDA has not provided any response to Plaintiffs' notice correspondence.  
3 Accordingly, Plaintiffs have exhausted all administrative remedies pursuant to the PAGA and may bring  
4 this action on behalf of themselves and all similarly situated employees, i.e. Aggrieved Employees. See  
5 Cal. Lab. Code § 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365,  
6 383 n.18, 385 n.19 (2005). Aggrieved Employees include, but are not limited to, the following: all  
7 nonexempt employees who have or continue to work for Defendant in California.

#### 8 PARTIES

9 5. CARLETON EDWARDS is an individual over the age of eighteen (18) and is a  
10 resident of the State of California.

11 6. PETER HALL was employed by DEFENDANT in California from November of  
12 2016 to September of 2021 and was at all times classified by DEFENDANT as a non-exempt  
13 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and  
14 payment of minimum and overtime wages due for all time worked.

15 7. MICHAEL ADAMS is an individual over the age of eighteen (18) and is a resident of  
16 the State of California.

17 8. On information and belief, Plaintiffs allege, SUBURBAN PROPANE, L.P., is now  
18 and/or at all times mentioned in this Complaint was a Delaware Limited Partnership and the owner  
19 and operator of an industry, business and/or facility doing business in the State of California.

20 9. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the  
21 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and  
22 are liable for the actions herein alleged. Plaintiffs will seek to amend this Complaint to allege the true  
23 names and capacities of these DOE Defendants when they are ascertained.

24 10. At all times mentioned herein, each Defendant was the agent or employee of each of the  
25 other Defendants and was acting within the course and scope of such agency or employment. The  
26 Defendants are jointly and severally liable to Plaintiffs.

27 11. Defendants, and each of them, are now and/or at all times mentioned in this Complaint  
28 were members of and/or engaged in a joint employment, joint venture, partnership and common



1 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,  
2 joint venture, partnership and common enterprise.

3 12. Defendants, and each of them, now and/or at all times mentioned in this Complaint  
4 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

5 13. Defendants proximately caused Plaintiffs to be subjected to the unlawful practices,  
6 wrongs, complaints, injuries and/or damages alleged in this Complaint.

7 **CLASS ALLEGATIONS**

8 14. Plaintiffs bring the First through Eighth Causes of Action on behalf of themselves and  
9 all others similarly situated as a class action pursuant to California Code of Civil Procedure section  
10 382. The class which Plaintiffs seek to represent is composed of, and defined, as follows:

11 All nonexempt employees who have or continue to work for Defendant in  
12 California from February 2, 2018, to the present.

13 15. This action has been brought and may be properly maintained as a class action,  
14 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-  
15 defined community of interests in the litigation and the proposed class is easily ascertainable.

16 (a) **Numerosity:** The putative class is so numerous that the individual joinder of all members  
17 is impracticable under the circumstances of this case. While the exact number of class  
18 members is unknown to Plaintiffs at this time, Plaintiffs are informed and believe that  
19 Defendants have employed as many as fifty (50) individuals falling within the above  
20 stated class definition throughout the State of California during the applicable statute of  
21 limitations, who were subjected to the policies and practices outlined in this Complaint.  
22 As such, joinder of all members of the putative class is not practicable.

23 (b) **Common Questions Predominate:** Common questions of law and fact exist as to all  
24 members of the putative class and predominate over questions that affect only individual  
25 members of the class. These common questions of law and fact include, without  
26 limitation, the following:

27 (1) Whether Defendants failed to pay employees for all hours worked by requiring  
28 pre-shift work donning required uniforms;

- (2) Whether Defendants failed to pay employees for all hours worked by required employees to fill out paperwork, complete tests, and review policies unpaid before the first day of work;
- (3) Whether Defendants properly calculated the regular rate of pay for overtime and premium pay purposes;
- (4) Whether Defendants failed to provide duty free meal periods;
- (5) Whether Defendants failed to provide duty free rest periods;
- (6) Whether Defendants required Plaintiffs and similarly situated employees to use their personal cell phones for work purposes;
- (7) Whether as a result of Defendants' policies and practices Plaintiffs' and putative class members received all wages, due and owing, at the time of their termination or separation; and
- (8) Whether Defendants provided Plaintiffs' and putative class members with wage statements that complied with Labor Code section 226.

(c) Typicality: Plaintiffs' claims are typical of the claims of the members of the putative class. The putative class also sustained damages arising out of Defendants' common course of conduct in violation of the law as complained of herein. Plaintiffs and all members of the putative class were non-exempt employees who were required to work off the clock, had their regular rate improperly calculated, were prevented from leaving work premises or required to remain on duty for meal and rest periods and were required to use their personal cell phones for work purposes. Additionally, Defendants issued Plaintiffs and all members of the putative class wage statements that did not comply with Labor Code section 226. As a result, Plaintiffs and each member of the putative class will have suffered the same type of harm and seek the same type of recovery based on the same legal theories.

(d) Adequacy: Plaintiffs will fairly and adequately protect the interests of the members of the putative class. For all relevant times, Plaintiffs have resided in California and worked for Defendants in California. Moreover, Plaintiffs are adequate representatives of the

1 putative class as Plaintiffs have no interests that are adverse to those of putative class  
2 members. Additionally, Plaintiffs have retained counsel who has substantial experience  
3 in complex civil litigation and wage and hour matters.

4 (e) Superiority: A class action is superior to other available means for the fair and efficient  
5 adjudication of the controversy since individual joinder of all members of the putative  
6 class is impracticable. Class action treatment will permit a larger number of similarly  
7 situated persons to prosecute their common claims in a single forum simultaneously,  
8 efficiently, and without the unnecessary duplication of effort and expense that numerous  
9 individual actions would engender. Further, as damages suffered by each individual  
10 member of the class may be relatively small, the expenses and burden of the individual  
11 litigation would make it difficult or impossible for individual members of the class to  
12 redress the wrongs done to them, and an important public interest will be served by  
13 addressing the matter as a class action. The cost to the court system of adjudication of  
14 such individualized litigation would be substantial. Individualized litigation would also  
15 present the potential for inconsistent or contradictory judgments.

16 16. Plaintiffs are unaware of any difficulties that are likely to be encountered in the  
17 management of this action that would preclude its maintenance as a class action.

#### 18 GENERAL ALLEGATIONS

19 17. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 16 as though fully  
20 set forth herein.

21 18. Plaintiff Edwards worked for Defendant as a Terminal Operator at its Elk Grove facility.  
22 Defendant markets, sells, and distributes propane. Although Plaintiff Edwards' official start date was  
23 October 5, 2020, Defendants required him to complete paperwork, tests, and review policies and  
24 procedures before the official start date without pay. Defendant had a pattern and practice of requiring  
25 similarly situated employees to complete new hire paperwork, relevant job testing, and policy review  
26 prior to official start dates without pay.

1           19. On the other hand, Plaintiff Adams was hired by Defendant in or about September 2020  
2 as a driver assigned to work in Sacramento, California. Defendant paid Plaintiff Adams \$21.50 per hour  
3 until he resigned in or about February 2021.

4           20. Plaintiffs and similarly situated employees typically worked forty (40) hours per week or  
5 more, at eight (8) hours per day or more. Defendant failed to pay Plaintiffs and other similarly situated  
6 employees for all hours worked due to its failure to accurately document Plaintiffs and similarly situated  
7 employees actual arrival and departure times from work. Defendant required Plaintiffs and similarly  
8 situated employees to wear personal protective equipment ("PPE") that was kept in lockers at  
9 Defendant's facilities. However, Defendant did not allow Plaintiffs and similarly situated employees to  
10 clock in until after they donned their PPE because Plaintiffs and similarly situated employees had to be  
11 ready to work immediately upon clocking in. It took Plaintiffs and similarly situated employees  
12 approximately five (5) to ten (10) minutes to don their PPE off-the-clock. This resulted in unpaid  
13 minimum wages, unpaid overtime, and Defendant's keeping inaccurate time records of all hours  
14 worked.

15           21. Defendant also failed to pay all overtime wages due by failing to properly calculate the  
16 regular rate of pay. Defendant paid Plaintiffs and similarly situated employees non-discretionary  
17 remuneration in addition to their base hourly rate, including production bonuses, commissions, and/or on  
18 call stipends. These additional amounts were not incorporated into the regular rate of pay calculating  
19 overtime, meal and rest period premiums, and sick leave wages.

20           22. Further, Defendant failed to provide meal and rest periods to Plaintiffs and similarly  
21 situated employees in compliance with California law. Plaintiffs and similarly situated employees were  
22 not allowed to leave the premises or take off-duty meal and rest periods. Defendant's time records show  
23 no meal periods being taken either for a first meal period or second meal period when Plaintiffs and  
24 similarly situated employees worked five (5) or ten (10) hours respectively. Defendant's required  
25 Plaintiffs to take on duty meal and rest periods, telling Plaintiffs and similarly situated employees things  
26 like "the plant comes first," "nothing comes before the plant," "the plant is your number one priority."  
27 When Defendant allowed Plaintiffs to take their breaks, Plaintiffs could not freely leave the trucks that  
28 they drove as they contained hazardous materials like propane. On the occasions that Plaintiffs worked

1 more than ten (10) to twelve (12) hours, Plaintiffs were not permitted to take a second duty-free meal  
2 break. Defendant also failed to provide Plaintiffs and similarly situated employees with duty free rest  
3 periods every four (4) hours or major action thereof.

4 23. Additionally, Plaintiffs and similarly situated employees also worked off the clock with  
5 respect to time spent undergoing mandatory drug testing or any other testing and/or examination  
6 required as a condition of employment. Defendant, as a matter of established company policy and  
7 procedure, administers a uniform practice of rounding the actual time worked and recorded by Plaintiffs  
8 and similarly situated employees, always to the benefit of Defendant, so that during the course of their  
9 employment, Plaintiffs and similarly situated employees are paid less than they would have been paid  
10 had they been paid for actual recorded time rather than "rounded" time. Additionally, Defendant  
11 engages in the practice of requiring Plaintiffs and similarly situated employees to perform work off the  
12 clocking that Defendant, as a condition of employment, required these employees to submit to  
13 mandatory temperature checks and symptom questionnaires for COVID-19 screening prior to clocking  
14 into Defendant's timekeeping system for the workday. As a result, Plaintiffs and other similarly situated  
15 employees forfeit minimum wage, overtime wage compensation, and off-duty meal breaks by working  
16 without their time being correctly recorded and without compensation at the applicable rates

17 24. Defendant also failed to reimburse Plaintiffs and similarly situated employees for  
18 expenses incurred on behalf of Defendant. Plaintiffs and similarly situated employees regularly used  
19 their personal cell phones to record their hours worked on an ADP app. Plaintiffs and similarly situated  
20 employees would also be called and/or texted by supervisors on their personal cell phones and have to  
21 take pictures of relevant work issues and equipment on their personal cell phone. Plaintiffs and similarly  
22 situated employees were not reimbursed for the use of their personal cellphones for these purposes.

23 25. As a result of Defendant's failure to pay Plaintiffs and similarly situated employees all  
24 overtime wages, minimum wages, and meal and rest period premiums owed, the wage statements  
25 Defendant issued were defective. Specifically, Defendant did not accurately list total hours worked,  
26 wages due, and total missed meal and rest period premiums earned, and the corresponding rates of pay.

27 26. Finally, Defendant failed to pay Plaintiffs and similarly situated employees for all regular  
28 and overtime hours worked and failure to pay meal and rest period premiums, Defendant failed to



1 provide all final wages owed to Plaintiffs and similarly situated employees within twenty-four (24)  
2 hours of their termination or seventy-two (72) hours of their resignation.

3 **CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**  
5 **FAILURE TO PAY OVERTIME WAGES**  
6 **(As to all Defendants)**

7 27. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 26 as though fully  
8 set forth herein.

9 28. During the period Plaintiffs were employed by Defendants, Defendants were required to  
10 compensate Plaintiffs at one and one-half (1½) times the regular rate of pay for hours worked in excess  
11 of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for  
12 hours worked in excess of twelve (12) hours per day. See, e.g., IWC Wage Order No. 7, section (3)(A);  
13 Cal. Lab. Code §§ 510, 1194.

14 29. Plaintiffs and similarly situated employees worked in excess of eight (8) hours per day  
15 and/or forty (40) hours per week on several occasions while employed by Defendants. However,  
16 Defendants failed to compensate Plaintiffs and similarly situated employees for all overtime hours  
17 worked at their regular rate of pay.

18 30. Plaintiffs and similarly situated employees were not exempt from overtime protections  
19 employees under the California Wage Orders and Labor Code.

20 31. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated employees  
21 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to  
22 the extent pertinent as if set forth here in full.

23 **SECOND CAUSE OF ACTION**  
24 **FAILURE TO PAY MINIMUM WAGES**  
25 **(As to all Defendants)**

26 32. Plaintiffs incorporates by reference and re-alleges paragraphs 1 through 31 as though  
27 fully set forth herein.

28 33. For the period preceding the filing of this Complaint, Defendants were required to  
compensate Plaintiffs and similarly situated employees with at least California's applicable minimum



1 for every hour worked. See MW-Order 2019; IWC Wage Order, No. 7, section 4(A); Cal. Lab. Code §  
2 1194.

3 34. Plaintiffs were not exempt to the State's Minimum Wage Order. Defendants were aware  
4 of their obligation to pay the minimum wage for each hour worked but failed to do so.

5 35. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated employees  
6 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to  
7 the extent pertinent as if set forth here in full.

8 **THIRD CAUSE OF ACTION**  
9 **MEAL PERIOD VIOLATIONS**  
10 **(As to all Defendants)**

11 36. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 35 as though fully  
12 set forth herein.

13 37. An employer must provide an employee a meal period in accordance with the  
14 applicable Wage Order, and California Labor Code sections 226.7 and 512.

15 38. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 7, section  
16 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)  
17 minutes for each work period of more than five (5) hours.

18 39. California Labor Code section 512 and Wage Order No. 7 section 11(B) further  
19 provide that employers may not employ employees for a work period for more than ten (10) hours  
20 per day without providing the employee with a second meal period of at least thirty (30) minutes.  
21 However, if the total hours worked is no more than twelve (12) hours, the second meal period may  
22 be waived so long as there was no waiver as to the first meal period. Employees are entitled to one  
23 (1) hour of pay at their regular rate of compensation for each meal period not provided.

24 40. Defendants employed Plaintiffs and similarly situated employees for periods of more  
25 than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal  
26 period of at least thirty (30) minutes when Plaintiffs and similarly situated employees worked more  
27 than ten (10) hours in a day. Defendants also failed to allow Plaintiffs and similarly situated  
28 employees to take their first meal period before the completion of their fifth hour of work and failed  
to allow Plaintiffs and similarly situated employees to take their second meal period before the

1 completion of their tenth hour of work. Plaintiffs and similarly situated employees did not waive  
2 their rights to all meal periods throughout their employment.

3 41. Defendants further failed to pay Plaintiffs and similarly situated employees the  
4 applicable meal period premiums for any such missed meal breaks.

5 42. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated  
6 employees have been damaged as stated in the section below entitled "DAMAGES," which is  
7 incorporated here to the extent pertinent as if set forth here in full.

8 **FOURTH CAUSE OF ACTION**  
9 **REST PERIOD VIOLATIONS**  
10 **(As to all Defendants)**

11 43. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 42 as though fully  
12 set forth herein.

13 44. An employer must provide an employee a rest period in accordance with the  
14 applicable Wage Order and California Labor Code section 226.7.

15 45. California Labor Code section 226.7 and Wage Order No. 7, section 12(A) require an  
16 employer to provide a rest period of not less than ten (10) minutes for each work period of more than  
17 four (4) hours or a major fraction thereof.

18 46. Plaintiffs allege that Defendants failed to authorize and permit Plaintiffs and similarly  
19 situated employees to take paid rest periods of at least ten (10) minutes for each work period that  
20 they worked more than four (4) hours or a major fraction thereof.

21 47. Defendants further failed to pay Plaintiffs and similarly situated employees the  
22 applicable rest period premiums for any such missed rest periods.

23 48. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated  
24 employees have been damaged as stated in the section below entitled "DAMAGES," which is  
25 incorporated here to the extent pertinent as if set forth here in full.

26 **FIVE CAUSE OF ACTION**  
27 **WAGE STATEMENT VIOLATIONS**  
28 **(As to all Defendants)**

49. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 48 as though fully  
set forth herein.

1 50. Pursuant to California Labor Code section 226(a), an employer must provide an itemized  
2 statement to an employee, semimonthly or at the time of each payment of wages, showing:

3 (1) gross wages earned, (2) total hours worked by the employee, except for  
4 any employee whose compensation is solely based on a salary and who is  
5 exempt from payment of overtime under subdivision (a) of Section 515 or  
6 any applicable order of the Industrial Welfare Commission, (3) the  
7 number of piece-rate units earned and any applicable piece rate if the  
8 employee is paid on a piece-rate basis, (4) all deductions, provided that  
9 all deductions made on written orders of the employee may be aggregated  
10 and shown as one item, (5) net wages earned, (6) the inclusive dates of the  
11 period for which the employee is paid, (7) the name of the employee and  
12 the last four digits of his or her social security number or an employee  
13 identification number other than a social security number, (8) the name  
14 and address of the legal entity that is the employer and, if the employer is  
15 a farm labor contractor, as defined in subdivision (b) of Section 1682, the  
16 name and address of the legal entity that secured the services of the  
17 employer, and (9) all applicable hourly rates in effect during the pay  
18 period and the corresponding number of hours worked at each hourly rate  
19 by the employee. The deductions made from payment of wages shall be  
20 recorded in ink or other indelible form, properly dated, showing the  
21 month, day, and year, and a copy of the statement and the record of the  
22 deductions shall be kept on file by the employer for at least three years at  
23 the place of employment or at a central location within the State of  
24 California.

15 51. Plaintiffs allege that Defendants intentionally and knowingly failed to provide an  
16 itemized statement or failed to provide an accurate and complete itemized statement showing the  
17 requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not  
18 accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime  
19 and double time hours worked and corresponding rates of pay, and gross and net wages earned. The  
20 paystubs also did not accurately itemize Plaintiffs' and similarly situated employees' total hours  
21 worked due to Defendants' policies and practices that resulted in off-the-clock work. Plaintiffs and  
22 similarly situated employees were not able to promptly and easily determine their total hours worked  
23 from their paystubs alone. Additionally, Plaintiffs and similarly situated employees suffered  
24 confusion over whether they received all wages owed and were prevented from effectively  
25 challenging information on their wage statements.

26 52. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated  
27 employees have been damaged as stated in the section below entitled "DAMAGES," which is  
28 incorporated here to the extent pertinent as if set forth here in full.

**SIX CAUSE OF ACTION  
WAITING TIME PENALTIES  
(As to all Defendants)**

53. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 52 as though fully set forth herein.

54. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. See Cal. Lab. Code § 201.

55. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation. See Cal. Lab. Code § 202.

56. Plaintiffs and similarly situated employees did not receive all wages, including minimum and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or within the required time after their separation from employment.

57. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. See Cal. Lab. Code § 203.

58. Defendants knew of their obligation to pay Plaintiffs' and similarly situated employees' their final wages when their employment terminated yet Defendants still refused to pay the remaining wages owed.

59. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated employees have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

**SEVEN CAUSE OF ACTION  
FAILURE TO REIMBURSE EXPENSES  
(As to all Defendants)**

60. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 59 as though fully set forth herein.

61. California Labor Code section 2802(a) states that "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

1 though unlawful, unless the employee, at the time of obeying the directions, believed them to be  
2 unlawful."

3 62. Defendants required Plaintiffs and similarly situated employees to use their personal cell  
4 phones but failed to reimburse them for such use.

5 63. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated employees  
6 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to  
7 the extent pertinent as if set forth here in full.

8 **EIGHTH CAUSE OF ACTION**  
9 **UNFAIR COMPETITION**  
10 **(As to all Defendants)**

11 64. Plaintiffs incorporate by reference and re-allege paragraphs 1 through 63 as though fully  
12 set forth herein.

13 65. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act  
14 or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1  
15 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See  
16 California Business and Professions ("B&P") Code § 17200.

17 66. Plaintiffs and similarly situated employees were not paid all wages owed, including  
18 minimum and overtime wages, and meal and rest period premiums, paid sick leave, or reimbursed for  
19 business expenses, during their employment or any time thereafter. Moreover, through Defendants  
20 conduct Plaintiffs and similarly situated employees were denied statutory protections regarding meal and  
21 rest periods.

22 67. Plaintiffs further alleges that such actions and/or conduct constitute a violation of the  
23 California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to  
24 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

25 68. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the  
26 UCL (including B&P Code §17203), Plaintiffs and similarly situated employees are entitled to  
27 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code  
28 sections 17203, 17208, violations of California Labor Code sections 226.7, 510, 512, and 1194 all in an  
amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.



**NINTH OF ACTION**  
**PRIVATE ATTORNEYS GENERAL ACT**  
**(As to all Defendants)**

69. Plaintiffs incorporates by reference and re-alleges paragraphs 1 through 68 as though fully set forth herein.

70. Plaintiffs have alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiffs and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Order 14, § 3 (Failure to Pay Overtime Wages)
- Violation of Labor Code §§ 1194, 1197, 1197.1; IWC Wage Order 14, § 4 (Failure to Pay Minimum Wages)
- Violation of Labor Code § 226.7, 512 and Wage Order No. 14, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.7 and Wage Order No. 14, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 256 (Failure to Pay Wages When Due, Including Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

71. Plaintiffs seek civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

72. Plaintiffs seek these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.



1           73. As a proximate result of Defendants' conduct, Plaintiffs and similarly situated employees  
2 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to  
3 the extent pertinent as if set forth here in full.

