

*ONTARIO*  
SUPERIOR COURT OF JUSTICE

B E T W E E N :

**KIONNA HORNER**

Plaintiff

- and -

**PRIMARY RESPONSE INC. and GARDA CANADA SECURITY CORPORATION**

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992*

**MINUTES OF SETTLEMENT AND RELEASE**

**WHEREAS**, in August 2018, the Plaintiff commenced a proposed class action, being Court File No. CV-18-0060364800CP, seeking to represent certain former employees of the Defendant, Primary Response Inc. (“**Primary Response**”) and claiming, among other things, that: (i) Primary Response was liable for breaching Class Members’ contracts of employment and the duty of good faith owed to the Class, (ii) Primary Response and Garda Canada Security Corporation (“**Garda**”) were liable for unjust enrichment, (iii) Primary Response was liable for negligence in the performance of the Class Members’ contracts of employment, and (iv) Primary Response and Garda are a single employer under the *Labour Relations Act, 1995* as well as common employers under section 4(1) of the *Employment Standards Act, 2000* (the “**Action**”);

**AND WHEREAS** the claims which are at the core of the proposed class related to employment issues allegedly arising before Garda and its affiliates purchased the shares of Primary Response on January 15, 2018;

**AND WHEREAS** the Defendants intended to defend the Action, continue to deny all allegations, and maintain that they committed no wrongdoing;

**AND WHEREAS**, taking into account the burdens and expense of continued litigation, including the significant risks and uncertainties associated with completion of the litigation and any potential appeals, the Plaintiff, with the benefit of advice from Class Counsel who retained an expert actuarial firm, has concluded after a two day mediation with William Kaplan that the settlement on the terms and conditions set out in this Settlement Agreement is fair and reasonable, and in the best interests of the Class;

**AND WHEREAS**, the Parties intend by these Minutes of Settlement and Release (the “**Settlement Agreement**”) to resolve, terminate, and finally conclude any and all claims raised or which could have been raised in the Action, with the approval of the Court, and further intend that the Defendants shall receive full and complete releases and finality and peace from the Class;

**NOW THEREFORE** in consideration of the covenants, agreements and releases set forth herein and for good and valuable consideration received, the Parties stipulate and agree that the Action shall be fully and finally settled and resolved on the terms and conditions set forth in this Settlement Agreement, subject to approval by the Ontario Superior Court of Justice (the “**Court**”):

1. This settlement is conditional upon the Court issuing an order certifying the Action as a class proceeding, and approving this Settlement Agreement on the terms that follow.
2. The Plaintiff shall support the terms of this Settlement Agreement and shall take all necessary steps to bring a motion for its approval by the Court.
3. The Defendants agree to support the approval of the terms of this Settlement Agreement by the Court and, in particular, shall not object to the Class Counsel Fees, Class Counsel Disbursements, or Representative Plaintiff Honorarium as provided for in this Settlement Agreement.
4. The Parties shall use their best efforts to implement the terms of the settlement outlined in this Settlement Agreement.

5. For the purposes of this Settlement Agreement, the following definitions apply:

- (a) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes, and any other amounts incurred or payable by the Plaintiff, Class Counsel or otherwise for the approval, implementation, and operation of this Settlement Agreement, including the costs of notices and translation and the costs of the Claims Administrator, but excluding Class Counsel Fees and Class Counsel Disbursements;
- (b) **Claim Fund** means the Settlement Amount remaining after deductions in respect of Class Counsel Fees, Class Counsel Disbursements, Holdback for Administration Expenses, Representative Plaintiff Honorarium, CPF Levy, and a reasonable amount held back to pay for taxes on interest earned by the Trust Account;
- (c) **Claims** means, up to Execution Date, any and all actions, causes of action, claims, complaints, debts, demands, liabilities, suits or other proceedings of any kind or nature whatsoever and howsoever arising, whether in law, equity, contract, extra-contractual liability (including negligence), obligations or otherwise, whether express or implied and whether presently known or unknown, including any proceedings under any statute, and in particular, but without limiting the generality of the foregoing, any and all claims up to the Execution Date that were advanced in the Action or could have been advanced in the Action;
- (d) **Claims Administrator** means the firm appointed by Class Counsel, and approved by the Court, to administer the Claim Fund in accordance with the provisions of this Settlement Agreement;
- (e) **Claims Administrator Appointment Date** means the date Class Counsel advises the Defendants of the appointment of the Claims Administrator;
- (f) **Class** means all security guards (including concierges), mobile security guards, dispatchers/communications operatives, supervisors, and mobile supervisors employed by Primary Response in the Province of Ontario, for the period from