4  
5                                   **TENTH CAUSE OF ACTION**  
6                                   **Constructive Discharge And Other Adverse Employment Actions in Violation of Public Policy**  
7                                   **(By Plaintiff Peter Hall Only as to all Defendants)**

8           74. Plaintiff Hall realleges and incorporate by this reference, as though fully set forth herein,  
9 the prior paragraphs of this Complaint.

10          75. Throughout his employment, Plaintiff Hall was the recipient of intolerable working  
11 conditions that Plaintiff Hall complained about throughout 2021. Plaintiff Hall complained to  
12 Defendants' managers, including but not limited to, Defendants' customer Service Center Manager Scott  
13 Hayes, regarding Defendants' lack of safety and health protocols and violations of the California Labor  
14 Code. Plaintiff Hall complained to Defendants about: no providing potable water of any type, not  
15 providing toilet facilities, and hand-washing facilities as there were times Plaintiff Hall was required to  
16 work with liquified propane gas. Plaintiff Hall reported he felt these were violations of Cal. Code Regs.  
17 Tit. 8 Section 8397.4. Because Defendants failed to provide adequate restrooms Plaintiff Hall and his  
18 co-workers were forced to defecate in boxes and outside in Defendants' yard-site. As a result of the  
19 working conditions imposed on Plaintiff Hall, on September 3, 2021, Plaintiff Hall made the decision to  
20 resign from his employment due to the intolerable working conditions described above and his mental  
21 breakdown from the stress and anxiety Defendants workplace placed on him. Plaintiff Hall was  
22 subsequently diagnosed with generalized anxiety disorder due to his steep mental decline affiliated with  
23 the years of stress caused by Defendants' lack of safety and health protocols at his work-site.

24          76. Defendants through their officers, directors, managing agents, and supervisory  
25 employees, intentionally created and knowingly permitted working conditions to exist that were so  
26 intolerable that a reasonable person in Plaintiff Hall's position would have had no reasonable alternative  
27 except to resign. Plaintiff Hall engaged in protected activity of reporting the illegal workplace  
28 conditions as described above to Defendants. Defendants violated the fundamental public policies of the

1 State of California. Plaintiff Hall's anxiety and stress stemming from Defendants' continued lack of  
2 work site safety precautions was so substantial that he was unable to return to work.

3 77. As a result of Defendants' actions, Plaintiff Hall has suffered substantial losses in  
4 earnings, future earning capacity, and employment benefits and emotional distress in an amount to be  
5 determined according to proof at trial.

6 78. In doing the acts herein alleged, Defendants acted with malice and oppression, and with a  
7 conscious disregard of Plaintiff Hall's rights, and Plaintiff Hall is entitled to exemplary and punitive  
8 damages from Defendants in an amount to be determined to punish Defendants and to deter such  
9 wrongful conduct in the future.

#### 10 DAMAGES

11 WHEREFORE Plaintiffs request relief as follows:

12 1. A jury trial;

13 2. As to the First Cause of Action:

- 14 a. Wages in an amount to be proven at trial;  
15 b. Interest for the wages due pursuant to California Labor Code section 1194;  
16 c. For reasonable attorney's fees and costs incurred pursuant to California Labor  
17 Code section 1194;

18 3. As to the Second Cause of Action:

- 19 a. Wages in an amount to be proven at trial;  
20 b. Interest for the wages due pursuant to California Labor Code section 1194;  
21 c. For reasonable attorney's fees and costs incurred pursuant to California Labor  
22 Code section 1194;  
23 d. Liquidated damages pursuant to California Labor Code section 1194.2;

24 4. As to the Third Cause of Action:

- 25 a. Wages in an amount to be proven at trial;  
26 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure  
27 section 1021.5;

28 5. As to the Fourth Cause of Action:

- a. Wages in an amount to be proven at trial;
  - b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure section 1021.5;
6. As to the Fifth Cause of Action:
- a. Penalties as provided for in Labor Code section 226, including the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which the violation occurred and one hundred dollars (\$100.00) per employee for each violation in the subsequent pay periods, but not to exceed four thousand dollars (\$4,000.00);
  - b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 226(e);
7. As to the Seventh Cause of Action:
- a. An amount to be proven at trial;
  - b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
8. For such other and further relief as this Court may deem just and proper, including, but not limited to:
- a. Wages as proved at trial;
  - b. Injunctive and Declaratory relief;
  - c. Attorney's fees and costs as provided for by law; and
  - d. Interest.
9. As to the Ninth Cause of Action:
- a. For civil penalties as provided in the Labor Code for each enumerated violation;
  - b. For those Labor Code sections where there is no civil penalty provided for their violation, the default penalty provided in Labor Code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;

- 1 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;  
2 d. For any other remedies as allowed by law and/or deemed appropriate by the  
3 Court;

4 10. As to the Tenth Cause of Action:

- 5 a. For all special damages which were sustained as a result of Defendants' conduct,  
6 including, but not limited to, back pay, front pay, lost compensation and job  
7 benefits that Plaintiff Hall would have received but for the practices of  
8 Defendants; and,  
9 b. For all exemplary damages, according to proof, which were sustained by Plaintiff  
10 Hall as a result of Defendants' conduct.

11 **Shimoda & Rodriguez Law, PC**

12  
13 Dated: February 17, 2023

14 By: 

15 Galen T. Shimoda  
16 Justin P. Rodriguez  
17 Renald Konini  
18 Attorneys for Plaintiff Carleton Edwards

19 **Potter Handy LLP**

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

21 By: \_\_\_\_\_

22 James M. Treglio  
23 Attorneys for Plaintiff Michael Adams

24 **BLUMENTHAL NORDREHAUG BHOWMIK  
25 DE BLOUW LLP**

26 Dated: February 17, 2023

27 By: 

28 Aparajit Bhowmik  
Jeffrey S. Herman  
Sergio J. Puche  
Attorneys for Peter Hall

- 1 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;  
2 d. For any other remedies as allowed by law and/or deemed appropriate by the  
3 Court;

4 10. As to the Tenth Cause of Action:

- 5 a. For all special damages which were sustained as a result of Defendants' conduct,  
6 including, but not limited to, back pay, front pay, lost compensation and job  
7 benefits that Plaintiff Hall would have received but for the practices of  
8 Defendants; and,  
9 b. For all exemplary damages, according to proof, which were sustained by Plaintiff  
10 Hall as a result of Defendants' conduct.

11 **Shimoda & Rodriguez Law, PC**

12  
13 Dated: \_\_\_\_\_

14 By: \_\_\_\_\_  
15 Galen T. Shimoda  
16 Justin P. Rodriguez  
17 Renald Konini  
18 Attorneys for Plaintiff Carleton Edwards

19 **Potter Handy LLP**

20 Dated: February 17, 2023

21 By:   
22 James M. Treglio  
23 Attorneys for Plaintiff Michael Adams

24 **BLUMENTHAL NORDREHAUG BHOWMIK  
25 DE BLOUW LLP**

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

27 By: \_\_\_\_\_  
28 Aparajit Bhowmik  
Jeffrey S. Herman  
Sergio J. Puche  
Attorneys for Peter Hall

1 *Edwards v. Suburban Propane, L.P.*  
2 *Sacramento County Superior Court of California 34-2022-00314949-CU-OE-GDS*

3 **PROOF OF SERVICE — CCP §§ 1010.6, 1013a and 2015.5**  
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Elias Tapia, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to  
7 the within above-entitled action.

8 On March 9, 2023, I served the following documents on the party below:

9 • **SECOND AMENDED COMPLAINT FOR DAMAGES**

10 Eftalia S. Rofos (SBN: 309065) 11 Megan A. Childress (SBN: 266926) 12 LEWIS BRISBOIS BISGAARD & SMITH LLP 13 650 Town Center Drive, Ste. 1400 14 Costa Mesa, CA 92626 15 Telephone: 714-545-9200 16 Facsimile: 714-850-1030 17 Email: <a href="mailto:Thalia.Rofos@lewisbrisbois.com">Thalia.Rofos@lewisbrisbois.com</a> 18 <a href="mailto:Megan.Childress@lewisbrisbois.com">Megan.Childress@lewisbrisbois.com</a> 19 <a href="mailto:Erica.Stanford@lewisbrisbois.com">Erica.Stanford@lewisbrisbois.com</a>	20 Mark D. Potter (SBN: 166317) 21 James M. Treglio (SBN: 228077) 22 POTTER HANDY LLP 23 100 Pine St., Ste 1250 24 San Francisco, CA 94111 25 Telephone: 858-375-7385 26 Facsimile: 888-422-5191 27 Email: <a href="mailto:mark@potterhandy.com">mark@potterhandy.com</a> 28 <a href="mailto:jimt@potterhandy.com">jimt@potterhandy.com</a>
Norman B. Blumenthal (SBN: 068687) Kyle R. Nordrehaug (SBN: 205975) Aparajit Bhowmik (SBN: 248066) Nicholas J. De Blouw (SBN: 280922) BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP 2255 Calle Clara La Jolla, CA 92037 Telephone: 858-551-1223 Facsimile: 858-551-1232 Email: <a href="mailto:Norm@bamlawca.com">Norm@bamlawca.com</a> <a href="mailto:DeBlouw@bamlawca.com">DeBlouw@bamlawca.com</a> <a href="mailto:kyle@bamlawca.com">kyle@bamlawca.com</a>	

20 [ ] [By Mail] I am familiar with my employer's practice for the collection and  
21 processing of correspondence for mailing with the United States Postal  
22 Service and that each day's mail is deposited with the United States Postal  
23 Service that same day in the ordinary course of business. On the date set  
24 forth above, I served the aforementioned document(s) on the parties in  
25 said action by placing a true copy thereof enclosed in a sealed envelope  
26 with postage thereon fully prepaid, for collection and mailing on this date,  
27 following ordinary business practices, at Elk Grove, California, addressed  
28 as set forth above.

[ ] [By Personal Service] By personally delivering a true copy thereof to the  
office of the addressee above.

[XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown  
above. No error was reported by the e-mail service that I used.

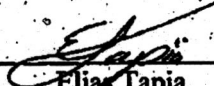


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[ ]

[By Overnight Courier] By causing a true copy and/or original thereof to be personally delivered via the following overnight courier service: UPS.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 9, 2023, at Elk Grove, California.

  
\_\_\_\_\_  
Elias Tapia

# Exhibit C



Shimoda Law Corp.  
9401 East Stockton Blvd.  
Suite #120  
Elk Grove, CA 95624  
Ph. (916) 525-0716  
Fax (916) 760-3733  
www.shimodalaw.com

January 28, 2022

**For Online Filing:**

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

**Re: *Edwards v. Suburban Propane, L.P.***

Dear Labor Commissioner,

As counsel for Carleton Edwards ("Plaintiff"), I am writing to provide you and the following "employers" notice pursuant to California Labor Code section 2699.3:

Suburban Propane, L.P.  
240 Route 10 West  
Whippany, NJ 07981

We are setting forth the "facts and theories" to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against Suburban Propane, L.P. ("Defendant"). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but is not limited to the following: all nonexempt employees who have or continue to work for Defendant in California. Plaintiff is clearly entitled to bring a Private Attorneys General Act ("PAGA") claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).

**A. FACTS**

Plaintiff worked for Defendant as a Terminal Operator at its Elk Grove facility. Defendant markets, sells, and distributes propane. Although Plaintiff's official start date was October 5, 2020, Defendants required Plaintiff to complete paperwork, tests, and review policies and procedures before the official start date without pay. Defendant had a pattern and practice of requiring Aggrieved Employees to complete new hire paperwork, relevant job testing, and policy review prior to official start dates without pay.



Plaintiff and Aggrieved Employees typically worked forty (40) hours per week or more, at eight (8) hours per day or more. Defendant failed to pay Plaintiff and other Aggrieved Employees for all hours worked due to its failure to accurately document Plaintiff and Aggrieved Employees actual arrival and departure times from work. Defendant required Plaintiff and Aggrieved Employees to wear personal protective equipment ("PPE") that was kept in lockers at Defendant's facilities. However, Defendant did not allow Plaintiff and Aggrieved Employees to clock in until after they donned their PPE because Plaintiff and Aggrieved Employees had to be ready to work immediately upon clocking in. It took Plaintiff and Aggrieved Employees approximately five (5) to ten (10) minutes to don their PPE off-the-clock. This resulted in unpaid minimum wages, unpaid overtime, and Defendant's keeping inaccurate time records of all hours worked.

Defendant also failed to pay all overtime wages due by failing to properly calculate the regular rate of pay. Defendant paid Plaintiff and Aggrieved Employees non-discretionary remuneration in addition to their base hourly rate, including production bonuses, commissions, and/or on call stipends. These additional amounts were not incorporated into the regular rate of pay calculating overtime, meal and rest period premiums, and sick leave wages.

Further, Defendant failed to provide meal and rest periods to Plaintiff and Aggrieved Employees in compliance with California law. Plaintiff and Aggrieved Employees were not allowed to leave the premises or take off-duty meal and rest periods. Defendant's time records show no meal periods being taken either for a first meal period or second meal period when Plaintiff and Aggrieved Employees worked five (5) or ten (10) hours respectively. Defendant's required Plaintiff to take on duty meal and rest periods, telling Plaintiff and Aggrieved Employees things like "the plant comes first," "nothing comes before the plant," "the plant is your number one priority." On the occasions that Plaintiff worked more than ten (10) to twelve (12) hours, Plaintiff was not permitted to take a second duty-free meal break. Defendant also failed to provide Plaintiff and Aggrieved Employees with duty free rest periods every four (4) hours or major action thereof.

Defendant also failed to reimburse Plaintiff and Aggrieved Employees for expenses incurred on behalf of Defendant. Plaintiff and Aggrieved Employees regularly used their personal cell phones to record their hours worked on an ADP app. Plaintiff and Aggrieved Employees would also be called and/or texted by supervisors on their personal cell phones and have to take pictures of relevant work issues and equipment on their personal cell phone. Plaintiff and Aggrieved Employees were not reimbursed for the use of their personal cellphones for these purposes.

As a result of Defendant's failure to pay Plaintiff and Aggrieved Employees all overtime wages, minimum wages, and meal and rest period premiums owed, the wage statements Defendant issued were defective. Specifically, Defendant did not accurately list total hours



worked, wages due, and total missed meal and rest period premiums earned, and the corresponding rates of pay.

Finally, Defendant failed to pay Plaintiff and Aggrieved Employees for all regular and overtime hours worked and failure to pay meal and rest period premiums, Defendant failed to provide all final wages owed to Plaintiff and Aggrieved Employees within twenty-four (24) hours of their termination or seventy-two (72) hours of their resignation.

## **B. ALLEGATIONS AND CHARGES**

### **Count One – Violation of Labor Code §§ 510, 1194; IWC Wage Order 7, § 3 (Failure to Pay Overtime Wages)**

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees 2 times their regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week and were not paid all overtime wages owed. Plaintiff and all Aggrieved Employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.

### **Count Two – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 7, § 4 (Failure to Pay Minimum Wages)**

During the period Plaintiff and Aggrieved Employees were employed by Defendant they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.,* IWC Wage Order MW-2019; IWC Wage Order No. 7, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendant did not pay Plaintiff and Aggrieved Employees for all hours worked. Thus, Plaintiff and Aggrieved Employees were not paid at least the applicable state minimum wage for those hours worked. This is against the law.

### **Count Three - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 7, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)**

Labor Code section 226.7 and Wage Order No. 7, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 7, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of



thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendant also failed to pay all meal period premiums owed for their failure to provide meal periods. This was in violation of the law.

**Count Four – Violation of Labor Code § 226.7 and Wage Order No. 7, § 12(A)  
(Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)**

Labor Code section 226.7 and Wage Order No. 7, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendant also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.

**Count Five – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)**

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee . . . .” For the reasons stated above, Defendant failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

**Count Six– Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)**

Labor Code sections 201-203 require that all wages, including minimum wages, overtime, meal and rest period premiums, and sick leave wages, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.





**Count Seven – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)**

Labor Code section 2802(a) states that “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.” Defendant failed to pay any reimbursements for cell phone expenses by Plaintiff and Aggrieved Employees. This was in violation of the law.

**Count Eight – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)**

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendant, by and through Defendant agents, violated Plaintiff and Aggrieved Employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Defendant’s officers, directors, shareholders, and/or managing agents are responsible for the violations stated herein as they were in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.

**Count Nine – Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)**

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendant failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and Aggrieved Employees’ wage records and hours worked. This was against the law.



**Count Ten – Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)**

Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 (“HWHFA”) for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Any sick leave taken must be paid at the employee's regular rate of pay. For the reasons state above, Defendant failed to provide Plaintiff and Aggrieved Employees with sick leave meeting the requirements set forth in HWHFA. Plaintiff will be seeking equitable, injunctive, and restitutionary relief to remedy these violations.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

**Shimoda Law Corp.**

By: \_\_\_\_\_

Justin P. Rodriguez

JPR

cc: Client via e-mail

1 *Edwards v. Suburban Propane, L.P.*

2 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**  
3 **and California Rules of Court, Rule 1.21 and Rule 2.150**

4 I, Erika F. Collazo, declare that:

5 I am a citizen of the United States and am over the age of eighteen years and not a party to  
6 the within above-entitled action.

7 On January 28, 2022, I served the following documents on the party below:

- 8 • Private Attorney General Act Letter

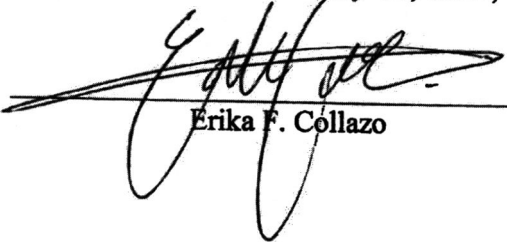
9  
10 Suburban Propane, L.P.  
11 240 Route 10 West  
Whippany, NJ 07981

12 [XXX] [By Certified Mail] I am familiar with my employer's practice for the collection  
13 and processing of correspondence for mailing with the United States Postal  
14 Service and that each day's mail is deposited with the United States Postal  
15 Service that same day in the ordinary course of business. On the date set forth  
16 above, I served the aforementioned document(s) on the parties in said action by  
placing a true copy thereof enclosed in a sealed envelope with postage thereon  
fully prepaid, for collection and mailing on this date, following ordinary business  
practices, at Elk Grove, California, addressed as set forth above.

17 [ ] [By Personal Service] By personally delivering a true copy thereof to the office  
18 of the addressee above.

19 [ ] [By Overnight Courier] By causing a true copy and/or original thereof to be  
personally delivered via the following overnight courier service:\_\_\_\_\_.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing  
21 is true and correct, and that this declaration was executed on January 28, 2022, at Elk Grove,  
22 California.

23   
24 Erika F. Collazo  
25  
26  
27  
28



## POTTER HANDY, LLP

A Law Firm

8033 Linda Vista Rd, Suite 200  
San Diego, CA 92111

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Phone: (858) 375-7385  
Fax: (888) 422-5191

November 1, 2021

**Filed Via LWDA's PAGA Claim Notice Online Form**

**Copy Sent Via Certified Mail to:**

Human Resources  
Suburban Propane, L.P.  
One Suburban Plaza, 240 Route 10 West  
Whippany NJ 07981-0206

C T Corporation System  
Resident Agent for Service for  
Suburban Propane, L.P.  
330 N Brand Blvd Suite 700  
Glendale, CA 91203-9111

Suburban Propane, L.P.  
One Suburban Plaza, 240 Route 10 West  
Whippany NJ 07981-0206

Re: Michael Adams v. Suburban Propane, L.P.  
California Labor Code § 2699 Penalties; Notice of Intent to File Suit

Dear Counsel:

This office represents Plaintiff Michael Adams ("Plaintiff") and a proposed group of current and former employees working for Suburban Propane, L.P., ("Defendants") in the State of California for violations of California Labor Code §§ 201, 202, 203, 204, 210, 226, 226(e), 226.3, 226.7, 512, 1194, 1194.2, 1197, 1197.1, 1198,<sup>1</sup> 1199, as well as IWC Wage Order No. 5-2001. Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of the following groups of aggrieved employees:

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<sup>1</sup> All alleged violations of IWC Wage Order 5-2001 are also deemed to be alleged violations of Labor Code §§ 1197 and 1198.

- (1) *all individuals who are or were employed by Defendants or its predecessor or merged entities in California as hourly, non-exempt employees, who were not provided with duty-free meal periods, from one year prior to the mailing of this notice through the present ("meal period aggrieved employees");* •
- (2) *all individuals who are or were employed by Defendants or its predecessor or merged entities in California as hourly, non-exempt employees, who worked shifts in excess of three and a half hours, from one year prior to the mailing of this notice through the present ("rest period aggrieved employees"); and*
- (3) *all individuals who are or were employed by Defendant, or its predecessor or merged entities in California as hourly, non-exempt employees from one year prior to the mailing of this notice through the present ("wage statement aggrieved employees").*

Collectively, hereinafter referred to as the "Aggrieved Employees" or "aggrieved employees."

This letter is to provide notice to you and to the California Labor Workforce Development Agency of some of the facts and legal theories in connection with the above referenced aggrieved employees in compliance with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*<sup>2</sup>

#### Factual Background

Plaintiff and the aggrieved employees are and were employed by Suburban Propane, L.P., a nationwide marketer and distributor of a diverse array of products to meet the energy needs of its customers.

In September 2020, Plaintiff was hired by Defendants as a driver assigned to work in Sacramento, California. Defendant paid Plaintiff \$21.50 per hour until he resigned in February 2021.

Like all Aggrieved Employees, Plaintiff remained on-call during his meal and rest periods. While Defendants allowed Plaintiff to take his breaks, Plaintiff could not freely

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<sup>2</sup> See *Cardenas v. McLane FoodServices, Inc.* (C.D. Cal. Jul. 8, 2011) 796 F. Supp. 2d 1246, 1261; *Moua v. Int'l Bus. Machines Corp.* (N.D. Cal. Jan. 31, 2012) 2012 WL 370570, at \*5; *York v. Starbucks Corp.*, (C.D. Cal. Nov. 1, 2012) 2012 WL 10890355, at \*4.

leave the truck that he drove as it contained hazardous materials like propane. Defendants likewise failed to provide Plaintiff with a second meal period even if he worked more than 10 hours in a day.

Claims Asserted by Plaintiff

i. Plaintiff and the Meal Period Aggrieved Employees Are Not and Were Not Provided with Meal Periods of Thirty Minutes of Interrupted Off-Duty Time

Labor Code § 512 requires employers to provide employees with thirty (30) minute uninterrupted and duty-free meal period within the first five hours of work. “An on-duty meal period is permitted only when the nature of the work prevents an employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal break.” (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal. App. 5th 926, 932.) The written agreement must include a provision allowing the employee to revoke it at any time. *Id.*

Generally, the DLSE and courts have “found that the nature of the work exception applies: ‘(1) where the work has some particular external force that requires the employee to be on duty at all times, and (2) where the employee is the sole employee of a particular employer.’” (*Id.* at p. 945; *Abdullah v. U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958-959.) “[I]t is the employer’s obligation to determine whether the nature of the work prevents an employee from being relieved *before* requiring an employee to take an on-duty meal period.” (*Lubin, supra*, 5 Cal. App. 5th at p. 946.) Nor may an employer “discharge its duty by arguing that its clients who requested on-duty meal periods determined that the nature of the work prevented officers from being relieved of all duty.” (*Id.* at p. 947; *Benton, supra*, 220 Cal. App. 4th at p. 729.)

As with rest periods, under Labor Code § 512, if an employer maintains a uniform policy that does not authorize and permit the amount of meal time called for under the law (as specified in the applicable Wage Order), “it has violated the wage order and is liable.” The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—***it has violated***



***the wage order and is liable.***

*Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1033. (Emphasis added.)

As a result of its meal period policies of requiring Plaintiff and the aggrieved employees to remain on-call during their meal periods, Defendant violated Labor Code § 512 and IWC Wage Order No. 5 by failing to provide duty-free meal periods to Plaintiff and the aggrieved employees of 30 minutes or more. While Defendants allowed Plaintiff to take his meal period, Plaintiff could not freely leave the truck that he drove as it contained hazardous materials like propane. Defendants likewise failed to provide Plaintiff with a second meal period even if he worked more than 10 hours in a day.

Thus, Defendant unlawfully retained control of Plaintiff and the aggrieved employees during their meal periods, even though the nature of the work did not necessitate an on-duty meal period (and by failing to enter into proper on-duty meal period agreements). *See Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5<sup>th</sup> 257, 275 (holding that on-premises breaks violate California law). As a result of Defendant's failure to authorize or permit lawful meal periods, Plaintiff and the aggrieved employees frequently did not receive thirty-minute duty-free meal periods within the first five (5) hours of their work. Defendant also failed to pay Plaintiff and the meal period aggrieved employees meal period premiums for each workday that the employees did not receive a compliant meal period.

Labor Code § 226.7 provides "an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ("IWC"). Similarly, IWC Wage Order 5-2001 prohibits an employer from "employ[ing] any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes. IWC Wage Order 5-2001 further obligates employers to provide an employee to "pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided." Accordingly, for each day that Plaintiff and the aggrieved employees did not receive compliant meal periods, they are entitled to receive meal period premiums pursuant to Labor Code § 226.7 and Wage Order 5-2001.

ii. Plaintiff and the Aggrieved Employees were not Provided Duty Free Compliant Rest Periods

Pursuant to Labor Code § 226.7, Defendants failed to provide Plaintiff and the other

rest period aggrieved employees with duty-free rest periods of not less than ten (10) minutes for every major fraction of four hours worked.

Labor Code § 226.7 provides "an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ("IWC")."

Defendants failed to implement a lawful rest period policy that informed Plaintiff and the aggrieved employees of their right to receive lawful rest periods for shifts greater than 3.5 hours. To the extent that Plaintiff and the rest period aggrieved employees could stop work during their shifts, they were nonetheless on-call, and were not provided with duty-free rest periods. See *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016) (holding that on-duty rest breaks violate California law). While Defendants allowed Plaintiff to take his rest period, Plaintiff could not freely leave the truck that he drove as it contained hazardous materials like propane.

Pursuant to Labor Code § 226.7, Defendants failed to provide Plaintiff and the rest period aggrieved employees with duty-free rest periods of not less than ten (10) minutes for every major fraction of four (4) hours worked. The *Brinker* Court explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not-if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required-***it has violated the wage order and is liable.***

*Brinker Rest. Corp. v. Sup. Ct.*, *supra*, 53 Cal.4<sup>th</sup> at 1033. (Emphasis added.)

Since Defendants did not offer employees the opportunity to receive a compliant off-duty ten minute rest periods, "the court may not conclude employees voluntarily chose to skip ... breaks." *Alberts v. Aurora Behavioral Health Care*, (2015) 241 Cal. App. 4th 388, 410 ("[i]f an employer fails to provide legally compliant meal or rest breaks, the court may not conclude employees voluntarily chose to skip those breaks."); accord *Brinker Rest. Corp. v. Sup. Ct.*, *supra*, 53 Cal.4<sup>th</sup> at 1033 ("No issue of waiver ever arises for a rest break that was required by law but never authorized; if a break is not authorized, an employee has no opportunity to decline to take it.").

Even an employer who maintains an otherwise compliant rest period policy, "reminded their employees of their availability-and the importance-of taking breaks on a daily basis, and even went so far as to conduct regular audits to ensure that employees were being offered rest breaks" will still be liable for rest period violations if the employees were not separately or properly compensated for the non-productive time associated with rest periods under a piece-rate compensation system. *Amaro v. Gerawan Farming, Inc.*, 2016 U.S. Dist. LEXIS 66842 \* (E.D. Cal. May 19, 2016) *aff'd* *Amaro v. Gerawan*, 2016 U.S. Dist. LEXIS 112540, 2016 WL 4440966, at \* 11 (E.D. Cal. Aug. 22, 2016); rev. denied by 9th Cir. (9th Cir. Nov. 16, 2016).

In addition, Plaintiff and the rest period aggrieved employees were not compensated with one (1) hours' worth of pay at their regular rate of compensation when they were not provided with a compliant rest period.

iii. Defendant Violated and Continues to Violate Labor Code § 204

Labor Code § 204 expressly requires that "[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Pursuant to Labor Code § 204(d), these requirements are "deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

Due to Defendant's failure to pay Plaintiff and the aggrieved employees for all meal and rest period premiums<sup>3</sup>, Defendant failed to timely pay the aggrieved employees within seven (7) days of the close of the payroll period in accordance with Labor Code § 204 on a

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<sup>3</sup> Courts routinely find that employees who do not receive meal/rest periods premiums are entitled to waiting time penalties under Labor Code § 203. *See e.g. In re Autozone, Inc.*, 2016 U.S. Dist. LEXIS 105746 \*23 (N.D. Cal. Aug. 10, 2016) (denying the defendant's motion for summary judgment on the plaintiff's claim for waiting time penalties based upon the failure to provide rest period premiums and finding that the California Court of Appeals decision in *Ling vs. P.F. Chang's China Bistro, Inc.* (2016) 245 Cal. App. 4th 1242 "concerned only whether 'a section 203 waiting time claim based on section 226.7 premium pay is an action brought for the non-payment of wages under section 218.5'"); *Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at \*3-5 (N.D. Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period premiums can support claims under Labor Code §§ 203 and 204); *Brewer v. Gen. Nutrition Corp.* (N.D. Cal. Aug. 27, 2015) 2015 WL 5072039, at \*19 [denying defendant's motion for summary judgment because "the premium payments due under section 226.7 are to be considered "wages" for purposes of sections 203 and 226."]; *Abad v. Gen. Nutrition Centers, Inc.* (C.D. Cal. Mar. 7, 2013) 2013 WL 4038617, at \*3-4 [distinguishing *Kirby*, and finding "Plaintiffs' section 203 claim for failure to pay wages...can be based on amounts owed under section 226.7.".)

regular and consistent basis. *See Parson v. Golden State FC, LLC*, 2016 U.S. Dist. LEXIS 58299, 2016 WL 1734010, at \*3-5 (N.D. Cal. May 2, 2016) (finding after *Ling* that a failure to pay rest period premiums can support claims under Labor Code §§ 203 and 204).

iv. Defendant's Violation of Labor Code §§ 201-203

As a result of Defendant's failure to pay wages to Plaintiff and the aggrieved employees for meal period minimum wages and meal and rest period premiums, Defendant violated Labor Code § 203. Labor Code § 203 provides "if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty. . ." for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, (1998) 68 Cal.App.4th 487, 492.

Due to Defendant's faulty policies described above, all aggrieved employees whose employment with Defendant concluded were not compensated at the appropriate rate. Additionally, Defendant has failed to pay all aggrieved employees for all meal and rest period premiums, whose sums were certain, at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter.

v. Defendant's Violation of Labor Code §§ 226(a) and 226.3

Further, Defendant failed to provide Plaintiff and the aggrieved employees accurate itemized wage statements in accordance with Labor Code § 226(a) (1, 2, 5, and 9). Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (5) net wages earned;
- (6) the inclusive dates of the period for which the employee is paid;
- (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;

- (8) the name and address of the legal entity that is the employer...;
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Due to Defendant's failure to provide Plaintiff and the Aggrieved Employees lawful meal and rest periods, the wage statements issued by Defendant do not indicate the correct amount of gross wages earned, the correct total hours worked, the correct net wages earned, or the applicable and/or correct hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of Labor Code § 226(a)(1), (2), (5) and (9).

Thus, Plaintiff is an aggrieved employee within the meaning of PAGA and Defendant has violated Labor Code § 226(a)(1), (2), (5), and (9) with respect to Plaintiff and the aggrieved employees.

Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226." As explained in detail above, Defendant failed to provide Plaintiff and the other aggrieved employees with accurate itemized wage statements. Accordingly, Plaintiff and the other aggrieved employees may also recover Labor Code § 226.3 penalties for Defendant's violations of Labor Code § 226(a). *See Finder v. Leprino Foods Co.* (E.D. Cal. Mar. 12, 2015) No. 1:13-CV-2059 AWI-BAM, 2015 WL 1137151, at \*7 ["the weight of authority counsels that violations of Section 226.3 may be the basis of a PAGA claim."]; *Pedroza v. PetSmart, Inc.*, No. ED CV 11-298 GHK DTB, 2012 WL 9506073, at \*6 (C.D. Cal. June 14, 2012) ("Lab. Code § 226.3 merely provides that failure to perform actions mandated by § 226(a) may trigger civil penalties.").<sup>4</sup>

## **CONCLUSION**

Therefore, pursuant to Labor Code § 2699.3, we write to inform you and the Labor and Workforce Development Agency, with whom this PAGA Notice has been filed, of our

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<sup>4</sup> *Accord Singer v. Becton, Dickinson & Co., Med-Safe Sys.* (S.D. Cal. July 23, 2008) 2008 U.S. Dist. LEXIS 56326, \*18; *Yadira v. Fernandez* (N.D. Cal. June 14, 2011) 2011 U.S. Dist. LEXIS 62894, \*7-9, 2011 WL 2434043; *Willis v. Xerox Bus. Servs., LLC* (E.D. Cal. Nov. 15, 2013) No. 1:13-CV-01353-LJO, 2013 WL 6053831, at \*7.

intent to pursue a PAGA representative action and a Class Action against Defendants seeking PAGA penalties under Labor Code § 2699 to be brought by Plaintiff, individually and on behalf of the aggrieved employees, as defined above.

Nevertheless, it is the policy of this firm to attempt to negotiate an early resolution of all matters where possible and beneficial to the aggrieved employees and all putative class members. If Defendants are interested in attempting to resolve this matter on a class-wide basis, including the PAGA claims, please contact me or have your lawyer contact me so that we can discuss an informal discovery plan and the possibility of early mediation on or before **November 22, 2021**. If we do not hear from you on or before **November 22, 2021**, we will proceed with this matter with the understanding that Defendants do not wish to negotiate an early resolution of this matter.

In all electronic correspondence that you send me, kindly copy the following addresses:

[jimt@potterhandy.com](mailto:jimt@potterhandy.com)  
[kevinw@potterhandy.com](mailto:kevinw@potterhandy.com)  
[waizaa@potterhandy.com](mailto:waizaa@potterhandy.com)  
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[adamsvsuburbanpropanelpz9147452@projects.filevine.com](mailto:adamsvsuburbanpropanelpz9147452@projects.filevine.com)

Respectfully submitted,

*Jim Treglio*

Jim Treglio  
POTTER HANDY, LLP



**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

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WRITERS EXT:

1004

November 16, 2021

CA2538

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

Suburban Sales & Service, Inc.  
Certified Mail #70200640000074882682  
C T Corporation System  
330 N. Brand Blvd., Suite 700  
Glendale, CA 91203

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Suburban Propane, L.P. and/or Suburban Sales & Service, Inc. in California and classified as non-exempt employees during the time period of November 16, 2020 until a date as determined by the Court. Our offices represent Plaintiff Peter Hall (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Suburban Propane, L.P. and/or Suburban Sales & Service, Inc. (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from November of 2016 to September of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with

their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to them, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiff and Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the correct total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiff and other Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2) as when the hours were added up they did not equal the actual amount of hours worked each pay period. Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees. Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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11 Attorneys for Plaintiff

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF LOS ANGELES**

14 PETER HALL, an individual, on behalf of  
15 himself and on behalf of all persons similarly  
16 situated,

17 Plaintiff,

18 vs.

19 SUBURBAN PROPANE, L.P., a Limited  
20 Partnership; SUBURBAN SALES &  
21 SERVICE, INC., a Corporation; and DOES 1  
22 through 50, inclusive,

23 Defendants.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226; and,
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203; and,
9. CONSTRUCTIVE DISCHARGE AND OTHER ADVERSE EMPLOYMENT ACTIONS IN VIOLATION OF PUBLIC POLICY.

**DEMAND FOR A JURY TRIAL**

1 Plaintiff Peter Hall ("PLAINTIFF"), an individual, on behalf of himself and all other  
2 similarly situated current and former employees alleges on information and belief, except for  
3 his own acts and knowledge which are based on personal knowledge, the following:

4  
5 **THE PARTIES**

6 1. Defendant Suburban Propane, L.P. is a limited partnership that at all relevant  
7 times mentioned herein conducted and continues to conduct substantial business in the state of  
8 California.

9 2. Defendant Suburban Sales & Service, Inc. Is a corporation that at all relevant  
10 times mentioned herein conducted and continues to conduct substantial business in the state of  
11 California.

12 3. Suburban Propane, L.P. and Suburban Sales & Service, Inc. were the joint  
13 employers of PLAINTIFF as evidenced by paycheck and by the company PLAINTIFF  
14 performed work respectively, and are therefore jointly responsible as employers for the conduct  
15 alleged herein, and are therefore collectively referred to herein as "DEFENDANT."

16 4. DEFENDANT specializes in propane, heating oil and refined fuels as well as the  
17 marketing of natural gas and electricity in deregulated markets.

18 5. PLAINTIFF was employed by DEFENDANT in California from November of  
19 2016 to September of 2021 and was at all times classified by DEFENDANT as a non-exempt  
20 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and  
21 payment of minimum and overtime wages due for all time worked.

22 6. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
23 defined as all individuals who are or previously were employed by Suburban Propane, L.P.  
24 and/or Suburban Sales & Service, Inc. in California and classified as non-exempt employees  
25 (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to  
26 the filing of this Complaint and ending on the date as determined by the Court (the  
27 "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of  
28 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

1           7.     PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA  
2 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
3 the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice which  
4 failed to lawfully compensate these employees. DEFENDANT's policy and practice alleged  
5 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained  
6 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA  
7 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction  
8 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
9 the other members of the CALIFORNIA CLASS who have been economically injured by  
10 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and  
11 equitable relief.

12           8.     The true names and capacities, whether individual, corporate, subsidiary,  
13 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently  
14 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant  
15 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege  
16 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.  
17 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that  
18 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are  
19 responsible in some manner for one or more of the events and happenings that proximately  
20 caused the injuries and damages hereinafter alleged.

21           9.     The agents, servants and/or employees of the Defendants and each of them acting  
22 on behalf of the Defendants acted within the course and scope of his, her or its authority as the  
23 agent, servant and/or employee of the Defendants, and personally participated in the conduct  
24 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.  
25 Consequently, the acts of each Defendant are legally attributable to the other Defendants and  
26 all Defendants are jointly and severally liable to PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the  
28 Defendants' agents, servants and/or employees.



## THE CONDUCT

10. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time they are under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF is from time to time interrupted by work assignments while clocked out for what should be PLAINTIFF's off-duty meal break. DEFENDANT, as a matter of established company policy and procedure, administers a uniform practice of rounding the actual time worked and recorded by PLAINTIFF and CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that during the course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid less than they would have been paid had they been paid for actual recorded time rather than "rounded" time. Additionally, DEFENDANT engages in the practice of requiring PLAINTIFF and CALIFORNIA CLASS Members to perform work off the clocking that DEFENDANT, as a condition of employment, required these employees to submit to mandatory temperature checks and symptom questionnaires for COVID-19 screening prior to clocking into DEFENDANT's timekeeping system for the workday. As a result, PLAINTIFF and other CALIFORNIA CLASS Members forfeit minimum wage, overtime wage compensation, and off-duty meal breaks by working without their time being correctly recorded and without compensation at the applicable rates. DEFENDANT's policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked, is evidenced by DEFENDANT's business records.

11. State and federal law provides that employees must be paid overtime and meal and rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied to specific elements of an employee's performance.



1           12. The second component of PLAINTIFF's and other CALIFORNIA CLASS  
2 Members' compensation is DEFENDANT's non-discretionary incentive program that paid  
3 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
4 performance for DEFENDANT. The non-discretionary incentive program provided all  
5 employees paid on an hourly basis with incentive compensation when the employees met the  
6 various performance goals set by DEFENDANT. However, when calculating the regular rate  
7 of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and other  
8 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation  
9 as part of the employees' "regular rate of pay" for purposes of calculating overtime pay and  
10 meal and rest break premium pay. Management and supervisors described the incentive  
11 program to potential and new employees as part of the compensation package. As a matter of  
12 law, the incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS  
13 Members must be included in the "regular rate of pay." The failure to do so has resulted in a  
14 underpayment of overtime compensation and meal and rest break premiums to PLAINTIFF and  
15 other CALIFORNIA CLASS Members by DEFENDANT.

16           13. As a result of their rigorous work schedules, PLAINTIFF and other  
17 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off  
18 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and  
19 other CALIFORNIA CLASS Members were required from time to time to perform work as  
20 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a  
21 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and  
22 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in  
23 which these employees were required by DEFENDANT to work ten (10) hours of work.  
24 DEFENDANT also engaged in the practice of rounding the meal period times to avoid paying  
25 penalties to PLAINTIFF and other CALIFORNIA CLASS Members. PLAINTIFF and other  
26 members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional  
27 compensation and in accordance with DEFENDANT's corporate policy and practice.

28           14. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other

1 CALIFORNIA CLASS Members were also required from time to time to work in excess of four  
2 (4) hours without being provided ten (10) minute rest periods. Further, these employees were  
3 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two  
4 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes  
5 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,  
6 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours  
7 or more from time to time. PLAINTIFF and other CALIFORNIA CLASS Members were also  
8 not provided with one hour wages in lieu thereof. Additionally, the applicable California Wage  
9 Order requires employers to provide employees with off-duty rest periods, which the California  
10 Supreme Court defined as time during which an employee is relieved from all work related  
11 duties and free from employer control. In so doing, the Court held that the requirement under  
12 California law that employers authorize and permit all employees to take rest period means that  
13 employers must relieve employees of all duties and relinquish control over how employees  
14 spend their time which includes control over the locations where employees may take their rest  
15 period. Employers cannot impose controls that prohibit an employee from taking a brief walk -  
16 five minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and  
17 other CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on  
18 DEFENDANT's rule which states PLAINTIFF and other CALIFORNIA CLASS Members  
19 cannot leave the work premises during their rest period.

20 15. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately  
21 record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount  
22 of time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,  
23 DEFENDANT was required to pay PLAINTIFF and other CALIFORNIA CLASS Members  
24 for all time worked, meaning the time during which an employee was subject to the control of  
25 an employer, including all the time the employee was permitted or suffered to permit this work.  
26 DEFENDANT required these employees to work off the clock without paying them for all the  
27 time they were under DEFENDANT's control. As such, DEFENDANT knew or should have  
28 known that PLAINTIFF and the other members of the CALIFORNIA CLASS were under

1 compensated for all time worked. As a result, PLAINTIFF and other CALIFORNIA CLASS  
2 Members forfeited time worked by working without their time being accurately recorded and  
3 without compensation at the applicable minimum wage and overtime wage rates. To the extent  
4 that the time worked off the clock does not qualify for overtime premium payment,  
5 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of  
6 Cal. Lab. Code §§ 1194, 1197, and 1197.1.