February 27, 2011 to January 15, 2018, save and except for those employed under a collective agreement;

- (g) ***Class Counsel*** means Goldblatt Partners LLP;
- (h) ***Class Counsel Disbursements*** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Proceeding, excluding any disbursements reimbursed by the CPF;
- (i) ***Class Counsel Fees*** means the fees of Class Counsel, and any applicable taxes;
- (j) ***Class Member*** means a member of the Class;
- (k) ***Class Period*** means February 27, 2011 to January 15, 2018;
- (l) ***Counsel for Garda*** means Norton Rose Fulbright Canada LLP;
- (m) ***Counsel for Primary*** means Baker & McKenzie LLP;
- (n) ***CPF*** means the Class Proceedings Fund, which is a fund that was created pursuant to section 59.1 of the *Law Society Act* and is administered by the Class Proceedings Committee of the Law Foundation of Ontario;
- (o) ***CPF Levy*** means a levy from the Settlement Amount equal to the amount of financial support paid to the Plaintiff by the CPF plus 10% of the balance of the Settlement Amount (net of Class Counsel Disbursements, Class Counsel Fees and Representative Plaintiff Honorarium) to which the CPF is entitled pursuant to Ontario Regulation 771/92 after it approved the Plaintiff for financial support;
- (p) ***Date of Execution*** or ***Execution Date*** means the date this Settlement Agreement is signed by all of the Parties;
- (q) ***Defendants*** means Primary Response Inc. and Garda Canada Security Corporation;
- (r) ***Distribution Protocol*** means the protocol developed by Class Counsel for the distribution of amounts from the Settlement Amount to the Class Members and

agreed to by the Defendants or directed by William Kaplan, in accordance with Section 23;

- (s) ***Effective Date*** means the date when a Final Order has been received from the Court approving this Settlement Agreement;
- (t) ***Final Order*** means a final order, judgment, or equivalent decree entered by the Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals, and ***Final Approval*** shall have a corresponding meaning;
- (u) ***Garda*** means the Defendant, Garda Canada Security Corporation;
- (v) ***Opt-Out Threshold*** means [REDACTED] Class Members that opt out of the Settlement Agreement. The Opt Out Threshold shall remain confidential to the Parties such that it shall be redacted and shall not be included in the Notice or otherwise disclosed by the Parties, except to Justice Belobaba for the purposes of settlement approval;
- (w) ***Plaintiff*** means Kionna Horner, or any other person approved by the Court as the representative plaintiff in this proceeding;
- (x) ***Releasees*** means the Defendants and all of their respective associates, affiliates or related persons (as such terms are defined by the Ontario *Business Corporations Act*), and all predecessors, successors or assigns thereof, and all of their respective directors, officers, servants, employees, advisors and agents (both individually and in their official capacities with any of the preceding entities);
- (y) ***Releasers*** means the Plaintiff and Class Members, for themselves, their heirs executors, successors, and assigns;
- (z) ***Remaining Fund*** means any funds remaining from the Settlement Amount after payment of Class Counsel Fees, Class Counsel Disbursements, Administration

Holdback, CPF Levy, Representative Plaintiff Honorarium, taxes on interest earned by the Trust Fund, and distribution to Class Members pursuant to the Distribution Protocol (i.e., stale cheques where reasonable efforts to locate a Class Member have been exhausted);

- (aa) **Representative Plaintiff Honorarium** means an honorarium for Kionna Horner in the amount of \$10,000, or such other amount, subject to approval by the Court;
  - (bb) **Settlement Amount** means \$2,900,000.00;
  - (cc) **Trust Account** means a guaranteed investment vehicle, liquid money market account, or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46) held at a Canadian financial institution, as provided for in this Settlement Agreement;
6. Any notices in connection with the certification and settlement approval shall include an opt-out procedure and be in a form agreed upon by the Parties and approved by the Court or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Court. Notices shall be distributed by regular mail or email to the last known addresses or email addresses of the Class Members. Notices shall also be posted on the website of Class Counsel. Garda shall take steps to post notices on the LinkedIn page of “Primary Response Inc.”;
7. The Defendants shall provide to Class Counsel and the Claims Administrator a list of the Class Members in Excel format listing the individuals’ first name, middle name, last name, and mailing address within thirty (30) days of the Execution Date.
8. The Defendants shall make reasonable best efforts to answer reasonable questions and inquiries of Class Counsel and the Claims Administrator required to implement the terms of this Settlement Agreement within ten (10) business days of such questions being provided in writing to the Defendants.