7 16. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
8 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage  
9 statements which failed to show, among other things, the correct gross and net wages earned.  
10 Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees  
11 with an accurate itemized wage statement in writing showing, among other things, gross wages  
12 earned and all applicable hourly rates in effect during the pay period and the corresponding  
13 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA LABOR SUB-  
14 CLASS Members were paid on an hourly basis. As such, the wage statements should reflect  
15 all applicable hourly rates during the pay period and the total hours worked, and the applicable  
16 pay period in which the wages were earned pursuant to California Labor Code Section 226(a).  
17 The wage statements DEFENDANT provided to PLAINTIFF and other CALIFORNIA LABOR  
18 SUB-CLASS Members failed to identify such information. More specifically, the wage  
19 statements failed to identify the accurate total hours worked each pay period. When the hours  
20 shown on the wage statements were added up, they did not equal the actual total hours worked  
21 during the pay period. Aside, from the violations listed above in this paragraph, DEFENDANT  
22 failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under  
23 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided  
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with wage  
25 statements which violated Cal. Lab. Code § 226.

26 17. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be  
27 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the  
28 wages are paid not more than seven (7) calendar days following the close of the payroll period.

1 Cal. Lab. Code § 210 provides:

2 [I]n addition to, and entirely independent and apart from, any other penalty provided in  
3 this article, every person who fails to pay the wages of each employee as provided in  
4 Sections. . . 204. . . shall be subject to a civil penalty as follows: (1) For any initial  
5 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each  
6 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)  
7 for each failure to pay each employee, plus 25 percent of the amount unlawfully  
8 withheld.

9 18. DEFENDANT from time to time failed to pay PLAINTIFF and members of the  
10 CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the  
11 payroll period in accordance with Cal. Lab. Code § 204(d).

12 19. DEFENDANT underpaid sick pay wages to PLAINTIFF and other  
13 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay in  
14 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt  
15 employees earn non-discretionary remuneration. Rather than pay sick pay at the regular rate  
16 of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS  
17 Members at their base rates of pay.

18 20. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt  
19 employees be calculated by dividing the employee's total wages, not including overtime  
20 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days  
21 of employment.

22 21. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at  
23 the regular rate of pay. PLAINTIFF and CALIFORNIA CLASS Members routinely earned non-  
24 discretionary incentive wages which increased their regular rate of pay. However, when sick  
25 pay was paid, it was paid at the base rate of pay for PLAINTIFF and members of the  
26 CALIFORNIA CLASS, as opposed to the correct, higher regular rate of pay, as required under  
27 Cal. Lab. Code Section 246.

28 22. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and  
other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting  
time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and  
believes and based thereon alleges that such failure to pay sick pay at regular rate was willful,

1 such that PLAINTIFF and members of the CALIFORNIA CLASS whose employment has  
2 separated are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

3 23. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer  
4 to collect or receive from an employee any part of wages theretofore paid by said employer to  
5 said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and other  
6 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation  
7 payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose  
8 all aspects of the deductions from compensation payable to PLAINTIFF and CALIFORNIA  
9 LABOR SUB-CLASS Members, and thereby failed to pay these employees all wages due at  
10 each applicable pay period and upon termination. PLAINTIFF and members of the  
11 CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal deductions from wages  
12 according to proof, related penalties, interest, attorney fees and costs.

13 24. DEFENDANT intentionally and knowingly failed to reimburse and indemnify  
14 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses  
15 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence  
16 of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section  
17 2802, employers are required to indemnify employees for all expenses incurred in the course  
18 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall  
19 indemnify his or her employee for all necessary expenditures or losses incurred by the employee  
20 in direct consequence of the discharge of his or her duties, or of his or her obedience to the  
21 directions of the employer, even though unlawful, unless the employee, at the time of obeying  
22 the directions, believed them to be unlawful."

23 25. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS  
24 Members as a business expense, were required by DEFENDANT to use their own personal  
25 cellular phones as a result of and in furtherance of their job duties as employees for  
26 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated  
27 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,  
28 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to



1 use their personal cellular phones. As a result, in the course of their employment with  
2 DEFENDANT, PLAINTIFF and other members of the CALIFORNIA CLASS incurred  
3 unreimbursed business expenses which included, but were not limited to, costs related to the use  
4 of their personal cellular phones all on behalf of and for the benefit of DEFENDANT.

5 26. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally  
6 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage Order  
7 and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due to  
8 PLAINTIFF. DEFENDANT did not have a policy or practice which provided timely off-duty  
9 meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for  
10 PLAINTIFF's missed meal and rest breaks. The nature of the work performed by the  
11 PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's duties for  
12 the legally required off-duty meal periods. As a result, DEFENDANT's failure to provide  
13 PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's business  
14 records. The amount in controversy for PLAINTIFF individually does not exceed the sum or  
15 value of \$75,000.

#### 16 **JURISDICTION AND VENUE**

17 27. This Court has jurisdiction over this Action pursuant to California Code of Civil  
18 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This  
19 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees  
20 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

21 28. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
22 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and  
23 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities  
24 in this County and/or conducts substantial business in this County, and (ii) committed the  
25 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

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30. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

32. DEFENDANT has the legal burden to establish that each and every CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as required by California laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This common business practice is applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair,

1 and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the "UCL") as  
2 causation, damages, and reliance are not elements of this claim.

3 33. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA  
4 CLASS Members is impracticable.

5 34. DEFENDANT violated the rights of the CALIFORNIA CLASS under California  
6 law by:

7 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof.  
8 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or  
9 deceptively having in place company policies, practices and procedures  
10 that failed to record and pay PLAINTIFF and the other members of the  
11 CALIFORNIA CLASS for all time worked, including minimum wages  
12 owed and overtime wages owed for work performed by these employees;  
13 and,

14 (b) Committing an act of unfair competition in violation of the UCL, by  
15 failing to provide the PLAINTIFF and the other members of the  
16 CALIFORNIA CLASS with the legally required meal and rest periods.

17 35. This Class Action meets the statutory prerequisites for the maintenance of a Class  
18 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

19 (a) The persons who comprise the CALIFORNIA CLASS are so numerous  
20 that the joinder of all such persons is impracticable and the disposition of  
21 their claims as a class will benefit the parties and the Court;

22 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues  
23 that are raised in this Complaint are common to the CALIFORNIA  
24 CLASS will apply to every member of the CALIFORNIA CLASS;

25 (c) The claims of the representative PLAINTIFF are typical of the claims of  
26 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the  
27 other members of the CALIFORNIA CLASS, was classified as a non-  
28 exempt employee paid on an hourly basis who was subjected to the

1 DEFENDANT's deceptive practice and policy which failed to provide the  
2 legally required meal and rest periods to the CALIFORNIA CLASS and  
3 thereby underpaid compensation to PLAINTIFF and CALIFORNIA  
4 CLASS. PLAINTIFF sustained economic injury as a result of  
5 DEFENDANT's employment practices. PLAINTIFF and the members  
6 of the CALIFORNIA CLASS were and are similarly or identically harmed  
7 by the same unlawful, deceptive and unfair misconduct engaged in by  
8 DEFENDANT; and,

- 9 (d) The representative PLAINTIFF will fairly and adequately represent and  
10 protect the interest of the CALIFORNIA CLASS, and has retained  
11 counsel who are competent and experienced in Class Action litigation.  
12 There are no material conflicts between the claims of the representative  
13 PLAINTIFF and the members of the CALIFORNIA CLASS that would  
14 make class certification inappropriate. Counsel for the CALIFORNIA  
15 CLASS will vigorously assert the claims of all CALIFORNIA CLASS  
16 Members.

17 36. In addition to meeting the statutory prerequisites to a Class Action, this action is  
18 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 19 (a) Without class certification and determination of declaratory, injunctive,  
20 statutory and other legal questions within the class format, prosecution of  
21 separate actions by individual members of the CALIFORNIA CLASS will  
22 create the risk of:

- 23 1) Inconsistent or varying adjudications with respect to individual  
24 members of the CALIFORNIA CLASS which would establish  
25 incompatible standards of conduct for the parties opposing the  
26 CALIFORNIA CLASS; and/or,  
27 2) Adjudication with respect to individual members of the  
28 CALIFORNIA CLASS which would as a practical matter be

dispositive of interests of the other members not party to the adjudication or substantially impair or impede their ability to protect their interests.

(b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on grounds generally applicable to the CALIFORNIA CLASS, making appropriate class-wide relief with respect to the CALIFORNIA CLASS as a whole in that DEFENDANT failed to pay all wages due to members of the CALIFORNIA CLASS as required by law;

1) With respect to the First Cause of Action, the final relief on behalf of the CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim PLAINTIFF seeks declaratory relief holding that the DEFENDANT's policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

(c) Common questions of law and fact exist as to the members of the CALIFORNIA CLASS, with respect to the practices and violations of California law as listed above, and predominate over any question affecting only individual CALIFORNIA CLASS Members, and a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

1) The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual

prosecution of this litigation;

2) Class certification will obviate the need for unduly duplicative litigation that would create the risk of:

A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,

B. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

3) In the context of wage litigation because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

37. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

(a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT's employment practices are

1 applied with respect to the CALIFORNIA CLASS;

2 (b) A Class Action is superior to any other available method for the fair and  
3 efficient adjudication of the claims of the members of the CALIFORNIA  
4 CLASS because in the context of employment litigation a substantial  
5 number of individual CALIFORNIA CLASS Members will avoid  
6 asserting their rights individually out of fear of retaliation or adverse  
7 impact on their employment;

8 (c) The members of the CALIFORNIA CLASS are so numerous that it is  
9 impractical to bring all members of the CALIFORNIA CLASS before the  
10 Court;

11 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be  
12 able to obtain effective and economic legal redress unless the action is  
13 maintained as a Class Action;

14 (e) There is a community of interest in obtaining appropriate legal and  
15 equitable relief for the acts of unfair competition, statutory violations and  
16 other improprieties, and in obtaining adequate compensation for the  
17 damages and injuries which DEFENDANT's actions have inflicted upon  
18 the CALIFORNIA CLASS;

19 (f) There is a community of interest in ensuring that the combined assets of  
20 DEFENDANT are sufficient to adequately compensate the members of  
21 the CALIFORNIA CLASS for the injuries sustained;

22 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
23 to the CALIFORNIA CLASS, thereby making final class-wide relief  
24 appropriate with respect to the CALIFORNIA CLASS as a whole;

25 (h) The members of the CALIFORNIA CLASS are readily ascertainable from  
26 the business records of DEFENDANT; and,

27 (i) Class treatment provides manageable judicial treatment calculated to bring  
28 a efficient and rapid conclusion to all litigation of all wage and hour



1 related claims arising out of the conduct of DEFENDANT as to the  
2 members of the CALIFORNIA CLASS.

3 38. DEFENDANT maintains records from which the Court can ascertain and identify  
4 by job title each of DEFENDANT's employees who have been intentionally subjected to  
5 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFF will  
6 seek leave to amend the Complaint to include any additional job titles of similarly situated  
7 employees when they have been identified.

8  
9 **THE CALIFORNIA LABOR SUB-CLASS**

10 39. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh and  
11 Eighth causes Action on behalf of a California sub-class, defined as all members of the  
12 CALIFORNIA CLASS who are or previously were employed by Suburban Propane, L.P.  
13 and/or Suburban Sales & Service, Inc. in California and classified as non exempt employees  
14 (the "CALIFORNIA LABOR SUB-CLASS") at any time during the period three (3) years prior  
15 to the filing of the complaint and ending on the date as determined by the Court (the  
16 "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382.  
17 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS  
18 Members is under five million dollars (\$5,000,000.00).

19 40. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare  
20 Commission ("IWC") Wage Order requirements, and the applicable provisions of California  
21 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed  
22 to correctly calculate compensation for the time worked by PLAINTIFF and the other members  
23 of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these  
24 employees, even though DEFENDANT enjoyed the benefit of this work, required employees  
25 to perform this work and permitted or suffered to permit this work. DEFENDANT has denied  
26 these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are  
27 entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable  
28 tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against

1 DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted  
2 accordingly.

3 41. DEFENDANT maintains records from which the Court can ascertain and identify  
4 by name and job title, each of DEFENDANT's employees who have been intentionally  
5 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.  
6 PLAINTIFF will seek leave to amend the complaint to include any additional job titles of  
7 similarly situated employees when they have been identified.

8 42. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
9 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

10 43. Common questions of law and fact exist as to members of the CALIFORNIA  
11 LABOR SUB-CLASS, including, but not limited, to the following:

- 12 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay  
13 compensation due to members of the CALIFORNIA LABOR SUB-  
14 CLASS for missed meal and rest breaks in violation of the California  
15 Labor Code and California regulations and the applicable California Wage  
16 Order;
- 17 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other  
18 members of the CALIFORNIA LABOR SUB-CLASS with accurate  
19 itemized wage statements;
- 20 (c) Whether DEFENDANT has engaged in unfair competition by the  
21 above-listed conduct;
- 22 (d) The proper measure of damages and penalties owed to the members of the  
23 CALIFORNIA LABOR SUB-CLASS; and,
- 24 (e) Whether DEFENDANT's conduct was willful.

25 44. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS  
26 under California law by:

- 27 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the  
28 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-

1 CLASS all wages due for overtime worked, for which DEFENDANT is  
2 liable pursuant to Cal. Lab. Code § 1194;

3 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to  
4 accurately pay PLAINTIFF and the members of the CALIFORNIA  
5 LABOR SUB-CLASS the correct minimum wage pay for which  
6 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

7 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the  
8 members of the CALIFORNIA LABOR SUB-CLASS with an accurate  
9 itemized statement in writing showing the corresponding correct amount  
10 of wages earned by the employee;

11 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide  
12 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
13 CLASS with all legally required off-duty, uninterrupted thirty (30) minute  
14 meal breaks and the legally required off-duty rest breaks;

15 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that  
16 when an employee is discharged or quits from employment, the employer  
17 must pay the employee all wages due without abatement, by failing to  
18 tender full payment and/or restitution of wages owed or in the manner  
19 required by California law to the members of the CALIFORNIA LABOR  
20 SUB-CLASS who have terminated their employment; and,

21 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and  
22 the CALIFORNIA LABOR SUB-CLASS members with necessary  
23 expenses incurred in the discharge of their job duties.

24 45. This Class Action meets the statutory prerequisites for the maintenance of a Class  
25 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

26 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are  
27 so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS  
28 Members is impracticable and the disposition of their claims as a class

1 will benefit the parties and the Court;

2 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues  
3 that are raised in this Complaint are common to the CALIFORNIA  
4 LABOR SUB-CLASS and will apply to every member of the  
5 CALIFORNIA LABOR SUB-CLASS;

6 (c) The claims of the representative PLAINTIFF are typical of the claims of  
7 each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF,  
8 like all the other members of the CALIFORNIA LABOR SUB-CLASS,  
9 was a non-exempt employee paid on an hourly basis who was subjected  
10 to the DEFENDANT's practice and policy which failed to pay the correct  
11 amount of wages due to the CALIFORNIA LABOR SUB-CLASS.  
12 PLAINTIFF sustained economic injury as a result of DEFENDANT's  
13 employment practices. PLAINTIFF and the members of the  
14 CALIFORNIA LABOR SUB-CLASS were and are similarly or  
15 identically harmed by the same unlawful, deceptive, and unfair  
16 misconduct engaged in by DEFENDANT; and,

17 (d) The representative PLAINTIFF will fairly and adequately represent and  
18 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has  
19 retained counsel who are competent and experienced in Class Action  
20 litigation. There are no material conflicts between the claims of the  
21 representative PLAINTIFF and the members of the CALIFORNIA  
22 LABOR SUB-CLASS that would make class certification inappropriate.  
23 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously  
24 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

25 46. In addition to meeting the statutory prerequisites to a Class Action, this action is  
26 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

27 (a) Without class certification and determination of declaratory, injunctive,  
28 statutory and other legal questions within the class format, prosecution of

1 separate actions by individual members of the CALIFORNIA LABOR  
2 SUB-CLASS will create the risk of:

- 3 1) Inconsistent or varying adjudications with respect to individual  
4 members of the CALIFORNIA LABOR SUB-CLASS which  
5 would establish incompatible standards of conduct for the parties  
6 opposing the CALIFORNIA LABOR SUB-CLASS; or,  
7 2) Adjudication with respect to individual members of the  
8 CALIFORNIA LABOR SUB-CLASS which would as a practical  
9 matter be dispositive of interests of the other members not party to  
10 the adjudication or substantially impair or impede their ability to  
11 protect their interests.

12 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted  
13 or refused to act on grounds generally applicable to the CALIFORNIA  
14 LABOR SUB-CLASS, making appropriate class-wide relief with respect  
15 to the CALIFORNIA LABOR SUB-CLASS as a whole in that  
16 DEFENDANT fails to pay all wages due. Including the correct wages for  
17 all time worked by the members of the CALIFORNIA LABOR SUB-  
18 CLASS as required by law;

19 (c) Common questions of law and fact predominate as to the members of the  
20 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and  
21 violations of California Law as listed above, and predominate over any  
22 question affecting only individual CALIFORNIA LABOR SUB-CLASS  
23 Members, and a Class Action is superior to other available methods for  
24 the fair and efficient adjudication of the controversy, including  
25 consideration of:

- 26 1) The interests of the members of the CALIFORNIA LABOR SUB-  
27 CLASS in individually controlling the prosecution or defense of  
28 separate actions in that the substantial expense of individual

1 actions will be avoided to recover the relatively small amount of  
2 economic losses sustained by the individual CALIFORNIA  
3 LABOR SUB-CLASS Members when compared to the substantial  
4 expense and burden of individual prosecution of this litigation;

5 2) Class certification will obviate the need for unduly duplicative  
6 litigation that would create the risk of:

7 A. Inconsistent or varying adjudications with respect to  
8 individual members of the CALIFORNIA LABOR SUB-  
9 CLASS, which would establish incompatible standards of  
10 conduct for the DEFENDANT; and/or,

11 B. Adjudications with respect to individual members of the  
12 CALIFORNIA LABOR SUB-CLASS would as a practical  
13 matter be dispositive of the interests of the other members  
14 not parties to the adjudication or substantially impair or  
15 impede their ability to protect their interests;

16 3) In the context of wage litigation because a substantial number of  
17 individual CALIFORNIA LABOR SUB-CLASS Members will  
18 avoid asserting their legal rights out of fear of retaliation by  
19 DEFENDANT, which may adversely affect an individual's job  
20 with DEFENDANT or with a subsequent employer, the Class  
21 Action is the only means to assert their claims through a  
22 representative; and,

23 4) A class action is superior to other available methods for the fair  
24 and efficient adjudication of this litigation because class treatment  
25 will obviate the need for unduly and unnecessary duplicative  
26 litigation that is likely to result in the absence of certification of  
27 this action pursuant to Cal. Code of Civ. Proc. § 382.

28 47. This Court should permit this action to be maintained as a Class Action pursuant



1 to Cal. Code of Civ. Proc. § 382 because:

- 2 (a) The questions of law and fact common to the CALIFORNIA LABOR  
3 SUB-CLASS predominate over any question affecting only individual  
4 CALIFORNIA LABOR SUB-CLASS Members;
- 5 (b) A Class Action is superior to any other available method for the fair and  
6 efficient adjudication of the claims of the members of the CALIFORNIA  
7 LABOR SUB-CLASS because in the context of employment litigation a  
8 substantial number of individual CALIFORNIA LABOR SUB-CLASS  
9 Members will avoid asserting their rights individually out of fear of  
10 retaliation or adverse impact on their employment;
- 11 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so  
12 numerous that it is impractical to bring all members of the CALIFORNIA  
13 LABOR SUB-CLASS before the Court;
- 14 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS  
15 Members, will not be able to obtain effective and economic legal redress  
16 unless the action is maintained as a Class Action;
- 17 (e) There is a community of interest in obtaining appropriate legal and  
18 equitable relief for the acts of unfair competition, statutory violations and  
19 other improprieties, and in obtaining adequate compensation for the  
20 damages and injuries which DEFENDANT's actions have inflicted upon  
21 the CALIFORNIA LABOR SUB-CLASS;
- 22 (f) There is a community of interest in ensuring that the combined assets of  
23 DEFENDANT are sufficient to adequately compensate the members of  
24 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 25 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
26 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-  
27 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-  
28 CLASS as a whole;

- 1 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily  
2 ascertainable from the business records of DEFENDANT. The  
3 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA  
4 CLASS Members who worked for DEFENDANT in California at any  
5 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,  
6 (i) Class treatment provides manageable judicial treatment calculated to bring  
7 a efficient and rapid conclusion to all litigation of all wage and hour  
8 related claims arising out of the conduct of DEFENDANT as to the  
9 members of the CALIFORNIA LABOR SUB-CLASS.

10  
11 **FIRST CAUSE OF ACTION**

12 **For Unlawful Business Practices**

13 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

14 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

15 48. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
16 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
17 Complaint.

18 49. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.  
19 Code § 17021.

20 50. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines  
21 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section  
22 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair  
23 competition as follows:

24 Any person who engages, has engaged, or proposes to engage in unfair  
25 competition may be enjoined in any court of competent jurisdiction. The court  
26 may make such orders or judgments, including the appointment of a receiver, as  
27 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.

28 Cal. Bus. & Prof. Code § 17203.

1           51. By the conduct alleged herein, DEFENDANT has engaged and continues to  
2 engage in a business practice which violates California law, including but not limited to, the  
3 applicable Industrial Wage Order(s), the California Code of Regulations and the California  
4 Labor Code including Sections 204 et seq., 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1,  
5 1198, 2802 and the Fair Labor Standards Act and federal regulations promulgated thereunder,  
6 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus.  
7 & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute  
8 unfair competition, including restitution of wages wrongfully withheld.

9           52. By the conduct alleged herein, DEFENDANT's practices were unlawful and  
10 unfair in that these practices violate public policy, were immoral, unethical, oppressive,  
11 unscrupulous or substantially injurious to employees, and were without valid justification or  
12 utility for which this Court should issue equitable and injunctive relief pursuant to Section  
13 17203 of the California Business & Professions Code, including restitution of wages wrongfully  
14 withheld.

15           53. By the conduct alleged herein, DEFENDANT's practices were deceptive and  
16 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated  
17 meal and rest periods, the required amount of compensation for missed meal and rest periods  
18 and overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse  
19 all necessary business expenses incurred, and failed to provide Fair Labor Standards Act  
20 overtime wages due for overtime worked as a result of failing to include non-discretionary  
21 incentive compensation into their regular rates of pay for purposes of computing the proper  
22 overtime pay due to a business practice that cannot be justified, pursuant to the applicable Cal.  
23 Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§  
24 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant  
25 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

26           54. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
27 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
28 other members of the CALIFORNIA CLASS to be underpaid during their employment with

1 DEFENDANT.

2 55. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
3 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to provide  
4 all legally required meal breaks to PLAINTIFF and the other members of the CALIFORNIA  
5 CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

6 56. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
7 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty  
8 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay  
9 for each workday in which a second off-duty meal period was not timely provided for each ten  
10 (10) hours of work.

11 57. PLAINTIFF further demands on behalf of himself and each member of the  
12 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off  
13 duty paid rest period was not timely provided as required by law.

14 58. By and through the unlawful and unfair business practices described herein,  
15 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
16 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
17 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
18 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
19 to unfairly compete against competitors who comply with the law.

20 59. All the acts described herein as violations of, among other things, the Industrial  
21 Welfare Commission Wage Orders, the California Code of Regulations, and the California  
22 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,  
23 oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and  
24 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

25 60. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
26 and do, seek such relief as may be necessary to restore to them the money and property which  
27 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the  
28 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and

1 unfair business practices, including earned but unpaid wages for all time worked.

2 61. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
3 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair  
4 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from  
5 engaging in any unlawful and unfair business practices in the future.

6 62. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
7 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices  
8 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.  
9 As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the  
10 other members of the CALIFORNIA CLASS have suffered and will continue to suffer  
11 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to  
12 engage in these unlawful and unfair business practices.

13  
14 **SECOND CAUSE OF ACTION**

15 **For Failure To Pay Minimum Wages**

16 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

17 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

18 **and Against All Defendants)**

19 63. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
20 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
21 paragraphs of this Complaint.

22 64. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
23 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
24 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to  
25 accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS  
26 Members.

27 65. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and  
28 public policy, an employer must timely pay its employees for all hours worked.

1           66. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
2 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
3 the minimum so fixed is unlawful.

4           67. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
5 including minimum wage compensation and interest thereon, together with the costs of suit.

6           68. DEFENDANT maintained a wage practice of paying PLAINTIFF and the other  
7 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of  
8 time they work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and  
9 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
10 CALIFORNIA LABOR SUB-CLASS.

11           69. DEFENDANT's unlawful wage and hour practices manifested, without limitation,  
12 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing  
13 a policy and practice that denies accurate compensation to PLAINTIFF and the other members  
14 of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

15           70. In committing these violations of the California Labor Code, DEFENDANT  
16 inaccurately calculated the correct time worked and consequently underpaid the actual time  
17 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.  
18 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
19 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
20 requirements and other applicable laws and regulations.

21           71. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
22 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
23 receive the correct minimum wage compensation for their time worked for DEFENDANT.

24           72. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT  
25 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS  
26 Members to work without paying them for all the time they were under DEFENDANT's  
27 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other  
28 members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than they



1 were entitled to, constituting a failure to pay all earned wages.

2 73. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
3 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
4 CLASS for the true time they worked, PLAINTIFF and the other members of the  
5 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
6 injury in amounts which are presently unknown to them and which will be ascertained  
7 according to proof at trial.

8 74. DEFENDANT knew or should have known that PLAINTIFF and the other  
9 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
10 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
11 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
12 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
13 of the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

14 75. In performing the acts and practices herein alleged in violation of California labor  
15 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
16 all time worked and provide them with the requisite compensation, DEFENDANT acted and  
17 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
18 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for  
19 their legal rights, or the consequences to them, and with the despicable intent of depriving them  
20 of their property and legal rights, and otherwise causing them injury in order to increase  
21 company profits at the expense of these employees.

22 76. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
23 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as  
24 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
25 by the California Labor Code and/or other applicable statutes. To the extent minimum wage  
26 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members  
27 who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§  
28 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties

1 under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
2 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
3 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
4 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

5  
6 **THIRD CAUSE OF ACTION**

7 **For Failure To Pay Overtime Compensation**

8 **[Cal. Lab. Code §§ 510, *et seq.*]**

9 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
10 **Defendants)**

11 77. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
12 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs  
13 of this Complaint.

14 78. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
15 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
16 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay  
17 these employees for all overtime worked, including, work performed in excess of eight (8)  
18 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
19 workweek.

20 79. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and  
21 public policy, an employer must timely pay its employees for all hours worked.

22 80. Cal. Lab. Code § 510 further provides that employees in California shall not be  
23 employed more than eight (8) hours per workday and more than forty (40) hours per workweek  
24 unless they receive additional compensation beyond their regular wages in amounts specified  
25 by law.

26 81. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
27 including minimum wage and overtime compensation and interest thereon, together with the  
28 costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for

1 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

2 82. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and  
3 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by  
4 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,  
5 including overtime work.

6 83. DEFENDANT's unlawful wage and hour practices manifested, without limitation,  
7 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing  
8 a policy and practice that failed to accurately record overtime worked by PLAINTIFF and other  
9 CALIFORNIA LABOR SUB-CLASS Members and denied accurate compensation to  
10 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime  
11 worked, including, the overtime work performed in excess of eight (8) hours in a workday,  
12 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

13 84. In committing these violations of the California Labor Code, DEFENDANT  
14 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
15 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted  
16 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation  
17 of the California Labor Code, the Industrial Welfare Commission requirements and other  
18 applicable laws and regulations.

19 85. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
20 the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
21 receive full compensation for overtime worked.

22 86. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
23 from the overtime requirements of the law. None of these exemptions are applicable to the  
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,  
25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not  
26 subject to a valid collective bargaining agreement that would preclude the causes of action  
27 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of herself  
28 and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-

1 negotiable, non-waiveable rights provided by the State of California.

2 87. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the  
3 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime  
4 worked that they are entitled to, constituting a failure to pay all earned wages..

5 88. DEFENDANT failed to accurately pay the PLAINTIFF and the other members  
6 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which  
7 was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,  
8 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR  
9 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT  
10 failed to accurately record and pay as evidenced by DEFENDANT's business records and  
11 witnessed by employees.

12 89. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
13 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
14 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the  
15 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
16 injury in amounts which are presently unknown to them and which will be ascertained  
17 according to proof at trial.

18 90. DEFENDANT knew or should have known that PLAINTIFF and the other  
19 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime  
20 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
21 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
22 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
23 of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

24 91. In performing the acts and practices herein alleged in violation of California labor  
25 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
26 all overtime worked and provide them with the requisite overtime compensation, DEFENDANT  
27 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and  
28 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter

1 disregard for their legal rights, or the consequences to them, and with the despicable intent of  
2 depriving them of their property and legal rights, and otherwise causing them injury in order  
3 to increase company profits at the expense of these employees.

4 92. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
5 therefore request recovery of all overtime wages, according to proof, interest, statutory costs,  
6 as well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
7 by the California Labor Code and/or other applicable statutes. To the extent minimum and/or  
8 overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS  
9 Members who have terminated their employment, DEFENDANT's conduct also violates Labor  
10 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time  
11 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
12 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
13 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
14 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

15 **FOURTH CAUSE OF ACTION**

16 **For Failure to Provide Required Meal Periods**

17 **[Cal. Lab. Code §§ 226.7 & 512 ]**

18 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
19 **Defendants)**

20 93. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
21 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs  
22 of this Complaint.

23 94. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time  
24 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other  
25 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and  
26 Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR  
27 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their  
28



1 duties for the legally required off-duty meal periods. As a result of their rigorous work  
2 schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
3 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,  
4 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
5 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced  
6 by DEFENDANT's business records from time to time. Further, DEFENDANT failed to  
7 provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period  
8 in some workdays in which these employees were required by DEFENDANT to work ten (10)  
9 hours of work from time to time. As a result, PLAINTIFF and other members of the  
10 CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without additional  
11 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

12 95. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable  
13 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
14 CLASS Members who were not provided a meal period, in accordance with the applicable  
15 Wage Order, one additional hour of compensation at each employee's regular rate of pay for  
16 each workday that a meal period was not provided.

17 96. As a proximate result of the aforementioned violations, PLAINTIFF and  
18 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
19 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
20 suit.

21  
22 **FIFTH CAUSE OF ACTION**

23 **For Failure to Provide Required Rest Periods**

24 **[Cal. Lab. Code §§ 226.7 & 512 ]**

25 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
26 **Defendants)**

27 97. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
28 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs



1 of this Complaint.

2 98. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
3 time to time required to work in excess of four (4) hours without being provided ten (10) minute  
4 rest periods. Further, these employees from time to time were denied their first rest periods of  
5 at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and  
6 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and  
7 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some  
8 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other  
9 CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages  
10 in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
11 CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest  
12 periods by DEFENDANT and DEFENDANT's managers.

13 99. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
14 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
15 CLASS Members who were not provided a rest period, in accordance with the applicable Wage  
16 Order, one additional hour of compensation at each employee's regular rate of pay for each  
17 workday that rest period was not provided.

18 100. As a proximate result of the aforementioned violations, PLAINTIFF and  
19 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
20 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
21 suit.

22 **SIXTH CAUSE OF ACTION**

23 **For Failure to Provide Accurate Itemized Statements**

24 **[Cal. Lab. Code § 226]**

25 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
26 **Defendants)**

27 101. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
28 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior

1 paragraphs of this Complaint.

2 102. Cal. Labor Code § 226 provides that an employer must furnish employees  
3 with  
4 an "accurate itemized" statement in writing showing:

- 5 (1) gross wages earned,
- 6 (2) total hours worked by the employee, except for any employee whose  
compensation is solely based on a salary and who is exempt from payment of  
7 overtime under subdivision (a) of Section 515 or any applicable order of the  
Industrial Welfare Commission,
- 8 (3) the number of piece-rate units earned and any applicable piece rate if the employee  
is paid on a piece-rate basis,
- 9 (4) all deductions, provided that all deductions made on written orders of the  
employee may be aggregated and shown as one item,
- 10 (5) net wages earned,
- 11 (6) the inclusive dates of the period for which the employee is paid,
- 12 (7) the name of the employee and his or her social security number, except that by  
January 1, 2008, only the last four digits of his or her social security number or an  
employee identification number other than a social security number may be shown on  
13 the itemized statement,
- 14 (8) the name and address of the legal entity that is the employer, and
- 15 (9) all applicable hourly rates in effect during the pay period and the corresponding  
number of hours worked at each hourly rate by the employee.

16 103. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
17 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate  
18 wage statements which failed to show, among other things, the correct gross and net wages  
19 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her  
20 employees with an accurate itemized wage statement in writing showing, among other  
21 things, gross wages earned and all applicable hourly rates in effect during the pay period and  
22 the corresponding amount of time worked at each hourly rate. Aside, from the violations  
23 listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized  
24 wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a  
25 result, DEFENDANT from time to time provided PLAINTIFF and the other members of the  
26 CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code  
27 § 226.

28 104. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.  
Code § 226, causing injury and damages to PLAINTIFF and the other members of the

1 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
2 expended calculating the correct wages for all missed meal and rest breaks and the amount  
3 of employment taxes which were not properly paid to state and federal tax authorities.  
4 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of  
5 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty  
6 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred  
7 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §  
8 226, in an amount according to proof at the time of trial (but in no event more than four  
9 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the  
10 CALIFORNIA LABOR SUB-CLASS herein).

11  
12 **SEVENTH CAUSE OF ACTION**

13 **For Failure to Reimburse Employees for Required Expenses**

14 **[Cal. Lab. Code § 2802]**

15 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
16 **Defendants)**

17 105. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members  
18 reallege and incorporate by this reference, as though fully set forth herein, the prior  
19 paragraphs of this Complaint.

20 106. Cal. Lab. Code § 2802 provides, in relevant part, that:

21 An employer shall indemnify his or her employee for all necessary  
22 expenditures or losses incurred by the employee in direct consequence of the  
23 discharge of his or her duties, or of his or her obedience to the directions of the  
24 employer, even though unlawful, unless the employee, at the time of obeying  
25 the directions, believed them to be unlawful.

26 107. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,  
27 by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-  
28 CLASS members for required expenses incurred in the discharge of their job duties for  
DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the

1 CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not  
2 limited to, costs related to using their personal cellular phones on behalf of and for the  
3 benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR  
4 SUB-CLASS Members were required by DEFENDANT to use their personal cellular  
5 phones in order to perform work related job tasks. DEFENDANT's policy and practice was  
6 to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for  
7 expenses resulting from using their personal cellular phones for DEFENDANT within the  
8 course and scope of their employment for DEFENDANT. These expenses were necessary  
9 to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's  
10 conduct to assert any waiver of this expectation. Although these expenses were necessary  
11 expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members,  
12 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA  
13 LABOR SUB-CLASS members for these expenses as an employer is required to do under  
14 the laws and regulations of California.

15 108. PLAINTIFF therefore demands reimbursement for expenditures or losses  
16 incurred by herself and the CALIFORNIA LABOR SUB-CLASS members in the discharge  
17 of their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,  
18 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

19  
20 **EIGHTH CAUSE OF ACTION**

21 **For Failure to Pay Wages When Due**

22 **[ Cal. Lab. Code §§ 201, 202, 203]**

23 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

24 **and Against All Defendants)**

25 104. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
26 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior  
27 paragraphs of this Complaint.

28 105. Cal. Lab. Code § 200 provides, in relevant part, that:  
As used in this article:

1 (a) "Wages" includes all amounts for labor performed by employees of  
2 every description, whether the amount is fixed or ascertained by the  
3 standard of time, task, piece, Commission basis, or other method of calculation.  
4 (b) "Labor" includes labor, work, or service whether rendered or  
5 performed under contract, subcontract, partnership, station plan, or other  
6 agreement if the labor to be paid for is performed personally by the person  
7 demanding payment.

8 106. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer  
9 discharges an employee, the wages earned and unpaid at the time of discharge are due and  
10 payable immediately."

11 107. Cal. Lab. Code § 202 provides, in relevant part, that:

12 If an employee not having a written contract for a definite period quits his  
13 or her employment, his or her wages shall become due and payable not  
14 later than 72 hours thereafter, unless the employee has given 72 hours  
15 previous notice of his or her intention to quit, in which case the employee  
16 is entitled to his or her wages at the time of quitting. Notwithstanding any  
17 other provision of law, an employee who quits without providing a 72-  
18 hour notice shall be entitled to receive payment by mail if he or she so  
19 requests and designates a mailing address. The date of the mailing shall  
20 constitute the date of payment for purposes of the requirement to provide  
21 payment within 72 hours of the notice of quitting.

22 108. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR  
23 SUB-CLASS Members' employment contract.

24 109. Cal. Lab. Code § 203 provides, in relevant part, that:

25 If an employer willfully fails to pay, without abatement or reduction, in  
26 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an  
27 employee who is discharged or who quits, the wages of the employee shall  
28 continue as a penalty from the due date thereof at the same rate until paid  
or until an action therefor is commenced; but the wages shall not continue  
for more than 30 days.

110. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-  
CLASS Members has terminated and DEFENDANT has not tendered payment of all wages  
owed as required by law.

111. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the  
members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated  
and who have not been fully paid their wages due to them, PLAINTIFF demands thirty days  
of pay as penalty for not paying all wages due at time of termination for all employees who  
terminated employment during the CALIFORNIA LABOR SUB-CLASS PERIOD and



1 demands an accounting and payment of all wages due, plus interest and statutory costs as  
2 allowed by law.

3  
4 **NINTH CAUSE OF ACTION**

5 **Constructive Discharge And Other Adverse Employment  
Actions in Violation of Public Policy**

6 **(By PLAINTIFF Against All Defendants)**

7 112. PLAINTIFF realleges and incorporate by this reference, as though fully set  
8 forth herein, the prior paragraphs of this Complaint.

9 113. Throughout his employment, PLAINTIFF was the recipient of intolerable  
10 working conditions that Plaintiff complained about throughout 2021. PLAINTIFF  
11 complained to DEFENDANT's managers, including but not limited to, DEFENDANT's  
12 customer Service Center Manager Scott Hayes, regarding DEFENDANT's lack of safety  
13 and health protocols and violations of the California Labor Code. PLAINTIFF complained  
14 to DEFENDANT about: no providing potable water of any type, not providing toilet  
15 facilities, and hand-washing facilities as there were times Plaintiff was required to work  
16 with liquified propane gas. PLAINTIFF reported he felt these were violations of Cal. Code  
17 Regs. Tit. 8 Section 8397.4. Because DEFENDANT failed to provide adequate restrooms  
18 PLAINTIFF and his co-workers were forced to defecate in boxes and outside in  
19 DEFENDANT's yard-site. As a result of the working conditions imposed on PLAINTIFF,  
20 On September 3, 2021 PLAINTIFF made the decision to resign from PLAINTIFF's  
21 employment due to the intolerable working conditions described above and his mental  
22 breakdown from the stress and anxiety DEFENDANT's workplace placed on him.  
23 PLAINTIFF was subsequently diagnosed with generalized anxiety disorder due to his steep  
24 mental decline affiliated with the years of stress caused by DEFENDANT's lack of safety  
25 and health protocols at his work-site.

26 114. DEFENDANT through their officers, directors, managing agents, and  
27 supervisory employees, intentionally created and knowingly permitted working conditions  
28



to exist that were so intolerable that a reasonable person in PLAINTIFF's position would have had no reasonable alternative except to resign. PLAINTIFF engaged in protected activity of reporting the illegal workplace conditions as described above to DEFENDANT. DEFENDANT violated the fundamental public policies of the State of California. PLAINTIFF's anxiety and stress stemming from DEFENDANT's continued lack of work site safety precautions was so substantial that he was unable to return to work.

115. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial losses in earnings, future earning capacity, and employment benefits and emotional distress in an amount to be determined according to proof at trial.

116. In doing the acts herein alleged, DEFENDANT acted with malice and oppression, and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled to exemplary and punitive damages from DEFENDANT in an amount to be determined to punish DEFENDANT and to deter such wrongful conduct in the future

### **PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:
  - A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
  - B) An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein;

- 1 C) An order requiring DEFENDANT to pay all wages and all sums  
2 unlawfully withheld from compensation due to PLAINTIFF and the other  
3 members of the CALIFORNIA CLASS; and,  
4  
5 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a  
6 fluid fund for restitution of the sums incidental to DEFENDANT's  
7 violations due to PLAINTIFF and to the other members of the  
8 CALIFORNIA CLASS.

9 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 10 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh  
11 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS  
12 as a class action pursuant to Cal. Code of Civ. Proc. § 382;  
13  
14 B) Compensatory damages, according to proof at trial, including  
15 compensatory damages for minimum and overtime compensation due  
16 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
17 CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS  
18 PERIOD plus interest thereon at the statutory rate;  
19  
20 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay  
21 period in which a violation occurs and one hundred dollars (\$100) per  
22 each member of the CALIFORNIA LABOR SUB-CLASS for each  
23 violation in a subsequent pay period, not exceeding an aggregate penalty  
24 of four thousand dollars (\$4,000), and an award of costs for violation of  
25 Cal. Lab. Code § 226;  
26  
27 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7,  
28 512 and the applicable IWC Wage Order;  
E) For liquidated damages pursuant to California Labor Code Sections  
1194.2 and 1197;

- 1 F) The amount of the expenses PLAINTIFF and each member of the  
2 CALIFORNIA LABOR SUBCLASS incurred in the course of their job  
3 duties, plus interest, and costs of suit.; and,  
4  
5 G) The wages of all terminated employees in the CALIFORNIA LABOR  
6 SUB-CLASS as a penalty from the due date thereof at the same rate until  
7 paid or until an action therefore is commenced, in accordance with Cal.  
8 Lab. Code § 203.

9 3. On behalf of the Ninth Cause of Action:

- 10 A) For all special damages which were sustained as a result of DEFENDANT's  
11 conduct, including, but not limited to, back pay, front pay, lost compensation  
12 and job benefits that PLAINTIFF would have received but for the practices  
13 of DEFENDANT; and,  
14 B) For all exemplary damages, according to proof, which were sustained as  
15 a result of DEFENDANT's conduct.

16 4. On all claims:

- 17 A) An award of interest, including prejudgment interest at the legal rate;  
18 B) Such other and further relief as the Court deems just and equitable; and,  
19 C) An award of penalties, attorneys' fees and cost of suit, as allowable under  
20 the law, including, but not limited to, pursuant to Labor Code §221, §226,  
21 §1194, and/or §2802.