9. This Settlement Agreement is made without any admission of liability by any of the Releasees. Specifically, and regardless of whether this Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Action.
10. The Parties agree that, for the purposes of settlement, the Action shall be certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, Chapter 6. The Class is defined as follows:

All security guards (including concierges), mobile security guards, dispatchers/communications operatives, supervisors and mobile supervisors employed by Primary Response in the Province of Ontario, for the period from February 27, 2011 to January 15, 2018, save and except for those employed under a collective agreement.

(together referred to as the “**Class Members**” or the “**Class**”).
11. The Parties agree that the Action shall be certified on consent and include the common issues attached at Schedule “A”.
12. Class Counsel shall make best efforts to appoint the Claims Administrator within twenty (20) days of the Execution Date, and shall appoint the Claims Administrator no later than thirty (30) days of the Execution Date. Class Counsel shall advise the Defendants once the Claims Administrator has been appointed, and shall provide the name and contact information for the Claims Administrator to the Defendants, as well as any other information the Defendants reasonably require to implement the terms of this Settlement Agreement.
13. Within ten (10) days of the Claims Administrator Appointment Date, Primary Response shall pay the Settlement Amount to Class Counsel for deposit into the Trust Account for the benefit of the Class, which amount plus interest shall be returned to Primary Response in the event that this Settlement Agreement is not approved, is terminated, or otherwise

fails to take effect for any reason. Any part of such Settlement Amount not paid by Primary Response on or before the due date for such payment in accordance with shall incur interest at a rate of 5%, compounded monthly, from the date the payment came due until the date such payment has been paid in full, which interest shall be added to the total Settlement Amount to be paid by Primary Response under this Settlement Agreement. The Plaintiff may, at her sole discretion, terminate this Settlement Agreement in the event Primary Response fails to make this payment. The Plaintiff may agree in writing to extend the deadline.

14. Payment of the Settlement Amount to Class Counsel shall be made by wire transfer. No later than five (5) days following the Claims Administrator Appointment Date, Class Counsel shall provide to Primary Response, in writing, the banking information necessary to complete the wire transfer.
15. The Settlement Amount shall be all-inclusive of all amounts, including, without limitation, interest, costs, Administration Expenses, Class Counsel Fees, taxes payable or that may become payable, and Class Counsel Disbursements. For clarity, the Defendants shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement, the Action, or any other actions related to the released Claims, including any amount for employees' deductions and withholdings, or any employer remittances, relating to payments made to Class Members in accordance with this Settlement Agreement.
16. The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the released Claims against the Releasees.
17. Except as otherwise provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class and shall become and remain part of the Trust Account. All taxes payable on any interest that accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account, and Class Counsel shall be responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account. For

clarity, the Defendants shall have no responsibility to make any filings relating to the Trust Account and shall have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendants in accordance with the percentage of the Settlement Amount contributed by each Defendant, who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel or the Claims Administrator.

18. The Settlement Amount shall be distributed as follows following the Effective Date:
- (a) **Class Counsel Fees:** Subject to the approval of the Court, Class Counsel Fees shall be 25% of the Settlement Fund, plus HST, or such other amount as approved by the Court;
  - (b) **Administrative Holdback:** An amount for the estimated Administration Expenses, based on the estimate/proposal of the Claims Administrator. If the amount of the Administration Expenses exceeds the estimate/proposal, this shall be paid by Class Counsel out of the Class Counsel Fees;
  - (c) **Class Counsel Disbursements:** The disbursements and applicable taxes incurred by Class Counsel in the prosecution of this proceeding, excluding any disbursements reimbursed by the CPF;
  - (d) **Representative Plaintiff Honorarium:** An honorarium for the Plaintiff in the amount of \$10,000, or such other amount, subject to approval by the Court;
  - (e) **CPF Levy:** 10% of the Settlement Amount after the payments contemplated by Sections 18(a), 18(b), 18(c), and 18(d);
  - (f) **Holdback for Taxes:** A reasonable amount as may be required for payment of taxes on account of any interest earned in the Trust Account;