22 Dated: November 15, 2021 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW

23 LLP

24 By: \_\_\_\_\_

25 Norman B. Blumenthal

26 Attorneys for Plaintiff  
27  
28

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**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: November 15, 2021 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW  
LLP

By: \_\_\_\_\_  
Norman B. Blumenthal  
Attorneys for Plaintiff

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

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WRITERS EXT:

1004

November 16, 2021

CA2538

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

Suburban Propane, L.P.  
Certified Mail #70200640000074882699  
C T Corporation System  
330 N. Brand Blvd., Suite 700  
Glendale, CA 91203

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Suburban Propane, L.P. and/or Suburban Sales & Service, Inc. in California and classified as non-exempt employees during the time period of November 16, 2020 until a date as determined by the Court. Our offices represent Plaintiff Peter Hall (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Suburban Propane, L.P. and/or Suburban Sales & Service, Inc. (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from November of 2016 to September of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with

their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to them, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiff and Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the correct total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiff and other Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2) as when the hours were added up they did not equal the actual amount of hours worked each pay period. Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees. Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.



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11 Attorneys for Plaintiff

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF LOS ANGELES**

14 PETER HALL, an individual, on behalf of  
15 himself and on behalf of all persons similarly  
16 situated,

17 Plaintiff,

18 vs.

19 SUBURBAN PROPANE, L.P., a Limited  
20 Partnership; SUBURBAN SALES &  
21 SERVICE, INC., a Corporation; and DOES 1  
22 through 50, inclusive,

23 Defendants.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226; and,
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203; and,
9. CONSTRUCTIVE DISCHARGE AND OTHER ADVERSE EMPLOYMENT ACTIONS IN VIOLATION OF PUBLIC POLICY.

**DEMAND FOR A JURY TRIAL**

1 Plaintiff Peter Hall ("PLAINTIFF"), an individual, on behalf of himself and all other  
2 similarly situated current and former employees alleges on information and belief, except for  
3 his own acts and knowledge which are based on personal knowledge, the following:

4  
5 **THE PARTIES**

6 1. Defendant Suburban Propane, L.P. is a limited partnership that at all relevant  
7 times mentioned herein conducted and continues to conduct substantial business in the state of  
8 California.

9 2. Defendant Suburban Sales & Service, Inc. Is a corporation that at all relevant  
10 times mentioned herein conducted and continues to conduct substantial business in the state of  
11 California.

12 3. Suburban Propane, L.P. and Suburban Sales & Service, Inc. were the joint  
13 employers of PLAINTIFF as evidenced by paycheck and by the company PLAINTIFF  
14 performed work respectively, and are therefore jointly responsible as employers for the conduct  
15 alleged herein, and are therefore collectively referred to herein as "DEFENDANT."

16 4. DEFENDANT specializes in propane, heating oil and refined fuels as well as the  
17 marketing of natural gas and electricity in deregulated markets.

18 5. PLAINTIFF was employed by DEFENDANT in California from November of  
19 2016 to September of 2021 and was at all times classified by DEFENDANT as a non-exempt  
20 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and  
21 payment of minimum and overtime wages due for all time worked.

22 6. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
23 defined as all individuals who are or previously were employed by Suburban Propane, L.P.  
24 and/or Suburban Sales & Service, Inc. in California and classified as non-exempt employees  
25 (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to  
26 the filing of this Complaint and ending on the date as determined by the Court (the  
27 "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of  
28 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

1           7.     PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA  
2 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
3 the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice which  
4 failed to lawfully compensate these employees. DEFENDANT's policy and practice alleged  
5 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained  
6 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA  
7 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction  
8 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
9 the other members of the CALIFORNIA CLASS who have been economically injured by  
10 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and  
11 equitable relief.

12           8.     The true names and capacities, whether individual, corporate, subsidiary,  
13 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently  
14 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant  
15 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege  
16 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.  
17 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that  
18 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are  
19 responsible in some manner for one or more of the events and happenings that proximately  
20 caused the injuries and damages hereinafter alleged.

21           9.     The agents, servants and/or employees of the Defendants and each of them acting  
22 on behalf of the Defendants acted within the course and scope of his, her or its authority as the  
23 agent, servant and/or employee of the Defendants, and personally participated in the conduct  
24 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.  
25 Consequently, the acts of each Defendant are legally attributable to the other Defendants and  
26 all Defendants are jointly and severally liable to PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the  
28 Defendants' agents, servants and/or employees.

## THE CONDUCT

10. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time they are under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF is from time to time interrupted by work assignments while clocked out for what should be PLAINTIFF's off-duty meal break. DEFENDANT, as a matter of established company policy and procedure, administers a uniform practice of rounding the actual time worked and recorded by PLAINTIFF and CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that during the course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid less than they would have been paid had they been paid for actual recorded time rather than "rounded" time. Additionally, DEFENDANT engages in the practice of requiring PLAINTIFF and CALIFORNIA CLASS Members to perform work off the clocking that DEFENDANT, as a condition of employment, required these employees to submit to mandatory temperature checks and symptom questionnaires for COVID-19 screening prior to clocking into DEFENDANT's timekeeping system for the workday. As a result, PLAINTIFF and other CALIFORNIA CLASS Members forfeit minimum wage, overtime wage compensation, and off-duty meal breaks by working without their time being correctly recorded and without compensation at the applicable rates. DEFENDANT's policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked, is evidenced by DEFENDANT's business records.

11. State and federal law provides that employees must be paid overtime and meal and rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied to specific elements of an employee's performance.

1           12. The second component of PLAINTIFF's and other CALIFORNIA CLASS  
2 Members' compensation is DEFENDANT's non-discretionary incentive program that paid  
3 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
4 performance for DEFENDANT. The non-discretionary incentive program provided all  
5 employees paid on an hourly basis with incentive compensation when the employees met the  
6 various performance goals set by DEFENDANT. However, when calculating the regular rate  
7 of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and other  
8 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation  
9 as part of the employees' "regular rate of pay" for purposes of calculating overtime pay and  
10 meal and rest break premium pay. Management and supervisors described the incentive  
11 program to potential and new employees as part of the compensation package. As a matter of  
12 law, the incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS  
13 Members must be included in the "regular rate of pay." The failure to do so has resulted in a  
14 underpayment of overtime compensation and meal and rest break premiums to PLAINTIFF and  
15 other CALIFORNIA CLASS Members by DEFENDANT.

16           13. As a result of their rigorous work schedules, PLAINTIFF and other  
17 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off  
18 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and  
19 other CALIFORNIA CLASS Members were required from time to time to perform work as  
20 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a  
21 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and  
22 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in  
23 which these employees were required by DEFENDANT to work ten (10) hours of work.  
24 DEFENDANT also engaged in the practice of rounding the meal period times to avoid paying  
25 penalties to PLAINTIFF and other CALIFORNIA CLASS Members. PLAINTIFF and other  
26 members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional  
27 compensation and in accordance with DEFENDANT's corporate policy and practice.

28           14. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other



1 CALIFORNIA CLASS Members were also required from time to time to work in excess of four  
2 (4) hours without being provided ten (10) minute rest periods. Further, these employees were  
3 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two  
4 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes  
5 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,  
6 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours  
7 or more from time to time. PLAINTIFF and other CALIFORNIA CLASS Members were also  
8 not provided with one hour wages in lieu thereof. Additionally, the applicable California Wage  
9 Order requires employers to provide employees with off-duty rest periods, which the California  
10 Supreme Court defined as time during which an employee is relieved from all work related  
11 duties and free from employer control. In so doing, the Court held that the requirement under  
12 California law that employers authorize and permit all employees to take rest period means that  
13 employers must relieve employees of all duties and relinquish control over how employees  
14 spend their time which includes control over the locations where employees may take their rest  
15 period. Employers cannot impose controls that prohibit an employee from taking a brief walk -  
16 five minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and  
17 other CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on  
18 DEFENDANT's rule which states PLAINTIFF and other CALIFORNIA CLASS Members  
19 cannot leave the work premises during their rest period.

20 15. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately  
21 record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount  
22 of time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,  
23 DEFENDANT was required to pay PLAINTIFF and other CALIFORNIA CLASS Members  
24 for all time worked, meaning the time during which an employee was subject to the control of  
25 an employer, including all the time the employee was permitted or suffered to permit this work.  
26 DEFENDANT required these employees to work off the clock without paying them for all the  
27 time they were under DEFENDANT's control. As such, DEFENDANT knew or should have  
28 known that PLAINTIFF and the other members of the CALIFORNIA CLASS were under



1 compensated for all time worked. As a result, PLAINTIFF and other CALIFORNIA CLASS  
2 Members forfeited time worked by working without their time being accurately recorded and  
3 without compensation at the applicable minimum wage and overtime wage rates. To the extent  
4 that the time worked off the clock does not qualify for overtime premium payment,  
5 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of  
6 Cal. Lab. Code §§ 1194, 1197, and 1197.1.

7 16. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
8 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage  
9 statements which failed to show, among other things, the correct gross and net wages earned.  
10 Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees  
11 with an accurate itemized wage statement in writing showing, among other things, gross wages  
12 earned and all applicable hourly rates in effect during the pay period and the corresponding  
13 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA LABOR SUB-  
14 CLASS Members were paid on an hourly basis. As such, the wage statements should reflect  
15 all applicable hourly rates during the pay period and the total hours worked, and the applicable  
16 pay period in which the wages were earned pursuant to California Labor Code Section 226(a).  
17 The wage statements DEFENDANT provided to PLAINTIFF and other CALIFORNIA LABOR  
18 SUB-CLASS Members failed to identify such information. More specifically, the wage  
19 statements failed to identify the accurate total hours worked each pay period. When the hours  
20 shown on the wage statements were added up, they did not equal the actual total hours worked  
21 during the pay period. Aside, from the violations listed above in this paragraph, DEFENDANT  
22 failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under  
23 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided  
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with wage  
25 statements which violated Cal. Lab. Code § 226.

26 17. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be  
27 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the  
28 wages are paid not more than seven (7) calendar days following the close of the payroll period.

1 Cal. Lab. Code § 210 provides:

2 [I]n addition to, and entirely independent and apart from, any other penalty provided in  
3 this article, every person who fails to pay the wages of each employee as provided in  
4 Sections. . . 204. . . shall be subject to a civil penalty as follows: (1) For any initial  
5 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each  
6 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)  
7 for each failure to pay each employee, plus 25 percent of the amount unlawfully  
8 withheld.

9 18. DEFENDANT from time to time failed to pay PLAINTIFF and members of the  
10 CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the  
11 payroll period in accordance with Cal. Lab. Code § 204(d).

12 19. DEFENDANT underpaid sick pay wages to PLAINTIFF and other  
13 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay in  
14 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt  
15 employees earn non-discretionary remuneration. Rather than pay sick pay at the regular rate  
16 of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS  
17 Members at their base rates of pay.

18 20. Cal. Lab. Code Section 246(l)(2) requires that paid sick time for nonexempt  
19 employees be calculated by dividing the employee's total wages, not including overtime  
20 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days  
21 of employment.

22 21. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at  
23 the regular rate of pay. PLAINTIFF and CALIFORNIA CLASS Members routinely earned non-  
24 discretionary incentive wages which increased their regular rate of pay. However, when sick  
25 pay was paid, it was paid at the base rate of pay for PLAINTIFF and members of the  
26 CALIFORNIA CLASS, as opposed to the correct, higher regular rate of pay, as required under  
27 Cal. Lab. Code Section 246.

28 22. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and  
other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting  
time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and  
believes and based thereon alleges that such failure to pay sick pay at regular rate was willful,

1 such that PLAINTIFF and members of the CALIFORNIA CLASS whose employment has  
2 separated are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

3 23. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer  
4 to collect or receive from an employee any part of wages theretofore paid by said employer to  
5 said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and other  
6 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation  
7 payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose  
8 all aspects of the deductions from compensation payable to PLAINTIFF and CALIFORNIA  
9 LABOR SUB-CLASS Members, and thereby failed to pay these employees all wages due at  
10 each applicable pay period and upon termination. PLAINTIFF and members of the  
11 CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal deductions from wages  
12 according to proof, related penalties, interest, attorney fees and costs.

13 24. DEFENDANT intentionally and knowingly failed to reimburse and indemnify  
14 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses  
15 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence  
16 of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section  
17 2802, employers are required to indemnify employees for all expenses incurred in the course  
18 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall  
19 indemnify his or her employee for all necessary expenditures or losses incurred by the employee  
20 in direct consequence of the discharge of his or her duties, or of his or her obedience to the  
21 directions of the employer, even though unlawful, unless the employee, at the time of obeying  
22 the directions, believed them to be unlawful."

23 25. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS  
24 Members as a business expense, were required by DEFENDANT to use their own personal  
25 cellular phones as a result of and in furtherance of their job duties as employees for  
26 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated  
27 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,  
28 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to

1 use their personal cellular phones. As a result, in the course of their employment with  
2 DEFENDANT, PLAINTIFF and other members of the CALIFORNIA CLASS incurred  
3 unreimbursed business expenses which included, but were not limited to, costs related to the use  
4 of their personal cellular phones all on behalf of and for the benefit of DEFENDANT.

5 26. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally  
6 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage Order  
7 and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due to  
8 PLAINTIFF. DEFENDANT did not have a policy or practice which provided timely off-duty  
9 meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for  
10 PLAINTIFF's missed meal and rest breaks. The nature of the work performed by the  
11 PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's duties for  
12 the legally required off-duty meal periods. As a result, DEFENDANT's failure to provide  
13 PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's business  
14 records. The amount in controversy for PLAINTIFF individually does not exceed the sum or  
15 value of \$75,000.

#### 16 **JURISDICTION AND VENUE**

17 27. This Court has jurisdiction over this Action pursuant to California Code of Civil  
18 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This  
19 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees  
20 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

21 28. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
22 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and  
23 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities  
24 in this County and/or conducts substantial business in this County, and (ii) committed the  
25 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

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30. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

32. DEFENDANT has the legal burden to establish that each and every CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as required by California laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This common business practice is applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair,



1 and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the "UCL") as  
2 causation, damages, and reliance are not elements of this claim.

3 33. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA  
4 CLASS Members is impracticable.

5 34. DEFENDANT violated the rights of the CALIFORNIA CLASS under California  
6 law by:

7 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof.  
8 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or  
9 deceptively having in place company policies, practices and procedures  
10 that failed to record and pay PLAINTIFF and the other members of the  
11 CALIFORNIA CLASS for all time worked, including minimum wages  
12 owed and overtime wages owed for work performed by these employees;  
13 and,

14 (b) Committing an act of unfair competition in violation of the UCL, by  
15 failing to provide the PLAINTIFF and the other members of the  
16 CALIFORNIA CLASS with the legally required meal and rest periods.

17 35. This Class Action meets the statutory prerequisites for the maintenance of a Class  
18 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

19 (a) The persons who comprise the CALIFORNIA CLASS are so numerous  
20 that the joinder of all such persons is impracticable and the disposition of  
21 their claims as a class will benefit the parties and the Court;

22 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues  
23 that are raised in this Complaint are common to the CALIFORNIA  
24 CLASS will apply to every member of the CALIFORNIA CLASS;

25 (c) The claims of the representative PLAINTIFF are typical of the claims of  
26 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the  
27 other members of the CALIFORNIA CLASS, was classified as a non-  
28 exempt employee paid on an hourly basis who was subjected to the



1 DEFENDANT's deceptive practice and policy which failed to provide the  
2 legally required meal and rest periods to the CALIFORNIA CLASS and  
3 thereby underpaid compensation to PLAINTIFF and CALIFORNIA  
4 CLASS. PLAINTIFF sustained economic injury as a result of  
5 DEFENDANT's employment practices. PLAINTIFF and the members  
6 of the CALIFORNIA CLASS were and are similarly or identically harmed  
7 by the same unlawful, deceptive and unfair misconduct engaged in by  
8 DEFENDANT; and,

- 9 (d) The representative PLAINTIFF will fairly and adequately represent and  
10 protect the interest of the CALIFORNIA CLASS, and has retained  
11 counsel who are competent and experienced in Class Action litigation.  
12 There are no material conflicts between the claims of the representative  
13 PLAINTIFF and the members of the CALIFORNIA CLASS that would  
14 make class certification inappropriate. Counsel for the CALIFORNIA  
15 CLASS will vigorously assert the claims of all CALIFORNIA CLASS  
16 Members.

17 36. In addition to meeting the statutory prerequisites to a Class Action, this action is  
18 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 19 (a) Without class certification and determination of declaratory, injunctive,  
20 statutory and other legal questions within the class format, prosecution of  
21 separate actions by individual members of the CALIFORNIA CLASS will  
22 create the risk of:

- 23 1) Inconsistent or varying adjudications with respect to individual  
24 members of the CALIFORNIA CLASS which would establish  
25 incompatible standards of conduct for the parties opposing the  
26 CALIFORNIA CLASS; and/or,  
27 2) Adjudication with respect to individual members of the  
28 CALIFORNIA CLASS which would as a practical matter be

dispositive of interests of the other members not party to the adjudication or substantially impair or impede their ability to protect their interests.

(b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on grounds generally applicable to the CALIFORNIA CLASS, making appropriate class-wide relief with respect to the CALIFORNIA CLASS as a whole in that DEFENDANT failed to pay all wages due to members of the CALIFORNIA CLASS as required by law;

1) With respect to the First Cause of Action, the final relief on behalf of the CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim PLAINTIFF seeks declaratory relief holding that the DEFENDANT's policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

(c) Common questions of law and fact exist as to the members of the CALIFORNIA CLASS, with respect to the practices and violations of California law as listed above, and predominate over any question affecting only individual CALIFORNIA CLASS Members, and a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

1) The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual

prosecution of this litigation;

2) Class certification will obviate the need for unduly duplicative litigation that would create the risk of:

A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,

B. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

3) In the context of wage litigation because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

37. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

(a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT's employment practices are

1 applied with respect to the CALIFORNIA CLASS;

2 (b) A Class Action is superior to any other available method for the fair and  
3 efficient adjudication of the claims of the members of the CALIFORNIA  
4 CLASS because in the context of employment litigation a substantial  
5 number<sup>2</sup> of individual CALIFORNIA CLASS Members will avoid  
6 asserting their rights individually out of fear of retaliation or adverse  
7 impact on their employment;

8 (c) The members of the CALIFORNIA CLASS are so numerous that it is  
9 impractical to bring all members of the CALIFORNIA CLASS before the  
10 Court;

11 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be  
12 able to obtain effective and economic legal redress unless the action is  
13 maintained as a Class Action;

14 (e) There is a community of interest in obtaining appropriate legal and  
15 equitable relief for the acts of unfair competition, statutory violations and  
16 other improprieties, and in obtaining adequate compensation for the  
17 damages and injuries which DEFENDANT's actions have inflicted upon  
18 the CALIFORNIA CLASS;

19 (f) There is a community of interest in ensuring that the combined assets of  
20 DEFENDANT are sufficient to adequately compensate the members of  
21 the CALIFORNIA CLASS for the injuries sustained;

22 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
23 to the CALIFORNIA CLASS, thereby making final class-wide relief  
24 appropriate with respect to the CALIFORNIA CLASS as a whole;

25 (h) The members of the CALIFORNIA CLASS are readily ascertainable from  
26 the business records of DEFENDANT; and,

27 (i) Class treatment provides manageable judicial treatment calculated to bring  
28 a efficient and rapid conclusion to all litigation of all wage and hour

1 related claims arising out of the conduct of DEFENDANT as to the  
2 members of the CALIFORNIA CLASS.

3 38. DEFENDANT maintains records from which the Court can ascertain and identify  
4 by job title each of DEFENDANT's employees who have been intentionally subjected to  
5 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFF will  
6 seek leave to amend the Complaint to include any additional job titles of similarly situated  
7 employees when they have been identified.

8  
9 **THE CALIFORNIA LABOR SUB-CLASS**

10 39. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh and  
11 Eighth causes Action on behalf of a California sub-class, defined as all members of the  
12 CALIFORNIA CLASS who are or previously were employed by Suburban Propane, L.P.  
13 and/or Suburban Sales & Service, Inc. in California and classified as non exempt employees  
14 (the "CALIFORNIA LABOR SUB-CLASS") at any time during the period three (3) years prior  
15 to the filing of the complaint and ending on the date as determined by the Court (the  
16 "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382.  
17 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS  
18 Members is under five million dollars (\$5,000,000.00).

19 40. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare  
20 Commission ("IWC") Wage Order requirements, and the applicable provisions of California  
21 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed  
22 to correctly calculate compensation for the time worked by PLAINTIFF and the other members  
23 of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these  
24 employees, even though DEFENDANT enjoyed the benefit of this work, required employees  
25 to perform this work and permitted or suffered to permit this work. DEFENDANT has denied  
26 these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are  
27 entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable  
28 tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against

1 DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted  
2 accordingly.

3 41. DEFENDANT maintains records from which the Court can ascertain and identify  
4 by name and job title, each of DEFENDANT's employees who have been intentionally  
5 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.  
6 PLAINTIFF will seek leave to amend the complaint to include any additional job titles of  
7 similarly situated employees when they have been identified.

8 42. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
9 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

10 43. Common questions of law and fact exist as to members of the CALIFORNIA  
11 LABOR SUB-CLASS, including, but not limited, to the following:

- 12 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay  
13 compensation due to members of the CALIFORNIA LABOR SUB-  
14 CLASS for missed meal and rest breaks in violation of the California  
15 Labor Code and California regulations and the applicable California Wage  
16 Order;
- 17 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other  
18 members of the CALIFORNIA LABOR SUB-CLASS with accurate  
19 itemized wage statements;
- 20 (c) Whether DEFENDANT has engaged in unfair competition by the  
21 above-listed conduct;
- 22 (d) The proper measure of damages and penalties owed to the members of the  
23 CALIFORNIA LABOR SUB-CLASS; and,
- 24 (e) Whether DEFENDANT's conduct was willful.