- (g) **Claim Fund:** The amount remaining after the payments contemplated by Sections 18(a), 18(b), 18(c), 18(d), 18(e), and 18(f) shall be distributed by the Claims Administrator to Class Members in accordance with the Distribution Protocol, as directed by Class Counsel and approved by the Court;
- (h) **Remaining Fund:** If any amount is remaining from the Settlement Amount and the Administrative Holdback after the distribution set out in Section 18(g) (i.e., stale cheques where reasonable efforts to locate the Class Member have been exhausted) and the payment of any taxes on account of interest earned in the Trust Account, such amount shall be paid to the Ontario Employment Education & Research Centre (OEERC), or as directed by the Court.
19. Following the distribution of the payments contemplated by Sections 18(a), 18(b), 18(c), 18(d), and 18(e), Class Counsel shall transfer the Claim Fund to the Claims Administrator to be distributed in accordance with Section 18(g) and the Distribution Protocol, holding back such reasonable amount as may be required for payment of taxes on account of any interest earned in the Trust Account, in accordance with Section 18(f).
20. Class Counsel may share with the Claims Administrator any documents disclosed by the Defendants in these proceedings, including payroll records and expert reports, as may be reasonably necessary for the purposes of administering the settlement.
21. The Claims Administrator shall destroy any information or documents in connection with this matter following the distribution of the Claim Fund to the Class Members.
22. No amounts shall be paid from the Settlement Amount except in accordance with this Settlement Agreement, the Distribution Protocol, or an order of the Court obtained after notice to the Parties.
23. Class Counsel shall prepare a draft Distribution Protocol and shall provide this to the Defendants no later than thirty (30) days from the Execution Date. The Parties shall endeavour to reach agreement on a Distribution Protocol within forty-five (45) days from the Execution Date. In the event no agreement is reached, the Parties agree to remit the matter of the Distribution Protocol to William Kaplan for determination. The Distribution

Protocol as agreed to by the Parties or determined by William Kaplan shall form part of this Settlement Agreement.

24. Class Counsel's preparation of the Distribution Protocol and representation of the Class does not in any way extend to tax inquiries that may arise as a result of the Distribution Protocol. Class Members shall be advised to seek independent tax advice.
25. In the event that the Court declines to approve this Settlement Agreement, or approves this Settlement Agreement in a materially modified form, or if the Opt-Out Threshold is reached, the Plaintiff and the Defendants shall each have the right to terminate this Settlement Agreement by delivering a written notice within five (5) days following an event described above. In the event the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.
26. The Plaintiff, the Defendants, and all Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason.
27. Upon the Effective Date, and in consideration of the payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasors do hereby release and forever discharge the Releasees of and from all Claims that any of the Releasors has had, now has or may hereafter have against the Releasees, which were raised or could have been raised in the Action, whether known or unknown, and whether legal, equitable, in contract or tort. The Releasors further acknowledge and agree that this release is intended to cover, and does cover, all of the effects and consequences of such Claims that were raised or could have been raised in the Action. If such a Claim is filed, this Settlement Agreement shall constitute a full and final bar and/or answer to such Claims. For clarity, each Releasor further covenants and agrees that, as a condition of receiving any payment under this Settlement Agreement, they shall take all necessary steps to ensure the withdrawal or dismissal of any such Claims filed in any forum.

28. Upon the Effective Date, the Releasors and the Releasees absolutely and unconditionally release and forever discharge the Plaintiff, (other) Class Members, Class Counsel, and the Claims Administrator from any and all Claims relating to the institution, prosecution and/or administration of this proceeding.
29. The Releasors covenant and agree that they shall not make, either directly or indirectly, on their own behalf or on behalf of any other person or entity, any Claims (including any cross-Claims, counter-Claims or third party Claims) against any person or entity who might claim contribution or indemnity against the Releasees in connection with any matter released under this Settlement Agreement. The Releasors further covenant, represent, and warrant that they shall not voluntarily participate in or assist with, either directly or indirectly, on their own behalf or on behalf of any other person or entity, any Claims raised or brought by any person or entity against the Releasees in connection with any matter released under this Settlement Agreement.
30. The Releasors covenant and agree that if they make any Claim, or voluntarily participate in any Claim, in connection with any matter released by this Settlement Agreement, or threatens to do so, this Settlement Agreement may be raised as an estoppel and complete bar to any such Claim, and that the Plaintiff shall be liable to the Releasees for its or their costs and expenses, including reasonable legal fees, incurred in responding thereto.
31. The Releasors acknowledge and agree that the gross sum of the Settlement Amount to be paid by the Defendant in respect of the Settlement is inclusive of all amounts owing by the Releasees or otherwise to be paid by the Releasees in respect of the Settlement Amount or the administration of the Settlement, including in respect of costs (including fees and disbursements), taxes, and interest.
32. Upon the Effective Date, the Action shall be dismissed with prejudice and without costs as against the Defendants.
33. The Parties agree that Kionna Horner shall not share in any distribution of the Claim Fund other than any payment under the Claim Fund to the Class Members on account of pre-shift off-the-clock work. Upon the Effective Date, Primary Response shall withdraw its

application before the Ontario Labour Relations Board bearing OLRB File No. 70203792-9 (the “**Horner OLRB Application**”). The Parties agree that the funds held in trust in the Horner OLRB Application shall be paid to Kionna Horner on the withdrawal of the Horner OLRB Application. It is further agreed that this Settlement Agreement fully resolves the matters at issue in the Horner OLRB Application, and no further appeal or review shall be taken by any party.