25 44. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS  
26 under California law by:

- 27 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the  
28 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-



1 CLASS all wages due for overtime worked, for which DEFENDANT is  
2 liable pursuant to Cal. Lab. Code § 1194;

3 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to  
4 accurately pay PLAINTIFF and the members of the CALIFORNIA  
5 LABOR SUB-CLASS the correct minimum wage pay for which  
6 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

7 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the  
8 members of the CALIFORNIA LABOR SUB-CLASS with an accurate  
9 itemized statement in writing showing the corresponding correct amount  
10 of wages earned by the employee;

11 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide  
12 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
13 CLASS with all legally required off-duty, uninterrupted thirty (30) minute  
14 meal breaks and the legally required off-duty rest breaks;

15 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that  
16 when an employee is discharged or quits from employment, the employer  
17 must pay the employee all wages due without abatement, by failing to  
18 tender full payment and/or restitution of wages owed or in the manner  
19 required by California law to the members of the CALIFORNIA LABOR  
20 SUB-CLASS who have terminated their employment; and,

21 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and  
22 the CALIFORNIA LABOR SUB-CLASS members with necessary  
23 expenses incurred in the discharge of their job duties.

24 45. This Class Action meets the statutory prerequisites for the maintenance of a Class  
25 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

26 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are  
27 so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS  
28 Members is impracticable and the disposition of their claims as a class

1 will benefit the parties and the Court;

2 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues  
3 that are raised in this Complaint are common to the CALIFORNIA  
4 LABOR SUB-CLASS and will apply to every member of the  
5 CALIFORNIA LABOR SUB-CLASS;

6 (c) The claims of the representative PLAINTIFF are typical of the claims of  
7 each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF,  
8 like all the other members of the CALIFORNIA LABOR SUB-CLASS,  
9 was a non-exempt employee paid on an hourly basis who was subjected  
10 to the DEFENDANT's practice and policy which failed to pay the correct  
11 amount of wages due to the CALIFORNIA LABOR SUB-CLASS.  
12 PLAINTIFF sustained economic injury as a result of DEFENDANT's  
13 employment practices. PLAINTIFF and the members of the  
14 CALIFORNIA LABOR SUB-CLASS were and are similarly or  
15 identically harmed by the same unlawful, deceptive, and unfair  
16 misconduct engaged in by DEFENDANT; and,

17 (d) The representative PLAINTIFF will fairly and adequately represent and  
18 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has  
19 retained counsel who are competent and experienced in Class Action  
20 litigation. There are no material conflicts between the claims of the  
21 representative PLAINTIFF and the members of the CALIFORNIA  
22 LABOR SUB-CLASS that would make class certification inappropriate.  
23 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously  
24 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

25 46. In addition to meeting the statutory prerequisites to a Class Action, this action is  
26 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

27 (a) Without class certification and determination of declaratory, injunctive,  
28 statutory and other legal questions within the class format, prosecution of

1 separate actions by individual members of the CALIFORNIA LABOR  
2 SUB-CLASS will create the risk of:

- 3 1) Inconsistent or varying adjudications with respect to individual  
4 members of the CALIFORNIA LABOR SUB-CLASS which  
5 would establish incompatible standards of conduct for the parties  
6 opposing the CALIFORNIA LABOR SUB-CLASS; or,  
7 2) Adjudication with respect to individual members of the  
8 CALIFORNIA LABOR SUB-CLASS which would as a practical  
9 matter be dispositive of interests of the other members not party to  
10 the adjudication or substantially impair or impede their ability to  
11 protect their interests.

12 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted  
13 or refused to act on grounds generally applicable to the CALIFORNIA  
14 LABOR SUB-CLASS, making appropriate class-wide relief with respect  
15 to the CALIFORNIA LABOR SUB-CLASS as a whole in that  
16 DEFENDANT fails to pay all wages due. Including the correct wages for  
17 all time worked by the members of the CALIFORNIA LABOR SUB-  
18 CLASS as required by law;

19 (c) Common questions of law and fact predominate as to the members of the  
20 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and  
21 violations of California Law as listed above, and predominate over any  
22 question affecting only individual CALIFORNIA LABOR SUB-CLASS  
23 Members, and a Class Action is superior to other available methods for  
24 the fair and efficient adjudication of the controversy, including  
25 consideration of:

- 26 1) The interests of the members of the CALIFORNIA LABOR SUB-  
27 CLASS in individually controlling the prosecution or defense of  
28 separate actions in that the substantial expense of individual

1 actions will be avoided to recover the relatively small amount of  
2 economic losses sustained by the individual CALIFORNIA  
3 LABOR SUB-CLASS Members when compared to the substantial  
4 expense and burden of individual prosecution of this litigation;

5 2) Class certification will obviate the need for unduly duplicative  
6 litigation that would create the risk of:

7 A. Inconsistent or varying adjudications with respect to  
8 individual members of the CALIFORNIA LABOR SUB-  
9 CLASS, which would establish incompatible standards of  
10 conduct for the DEFENDANT; and/or,

11 B. Adjudications with respect to individual members of the  
12 CALIFORNIA LABOR SUB-CLASS would as a practical  
13 matter be dispositive of the interests of the other members  
14 not parties to the adjudication or substantially impair or  
15 impede their ability to protect their interests;

16 3) In the context of wage litigation because a substantial number of  
17 individual CALIFORNIA LABOR SUB-CLASS Members will  
18 avoid asserting their legal rights out of fear of retaliation by  
19 DEFENDANT, which may adversely affect an individual's job  
20 with DEFENDANT or with a subsequent employer, the Class  
21 Action is the only means to assert their claims through a  
22 representative; and,

23 4) A class action is superior to other available methods for the fair  
24 and efficient adjudication of this litigation because class treatment  
25 will obviate the need for unduly and unnecessary duplicative  
26 litigation that is likely to result in the absence of certification of  
27 this action pursuant to Cal. Code of Civ. Proc. § 382.

28 47. This Court should permit this action to be maintained as a Class Action pursuant

1 to Cal. Code of Civ. Proc. § 382 because:

- 2 (a) The questions of law and fact common to the CALIFORNIA LABOR  
3 SUB-CLASS predominate over any question affecting only individual  
4 CALIFORNIA LABOR SUB-CLASS Members;
- 5 (b) A Class Action is superior to any other available method for the fair and  
6 efficient adjudication of the claims of the members of the CALIFORNIA  
7 LABOR SUB-CLASS because in the context of employment litigation a  
8 substantial number of individual CALIFORNIA LABOR SUB-CLASS  
9 Members will avoid asserting their rights individually out of fear of  
10 retaliation or adverse impact on their employment;
- 11 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so  
12 numerous that it is impractical to bring all members of the CALIFORNIA  
13 LABOR SUB-CLASS before the Court;
- 14 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS  
15 Members, will not be able to obtain effective and economic legal redress  
16 unless the action is maintained as a Class Action;
- 17 (e) There is a community of interest in obtaining appropriate legal and  
18 equitable relief for the acts of unfair competition, statutory violations and  
19 other improprieties, and in obtaining adequate compensation for the  
20 damages and injuries which DEFENDANT's actions have inflicted upon  
21 the CALIFORNIA LABOR SUB-CLASS;
- 22 (f) There is a community of interest in ensuring that the combined assets of  
23 DEFENDANT are sufficient to adequately compensate the members of  
24 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 25 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
26 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-  
27 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-  
28 CLASS as a whole;

- 1 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily  
2 ascertainable from the business records of DEFENDANT. The  
3 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA  
4 CLASS Members who worked for DEFENDANT in California at any  
5 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,  
6 (i) Class treatment provides manageable judicial treatment calculated to bring  
7 a efficient and rapid conclusion to all litigation of all wage and hour  
8 related claims arising out of the conduct of DEFENDANT as to the  
9 members of the CALIFORNIA LABOR SUB-CLASS.

10  
11 **FIRST CAUSE OF ACTION**

12 **For Unlawful Business Practices**

13 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

14 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

15 48. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
16 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
17 Complaint.

18 49. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.  
19 Code § 17021.

20 50. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines  
21 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section  
22 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair  
23 competition as follows:

24 Any person who engages, has engaged, or proposes to engage in unfair  
25 competition may be enjoined in any court of competent jurisdiction. The court  
26 may make such orders or judgments, including the appointment of a receiver, as  
27 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.

28 Cal. Bus. & Prof. Code § 17203.



1           51. By the conduct alleged herein, DEFENDANT has engaged and continues to  
2 engage in a business practice which violates California law, including but not limited to, the  
3 applicable Industrial Wage Order(s), the California Code of Regulations and the California  
4 Labor Code including Sections 204 et seq., 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1,  
5 1198, 2802 and the Fair Labor Standards Act and federal regulations promulgated thereunder,  
6 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus.  
7 & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute  
8 unfair competition, including restitution of wages wrongfully withheld.

9           52. By the conduct alleged herein, DEFENDANT's practices were unlawful and  
10 unfair in that these practices violate public policy, were immoral, unethical, oppressive,  
11 unscrupulous or substantially injurious to employees, and were without valid justification or  
12 utility for which this Court should issue equitable and injunctive relief pursuant to Section  
13 17203 of the California Business & Professions Code, including restitution of wages wrongfully  
14 withheld.

15           53. By the conduct alleged herein, DEFENDANT's practices were deceptive and  
16 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated  
17 meal and rest periods, the required amount of compensation for missed meal and rest periods  
18 and overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse  
19 all necessary business expenses incurred, and failed to provide Fair Labor Standards Act  
20 overtime wages due for overtime worked as a result of failing to include non-discretionary  
21 incentive compensation into their regular rates of pay for purposes of computing the proper  
22 overtime pay due to a business practice that cannot be justified, pursuant to the applicable Cal.  
23 Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§  
24 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant  
25 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

26           54. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
27 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
28 other members of the CALIFORNIA CLASS to be underpaid during their employment with

1 DEFENDANT.

2 55. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
3 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to provide  
4 all legally required meal breaks to PLAINTIFF and the other members of the CALIFORNIA  
5 CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

6 56. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
7 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty  
8 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay  
9 for each workday in which a second off-duty meal period was not timely provided for each ten  
10 (10) hours of work.

11 57. PLAINTIFF further demands on behalf of himself and each member of the  
12 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off  
13 duty paid rest period was not timely provided as required by law.

14 58. By and through the unlawful and unfair business practices described herein,  
15 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
16 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
17 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
18 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
19 to unfairly compete against competitors who comply with the law.

20 59. All the acts described herein as violations of, among other things, the Industrial  
21 Welfare Commission Wage Orders, the California Code of Regulations, and the California  
22 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,  
23 oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and  
24 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

25 60. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
26 and do, seek such relief as may be necessary to restore to them the money and property which  
27 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the  
28 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and

1 unfair business practices, including earned but unpaid wages for all time worked.

2 61. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
3 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair  
4 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from  
5 engaging in any unlawful and unfair business practices in the future.

6 62. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
7 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices  
8 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.  
9 As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the  
10 other members of the CALIFORNIA CLASS have suffered and will continue to suffer  
11 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to  
12 engage in these unlawful and unfair business practices.

13  
14 **SECOND CAUSE OF ACTION**

15 **For Failure To Pay Minimum Wages**

16 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

17 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

18 **and Against All Defendants)**

19 63. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
20 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
21 paragraphs of this Complaint.

22 64. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
23 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
24 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to  
25 accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS  
26 Members.

27 65. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and  
28 public policy, an employer must timely pay its employees for all hours worked.

1           66. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
2 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
3 the minimum so fixed is unlawful.

4           67. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
5 including minimum wage compensation and interest thereon, together with the costs of suit.

6           68. DEFENDANT maintained a wage practice of paying PLAINTIFF and the other  
7 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of  
8 time they work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and  
9 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
10 CALIFORNIA LABOR SUB-CLASS.

11           69. DEFENDANT's unlawful wage and hour practices manifested, without limitation,  
12 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing  
13 a policy and practice that denies accurate compensation to PLAINTIFF and the other members  
14 of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

15           70. In committing these violations of the California Labor Code, DEFENDANT  
16 inaccurately calculated the correct time worked and consequently underpaid the actual time  
17 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.  
18 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
19 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
20 requirements and other applicable laws and regulations.

21           71. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
22 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
23 receive the correct minimum wage compensation for their time worked for DEFENDANT.

24           72. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT  
25 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS  
26 Members to work without paying them for all the time they were under DEFENDANT's  
27 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other  
28 members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than they

1 were entitled to, constituting a failure to pay all earned wages.

2 73. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
3 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
4 CLASS for the true time they worked, PLAINTIFF and the other members of the  
5 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
6 injury in amounts which are presently unknown to them and which will be ascertained  
7 according to proof at trial.

8 74. DEFENDANT knew or should have known that PLAINTIFF and the other  
9 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
10 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
11 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
12 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
13 of the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

14 75. In performing the acts and practices herein alleged in violation of California labor  
15 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
16 all time worked and provide them with the requisite compensation, DEFENDANT acted and  
17 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
18 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for  
19 their legal rights, or the consequences to them, and with the despicable intent of depriving them  
20 of their property and legal rights, and otherwise causing them injury in order to increase  
21 company profits at the expense of these employees.

22 76. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
23 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as  
24 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
25 by the California Labor Code and/or other applicable statutes. To the extent minimum wage  
26 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members  
27 who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§  
28 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties



1 under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
2 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
3 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
4 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

5  
6 **THIRD CAUSE OF ACTION**

7 **For Failure To Pay Overtime Compensation**

8 **[Cal. Lab. Code §§ 510, *et seq.*]**

9 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
10 **Defendants)**

11 77. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
12 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs  
13 of this Complaint.

14 78. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
15 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
16 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay  
17 these employees for all overtime worked, including, work performed in excess of eight (8)  
18 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
19 workweek.

20 79. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and  
21 public policy, an employer must timely pay its employees for all hours worked.

22 80. Cal. Lab. Code § 510 further provides that employees in California shall not be  
23 employed more than eight (8) hours per workday and more than forty (40) hours per workweek  
24 unless they receive additional compensation beyond their regular wages in amounts specified  
25 by law.

26 81. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
27 including minimum wage and overtime compensation and interest thereon, together with the  
28 costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for



1 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

2 82. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and  
3 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by  
4 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,  
5 including overtime work.

6 83. DEFENDANT's unlawful wage and hour practices manifested, without limitation,  
7 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing  
8 a policy and practice that failed to accurately record overtime worked by PLAINTIFF and other  
9 CALIFORNIA LABOR SUB-CLASS Members and denied accurate compensation to  
10 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime  
11 worked, including, the overtime work performed in excess of eight (8) hours in a workday,  
12 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

13 84. In committing these violations of the California Labor Code, DEFENDANT  
14 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
15 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted  
16 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation  
17 of the California Labor Code, the Industrial Welfare Commission requirements and other  
18 applicable laws and regulations.

19 85. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
20 the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
21 receive full compensation for overtime worked.

22 86. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
23 from the overtime requirements of the law. None of these exemptions are applicable to the  
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,  
25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not  
26 subject to a valid collective bargaining agreement that would preclude the causes of action  
27 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of herself  
28 and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-

1 negotiable, non-waiveable rights provided by the State of California.

2 87. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the  
3 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime  
4 worked that they are entitled to, constituting a failure to pay all earned wages..

5 88. DEFENDANT failed to accurately pay the PLAINTIFF and the other members  
6 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which  
7 was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,  
8 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR  
9 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT  
10 failed to accurately record and pay as evidenced by DEFENDANT's business records and  
11 witnessed by employees.

12 89. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
13 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
14 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the  
15 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
16 injury in amounts which are presently unknown to them and which will be ascertained  
17 according to proof at trial.

18 90. DEFENDANT knew or should have known that PLAINTIFF and the other  
19 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime  
20 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
21 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
22 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
23 of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

24 91. In performing the acts and practices herein alleged in violation of California labor  
25 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
26 all overtime worked and provide them with the requisite overtime compensation, DEFENDANT  
27 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and  
28 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter

1 disregard for their legal rights, or the consequences to them, and with the despicable intent of  
2 depriving them of their property and legal rights, and otherwise causing them injury in order  
3 to increase company profits at the expense of these employees.

4 92. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
5 therefore request recovery of all overtime wages, according to proof, interest, statutory costs,  
6 as well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
7 by the California Labor Code and/or other applicable statutes. To the extent minimum and/or  
8 overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS  
9 Members who have terminated their employment, DEFENDANT's conduct also violates Labor  
10 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time  
11 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
12 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
13 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
14 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

15  
16 **FOURTH CAUSE OF ACTION**

17 **For Failure to Provide Required Meal Periods**

18 **[Cal. Lab. Code §§ 226.7 & 512 ]**

19 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
20 **Defendants)**

21 93. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
22 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs  
23 of this Complaint.

24 94. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time  
25 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other  
26 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and  
27 Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR  
28 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their

1 duties for the legally required off-duty meal periods. As a result of their rigorous work  
2 schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
3 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,  
4 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
5 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced  
6 by DEFENDANT's business records from time to time. Further, DEFENDANT failed to  
7 provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period  
8 in some workdays in which these employees were required by DEFENDANT to work ten (10)  
9 hours of work from time to time. As a result, PLAINTIFF and other members of the  
10 CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without additional  
11 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

12 95. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable  
13 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
14 CLASS Members who were not provided a meal period, in accordance with the applicable  
15 Wage Order, one additional hour of compensation at each employee's regular rate of pay for  
16 each workday that a meal period was not provided.

17 96. As a proximate result of the aforementioned violations, PLAINTIFF and  
18 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
19 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
20 suit.

21  
22 **FIFTH CAUSE OF ACTION**

23 **For Failure to Provide Required Rest Periods**

24 **[Cal. Lab. Code §§ 226.7 & 512 ]**

25 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**

26 **Defendants)**

27 97. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
28 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs

1 of this Complaint.

2 98. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
3 time to time required to work in excess of four (4) hours without being provided ten (10) minute  
4 rest periods. Further, these employees from time to time were denied their first rest periods of  
5 at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and  
6 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and  
7 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some  
8 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other  
9 CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages  
10 in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
11 CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest  
12 periods by DEFENDANT and DEFENDANT's managers.

13 99. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
14 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
15 CLASS Members who were not provided a rest period, in accordance with the applicable Wage  
16 Order, one additional hour of compensation at each employee's regular rate of pay for each  
17 workday that rest period was not provided.

18 100. As a proximate result of the aforementioned violations, PLAINTIFF and  
19 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
20 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
21 suit.

22 **SIXTH CAUSE OF ACTION**

23 **For Failure to Provide Accurate Itemized Statements**

24 **[Cal. Lab. Code § 226]**

25 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
26 **Defendants)**

27 101. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
28 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior



1 paragraphs of this Complaint.

2 102. Cal. Labor Code § 226 provides that an employer must furnish employees  
3 with

4 an "accurate itemized" statement in writing showing:

- 5 (1) gross wages earned,  
6 (2) total hours worked by the employee, except for any employee whose  
7 compensation is solely based on a salary and who is exempt from payment of  
8 overtime under subdivision (a) of Section 515 or any applicable order of the  
9 Industrial Welfare Commission,  
10 (3) the number of piece-rate units earned and any applicable piece rate if the employee  
11 is paid on a piece-rate basis,  
12 (4) all deductions, provided that all deductions made on written orders of the  
13 employee may be aggregated and shown as one item,  
14 (5) net wages earned,  
15 (6) the inclusive dates of the period for which the employee is paid,  
16 (7) the name of the employee and his or her social security number, except that by  
17 January 1, 2008, only the last four digits of his or her social security number or an  
18 employee identification number other than a social security number may be shown on  
19 the itemized statement,  
20 (8) the name and address of the legal entity that is the employer, and  
21 (9) all applicable hourly rates in effect during the pay period and the corresponding  
22 number of hours worked at each hourly rate by the employee.

23 103. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
24 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate  
25 wage statements which failed to show, among other things, the correct gross and net wages  
26 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her  
27 employees with an accurate itemized wage statement in writing showing, among other  
28 things, gross wages earned and all applicable hourly rates in effect during the pay period and  
the corresponding amount of time worked at each hourly rate. Aside, from the violations  
listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized  
wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a  
result, DEFENDANT from time to time provided PLAINTIFF and the other members of the  
CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code  
§ 226.

104. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.  
Code § 226, causing injury and damages to PLAINTIFF and the other members of the



1 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
2 expended calculating the correct wages for all missed meal and rest breaks and the amount  
3 of employment taxes which were not properly paid to state and federal tax authorities.  
4 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of  
5 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty  
6 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred  
7 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §  
8 226, in an amount according to proof at the time of trial (but in no event more than four  
9 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the  
10 CALIFORNIA LABOR SUB-CLASS herein).

11  
12 **SEVENTH CAUSE OF ACTION**

13 **For Failure to Reimburse Employees for Required Expenses**

14 **[Cal. Lab. Code § 2802]**

15 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
16 **Defendants)**

17 105. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members  
18 reallege and incorporate by this reference, as though fully set forth herein, the prior  
19 paragraphs of this Complaint.

20 106. Cal. Lab. Code § 2802 provides, in relevant part, that:

21 An employer shall indemnify his or her employee for all necessary  
22 expenditures or losses incurred by the employee in direct consequence of the  
23 discharge of his or her duties, or of his or her obedience to the directions of the  
24 employer, even though unlawful, unless the employee, at the time of obeying  
25 the directions, believed them to be unlawful.

26 107. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,  
27 by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-  
28 CLASS members for required expenses incurred in the discharge of their job duties for  
DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the

1 CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not  
2 limited to, costs related to using their personal cellular phones on behalf of and for the  
3 benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR  
4 SUB-CLASS Members were required by DEFENDANT to use their personal cellular  
5 phones in order to perform work related job tasks. DEFENDANT's policy and practice was  
6 to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for  
7 expenses resulting from using their personal cellular phones for DEFENDANT within the  
8 course and scope of their employment for DEFENDANT. These expenses were necessary  
9 to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's  
10 conduct to assert any waiver of this expectation. Although these expenses were necessary  
11 expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members,  
12 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA  
13 LABOR SUB-CLASS members for these expenses as an employer is required to do under  
14 the laws and regulations of California.

15 108. PLAINTIFF therefore demands reimbursement for expenditures or losses  
16 incurred by herself and the CALIFORNIA LABOR SUB-CLASS members in the discharge  
17 of their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,  
18 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

19 **EIGHTH CAUSE OF ACTION**

20 **For Failure to Pay Wages When Due**

21 **[ Cal. Lab. Code §§ 201, 202, 203]**

22 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

23 **and Against All Defendants)**

24 104. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
25 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior  
26 paragraphs of this Complaint.

27 105. Cal. Lab. Code § 200 provides, in relevant part, that:  
28 As used in this article:

1 (a) "Wages" includes all amounts for labor performed by employees of  
2 every description, whether the amount is fixed or ascertained by the  
3 standard of time, task, piece, Commission basis, or other method of calculation.  
4 (b) "Labor" includes labor, work, or service whether rendered or  
5 performed under contract, subcontract, partnership, station plan, or other  
6 agreement if the labor to be paid for is performed personally by the person  
7 demanding payment.

8 106. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer  
9 discharges an employee, the wages earned and unpaid at the time of discharge are due and  
10 payable immediately."

11 107. Cal. Lab. Code § 202 provides, in relevant part, that:

12 If an employee not having a written contract for a definite period quits his  
13 or her employment, his or her wages shall become due and payable not  
14 later than 72 hours thereafter, unless the employee has given 72 hours  
15 previous notice of his or her intention to quit, in which case the employee  
16 is entitled to his or her wages at the time of quitting. Notwithstanding any  
17 other provision of law, an employee who quits without providing a 72-  
18 hour notice shall be entitled to receive payment by mail if he or she so  
19 requests and designates a mailing address. The date of the mailing shall  
20 constitute the date of payment for purposes of the requirement to provide  
21 payment within 72 hours of the notice of quitting.

22 108. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR  
23 SUB-CLASS Members' employment contract.

24 109. Cal. Lab. Code § 203 provides, in relevant part, that:

25 If an employer willfully fails to pay, without abatement or reduction, in  
26 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an  
27 employee who is discharged or who quits, the wages of the employee shall  
28 continue as a penalty from the due date thereof at the same rate until paid  
or until an action therefor is commenced; but the wages shall not continue  
for more than 30 days.

110. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-  
CLASS Members has terminated and DEFENDANT has not tendered payment of all wages  
owed as required by law.

111. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the  
members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated  
and who have not been fully paid their wages due to them, PLAINTIFF demands thirty days  
of pay as penalty for not paying all wages due at time of termination for all employees who  
terminated employment during the CALIFORNIA LABOR SUB-CLASS PERIOD and

1 demands an accounting and payment of all wages due, plus interest and statutory costs as  
2 allowed by law.

3  
4 **NINTH CAUSE OF ACTION**

5 **Constructive Discharge And Other Adverse Employment .**  
6 **Actions in Violation of Public Policy**

7 **(By PLAINTIFF Against All Defendants)**

8 112. PLAINTIFF realleges and incorporate by this reference, as though fully set  
9 forth herein, the prior paragraphs of this Complaint.

10 113. Throughout his employment, PLAINTIFF was the recipient of intolerable  
11 working conditions that Plaintiff complained about throughout 2021. PLAINTIFF  
12 complained to DEFENDANT's managers, including but not limited to, DEFENDANT's  
13 customer Service Center Manager Scott Hayes, regarding DEFENDANT's lack of safety  
14 and health protocols and violations of the California Labor Code. PLAINTIFF complained  
15 to DEFENDANT about: no providing potable water of any type, not providing toilet  
16 facilities, and hand-washing facilities as there were times Plaintiff was required to work  
17 with liquified propane gas. PLAINTIFF reported he felt these were violations of Cal. Code  
18 Regs. Tit. 8 Section 8397.4. Because DEFENDANT failed to provide adequate restrooms  
19 PLAINTIFF and his co-workers were forced to defecate in boxes and outside in  
20 DEFENDANT's yard-site. As a result of the working conditions imposed on PLAINTIFF,  
21 On September 3, 2021 PLAINTIFF made the decision to resign from PLAINTIFF's  
22 employment due to the intolerable working conditions described above and his mental  
23 breakdown from the stress and anxiety DEFENDANT's workplace placed on him.  
24 PLAINTIFF was subsequently diagnosed with generalized anxiety disorder due to his steep  
25 mental decline affiliated with the years of stress caused by DEFENDANT's lack of safety  
26 and health protocols at his work-site.

27 114. DEFENDANT through their officers, directors, managing agents, and  
28 supervisory employees, intentionally created and knowingly permitted working conditions

1 to exist that were so intolerable that a reasonable person in PLAINTIFF's position would  
2 have had no reasonable alternative except to resign. PLAINTIFF engaged in protected  
3 activity of reporting the illegal workplace conditions as described above to DEFENDANT.  
4 DEFENDANT violated the fundamental public policies of the State of California.  
5 PLAINTIFF's anxiety and stress stemming from DEFENDANT's continued lack of work  
6 site safety precautions was so substantial that he was unable to return to work.

7  
8 115. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial  
9 losses in earnings, future earning capacity, and employment benefits and emotional distress  
10 in an amount to be determined according to proof at trial.

11 116. In doing the acts herein alleged, DEFENDANT acted with malice and  
12 oppression, and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is  
13 entitled to exemplary and punitive damages from DEFENDANT in an amount to be  
14 determined to punish DEFENDANT and to deter such wrongful conduct in the future  
15

16  
17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly  
19 and severally, as follows:

20 1. On behalf of the CALIFORNIA CLASS:

- 21 A) That the Court certify the First Cause of Action asserted by the  
22 CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ.  
23 Proc. § 382;  
24 B) An order temporarily, preliminarily and permanently enjoining and  
25 restraining DEFENDANT from engaging in similar unlawful conduct as  
26 set forth herein;  
27  
28

- 1 C) An order requiring DEFENDANT to pay all wages and all sums  
2 unlawfully withheld from compensation due to PLAINTIFF and the other  
3 members of the CALIFORNIA CLASS; and,  
4  
5 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a  
6 fluid fund for restitution of the sums incidental to DEFENDANT's  
7 violations due to PLAINTIFF and to the other members of the  
8 CALIFORNIA CLASS.

9 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 10 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh  
11 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS  
12 as a class action pursuant to Cal. Code of Civ. Proc. § 382;  
13  
14 B) Compensatory damages, according to proof at trial, including  
15 compensatory damages for minimum and overtime compensation due  
16 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
17 CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS  
18 PERIOD plus interest thereon at the statutory rate;  
19  
20 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay  
21 period in which a violation occurs and one hundred dollars (\$100) per  
22 each member of the CALIFORNIA LABOR SUB-CLASS for each  
23 violation in a subsequent pay period, not exceeding an aggregate penalty  
24 of four thousand dollars (\$4,000), and an award of costs for violation of  
25 Cal. Lab. Code § 226;  
26  
27 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7,  
28 512 and the applicable IWC Wage Order;  
E) For liquidated damages pursuant to California Labor Code Sections  
1194.2 and 1197;



- 1 F) The amount of the expenses PLAINTIFF and each member of the  
2 CALIFORNIA LABOR SUBCLASS incurred in the course of their job  
3 duties, plus interest, and costs of suit.; and,  
4  
5 G) The wages of all terminated employees in the CALIFORNIA LABOR  
6 SUB-CLASS as a penalty from the due date thereof at the same rate until  
7 paid or until an action therefore is commenced, in accordance with Cal.  
8 Lab. Code § 203.

9 3. On behalf of the Ninth Cause of Action:

- 10 A) For all special damages which were sustained as a result of DEFENDANT's  
11 conduct, including, but not limited to, back pay, front pay, lost compensation  
12 and job benefits that PLAINTIFF would have received but for the practices  
13 of DEFENDANT; and,  
14 B) For all exemplary damages, according to proof, which were sustained as  
15 a result of DEFENDANT's conduct.

16 4. On all claims:

- 17 A) An award of interest, including prejudgment interest at the legal rate;  
18 B) Such other and further relief as the Court deems just and equitable; and,  
19 C) An award of penalties, attorneys' fees and cost of suit, as allowable under  
20 the law, including, but not limited to, pursuant to Labor Code §221, §226,  
21 §1194, and/or §2802.

22 Dated: November 15, 2021 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW

23 LLP

24 By: \_\_\_\_\_

25 Norman B. Blumenthal

26 Attorneys for Plaintiff

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**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: November 15, 2021 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW  
LLP

By: \_\_\_\_\_  
Norman B. Blumenthal  
Attorneys for Plaintiff

# Exhibit D

# ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

## Case Name: Suburban Propane

Requesting Attorneys Name:

Kyle Nordrehaug

E-Mail:

[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

ILYM Contact:

Sean Hartranft

E-Mail:

[Sean@ilymgroupclassaction.com](mailto:Sean@ilymgroupclassaction.com)

Contact Number:

949.690.2564

## ESTIMATE FOR ADMINISTRATION SOLUTIONS

### ASSUMPTIONS

Total Number of Class Members	700
NCOA	Yes
Certified Spanish Translation	Yes
Case Duration (Year(s))	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	3	\$450.00
Programming of Class Database	Hourly	\$175.00	3	\$525.00
Subtotal				\$975.00

\*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

PROJECT MANAGEMENT & NOTICING				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	6	\$720.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s) via Mail, E-Mail & Fax	Hourly	\$70.00	3	\$210.00
Report Processing	Hourly	\$70.00	4	\$280.00
NCOA	Flat Rate	\$75.00	1	\$75.00
Toll Free Customer Service Representative	Flat Fee	\$125.00	1	\$125.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
Weekly Reports	Flat Rate	\$750.00	1	Waived
Subtotal				\$2,730.00

# ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	700	\$1,050.00
USPS First Class Postage	Per Piece	\$0.60	700	\$420.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.00	140	\$280.00
Storage, Photocopies, Deliveries	Flat Fee	\$260.00	1	\$260.00

**Subtotal \$2,010.00**

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	6	\$900.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	6	\$750.00
Check, Stub & Release - Print & Mail (W-2 and/or 1099)	Per Check	\$1.50	700	\$1,050.00
USPS First Class Postage	Per Piece	\$0.60	700	\$420.00
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$2.00	70	\$140.00
Reminder Postcard, Includes Postage	Per Piece	\$1.00	245	\$245.00
Reminder Notice via Email and Social Media	Flat Fee	\$150.00	1	\$150.00
Preparation of Taxes	Hourly	\$120.00	14	\$1,680.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*\*Additional Bank fees may apply*

**Subtotal \$6,835.00**

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	5	\$500.00
Project Manager Final Reporting	Hourly	\$120.00	5	\$600.00
Process Unclaimed Funds to State Controller's Office	Flat Fee	\$750.00	1	\$750.00
Declaration	Hourly	\$125.00	4	\$500.00

**Subtotal \$2,350.00**

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**Not to Exceed: \$14,900.00**

# Exhibit E



CALIFORNIA SUPERIOR COURT  
FOR THE COUNTY OF SACRAMENTO

CARLETON EDWARDS, MICHAEL ADAMS,  
and PETER HALL, as individuals and on behalf  
of all other similarly situated employees,

Plaintiff,

vs.

SUBURBAN PROPANE, L.P., a Delaware  
Limited Partnership; and DOES 1 to 100,  
inclusive,

Defendants.

Case No. 34-2022-00314949

**NOTICE OF PROPOSED CLASS ACTION  
AND PAGA SETTLEMENT, AND HEARING  
DATE FOR FINAL COURT APPROVAL OF  
SETTLEMENT**

**ATTENTION:** All non-exempt employees who worked for Suburban Propane, L.P. and/or Suburban Sales & Service, Inc. in California during the time period of January 7, 2018, through February 12, 2023.

**PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.**

You are receiving this notice pursuant to an order from the Sacramento County Superior Court ("Court") granting Plaintiffs' motion for preliminary approval of a Joint Stipulation of Regarding Class Action PAGA Settlement and Release ("Agreement" or "Settlement") as fair, reasonable, and adequate. The Settlement was entered into between Plaintiffs Carleton Edwards, Michael Adams, and Peter Hall ("Plaintiffs" or "Class Representatives"), and Defendants Suburban Propane, L.P. and Suburban Sales & Service, Inc. ("Defendants") on behalf of Class Members. The terms of the Settlement are outlined herein. You are receiving this notice because Defendants' records indicate you fall within the definition of "Class Member" as defined below.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court's order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

**I. BACKGROUND OF THE CASE**

On February 2, 2022, Plaintiff Carleton Edwards filed a Complaint against Suburban Propane, L.P., in the Sacramento County Superior Court of California on behalf of himself and all Class Members. Plaintiff Michael Adams and Plaintiff Peter Hall had also filed separate class action lawsuits in California Superior Courts. The parties, claims, and allegations of all three lawsuits were consolidated into the lawsuit filed by Plaintiff Carleton Edwards in Sacramento County Superior Court on March 10, 2023, through the filing of a Second Amended Complaint. The term "*Edwards Action*" means this putative class action pending in Sacramento County Superior Court, Case No. 34-2022-00314949.

In the *Edwards Action*, Plaintiffs sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of themselves, Class Members, and Aggrieved Employees. Plaintiffs alleged that Defendants violated California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods or pay meal period premiums in lieu thereof, 4) failing to provide rest periods or pay rest period premiums in lieu thereof, 5) failing to provide accurate wage statements, 6) failing to pay wages when due, including final wages, 7) failing to reimburse expenses, 8) failing to maintain accurate records, and 9) failing to provide paid sick leave. Plaintiffs have also asserted derivative claims under the Private Attorneys General Act ("PAGA") for civil penalties and derivative claims for unfair competition under California Business & Professions Code section 17200 *et seq.*

Defendants have denied all of Plaintiffs' allegations. The Action has been actively litigated and the claims are heavily disputed. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Based

upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this litigation, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to the following groups of individuals, which are collectively referred to as "Class Members:"

- Employees who are class members in the Fernandez Action (Fresno County Superior Court, Case No. 16CECG00418) and who worked for Defendants in California between March 25, 2021, and February 12, 2023, and all other non-exempt employees (*i.e.* employees who were not part of the release of claims in the Fernandez Action) who worked for Defendants in California during the time period of January 7, 2018, through February 12, 2023 ("Wage Subclass"); and
- All employees who are class members to the Fernandez Action and worked for Defendants in California between January 7, 2018, and March 24, 2021 ("Reimbursement Subclass").

To the extent a Class Member worked any amount of time within the Wage Subclass, they will be assigned to the Wage Subclass. The Agreement also applies to Aggrieved Employees, which are defined as all non-exempt employees who worked for Defendants from November 1, 2020, through February 12, 2023 in California. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

## **II. SUMMARY OF THE PROPOSED SETTLEMENT**

### **A. The Amount of the Settlement**

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Nine Hundred Forty-Five Thousand Dollars and Zero Cents (\$945,000.00) ("Gross Settlement Amount"). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, attorneys' costs not to exceed \$25,000.00, Settlement Administrator Costs estimated not to exceed \$17,500.00, Class Representatives' Enhancement Payments of \$10,000 to each of the named Plaintiffs, and \$20,000 for alleged PAGA penalties (the "PAGA Payment"), which will result in a "Net Settlement Amount" for distribution to Class Members as set forth in Section II.B below. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member's share of the Net Settlement Amount will depend on the number of weeks worked by Participating Class Members within each subclass. Of the \$20,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees.

The number of weeks you worked within each subclass during the relevant time periods and your estimated total share of the Net Settlement Amount and PAGA Payment ("Individual Settlement Amount") is stated in Section II.B. of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Participating Class Members (*i.e.*, those who do not opt out of the Settlement), the resolution of any disputes regarding workweeks and assigned subclasses, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees' allocations for the PAGA claims.

### **B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees**

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Defendants will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that, Individual Settlement Amounts paid to Participating Class Members will be characterized and taxed as follows: (1) Wage Subclass: (a) twenty percent (20%) shall be allocated for payment of disputed wages and shall be subject to required taxes and withholding for which an IRS Form W-2 will be issued, (b) eighty percent (80%) shall be allocated

for disputed statutory penalties and interest, and no amount shall be deducted for any taxes for which an IRS Form 1099-MISC will be issued; and (2) Reimbursement Subclass: the entirety (100%) of payments made under this subclass consists of other income, not wages, for which an IRS Form 1099-MISC will be issued. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties for which an IRS Form 1099-Misc will be issued.

Ninety-five percent (95%) of the Net Settlement Amount will be allocated to the Wage Subclass. Five percent (5%) of the Net Settlement Amount will be allocated to the Reimbursement Subclass. Each Participating Class Member's share will be determined by dividing their total weeks worked within their subclass period by the total weeks worked by all Participating Class Members within that same subclass period. That fraction will then be multiplied by the Net Settlement Amount allocated to the subclass to arrive at the Class Member's individual share of the Net Settlement Amount. To the extent a Class Member worked any amount of time within the Wage Subclass, they will be assigned to the Wage Subclass. Defendants' records indicate that you are part of the Wage/Reimbursement Subclass and worked \_\_\_\_\_ weeks during the applicable Wage/Reimbursement Subclass Period. Based on this information, your share of the Net Settlement Amount is estimated to be \_\_\_\_\_.

Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. The PAGA Claim Period is defined as November 1, 2020, through February 12, 2023. Defendants' records indicate that you worked \_\_\_\_\_ weeks during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be \_\_\_\_\_. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

**C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes**

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants' records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member or their assigned subclass. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks or different subclass assignment must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) identify the case name and number (i.e. *Edwards, et al. v. Suburban Propane, L.P., et al.*, Case No. 34-2022-00314949) (d) be signed; and (e) be post-marked no later than \_\_\_\_\_. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

**D. Release of Claims**

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class Members who do not opt out will be deemed to have released . . . [1.33]

Aggrieved Employees will be deemed to have released . . . [1.34]

The individuals released ("Released Parties") include [1.35].

Class Members and/or Aggrieved Employees can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

**III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER**

**A. Participating in the Settlement as a Class Member**

If you wish to be a Participating Class Member and believe your workweek and subclass information is accurate, **you do not need to take any further action.** Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation or subclass assignment, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

**B. Excluding Yourself from the Settlement as a Class Member**

The Court will exclude you from being a Class Member if you request this by \_\_\_\_\_. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (i.e., "opt out") by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or want to be excluded from this Settlement; (c) identify the case name and number (i.e. *Edwards, et al. v. Suburban Propane, L.P., et al.*, 34-2022-00314949); (d) be signed; and (e) be post-marked no later than \_\_\_\_\_. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by \_\_\_\_\_, your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and will not receive their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

**C. Objection to Settlement**

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (i.e. *Edwards, et al. v. Suburban Propane, L.P., et al.*, 34-2022-00314949); (e) be signed; and (f) be post-marked no later than \_\_\_\_\_. The objection must be sent to the Settlement Administrator at the address identified in Section III.B of this notice.

In addition to submitting a written objection as outlined above, you may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiffs and Defendants.

**IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS**

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and Aggrieved Employee, will release Defendants and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendants, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

**V. FINAL SETTLEMENT APPROVAL HEARING**

The Court will hold a hearing in Department \_\_\_\_\_, [address] on \_\_\_\_\_ at \_\_\_\_\_ to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representatives' Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

**VI. ADDITIONAL INFORMATION**

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents



required by the Court at the Settlement Administrator's website: [admin web address]. You can also contact Class Counsel or Defendants' Counsel as follows:

For Plaintiffs:

Galen T. Shimoda  
Justin P. Rodriguez  
Shimoda & Rodriguez Law, PC  
9401 East Stockton Blvd., Suite 120  
Elk Grove, CA 95624  
Telephone: (916) 525-0716

Mark D. Potter  
James M. Treglio  
POTTER HANDY LLP  
100 Pine St., Ste 1250  
San Francisco, CA 94111  
Telephone: (858) 375-7385

Norman B. Blumenthal  
Kyle R. Nordrehaug  
Aparajit Bhowmik  
Nicholas J. De Blouw  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
2255 Calle Clara  
La Jolla, CA 92037  
Telephone: (858) 551-1223  
[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

For Defendants:

Efthalia S. Rofos  
Megan A. Childress  
BARBER RANEN LLP  
4695 MacArthur Court, Suite 900  
Newport Beach, California 92660  
Telephone: 949-849-5005

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]**

**BY ORDER OF THE COURT**

**Exhibit F**



**Justin Rodriguez**

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**From:** DIR PAGA Unit <lwdadonotreply@dir.ca.gov>  
**Sent:** Monday, June 5, 2023 11:36 AM  
**To:** Justin Rodriguez  
**Subject:** Thank you for your Proposed Settlement Submission

06/05/2023 11:36:15 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](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

DIR PAGA Unit

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