34. The Parties agree that any Class Member, other than Kionna Horner, who filed an application with the Ministry of Labour under the *Employment Standards Act, 2000* in relation to issues also raised by this proceeding, shall not share in any distribution of the Claim Fund other than any payment under that fund to the Class Members on account of any issue for which the Class Member did not make a claim to the Ministry. Within sixty (60) days of the Execution Date, the Defendants shall provide to Class Counsel a list of the Class Members who made claims to the Ministry of Labour, any orders or reasons for decisions of the Ministry of Labour for those Class Members, and such information regarding the status of those applications that may be required to implement this Settlement Agreement. This information shall be shared with the Claims Administrator to effect the appropriate payments to the Class Member under the terms of the Settlement Agreement and Distribution Protocol.

35. The Parties agree that any Class Member who:

(a) (i) filed an application with the Ministry of Labour under the *Employment Standards Act, 2000* or (ii) otherwise issued a demand to the Defendants in relation to alleged payments owing under the *Employment Standards Act, 2000*; and

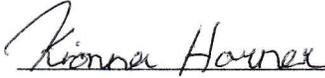
(b) entered into a final release of all claims in favour of Primary Response,

shall not share in any distribution of the Claim Fund. Within sixty (60) days of the Execution Date, the Defendants shall provide to Class Counsel a copy of applicable releases falling within the scope of this Section 35. This information shall be shared with the Claims Administrator to effect the appropriate payments to the Class Member under the terms of the Settlement Agreement and Distribution Protocol.

36. Each of the Parties hereby affirms and acknowledges that:
- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
  - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
  - (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
  - (d) no Party has relied upon any statement, representation, or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.
37. This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
38. The Ontario Superior Court of Justice shall exercise ongoing jurisdiction in relation to the implementation, administration, and enforcement of the terms of this Settlement Agreement and Class Counsel or the Defendants may apply to the Ontario Superior Court of Justice as may be required for directions in respect to the interpretation, implementation, and administration of this Settlement Agreement.
39. In the computation of time under this Settlement Agreement, where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and only in the case where the time for doing an act expires on a weekend or on a holiday, as "holiday" is defined in the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, the act may be done on the next day that is not a weekend or holiday.

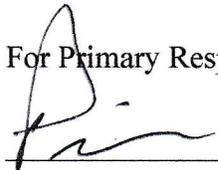
- 40. This Settlement Agreement may be signed in counterpart, each of which will be deemed an original and all of which, when taken together, will be deemed to constitute one and the same agreement.
- 41. This Settlement Agreement may be signed electronically and a facsimile copy or electronic signature shall be deemed an original signature for the purposes of this Settlement Agreement.
- 42. The Parties agree that the recitals to this Settlement Agreement are true and form part of this Settlement Agreement.
- 43. A scanned, facsimile, or electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

Kionna Horner

  
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Dated at Guelph this 10<sup>th</sup> day of July, 2020

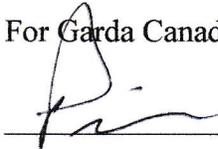
For Primary Response Inc.

  
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*"I have authority to bind the corporation"*

Dated at Montréal this 10<sup>th</sup> day of July, 2020

For Garda Canada Security Corporation

  
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*"I have authority to bind the corporation"*

Dated at Montréal this 10<sup>th</sup> day of July, 2020

**Schedule “A” – Common Issues**

1. Are the Defendants common employers, either under statute or at common law?
2. What are the relevant terms of the Class Members' contracts of employment with the Defendants respecting:
  - (a) Regular and overtime hours of work?
  - (b) Recording of the hours worked by Class Members?
  - (c) Compensation for hours worked by Class Members?
  - (d) Wage deductions relating to uniforms and equipment?
3. Are any parts of the contracts of employment unlawful, void, or unenforceable for contravening minimum employment standards?
  - (a) If yes, which parts are unlawful, void, or unenforceable?
4. Did the Defendants have a duty (in contract, tort or otherwise) to accurately record and maintain a record of all hours worked by Class Members and to ensure that Class Members were appropriately compensated for same?
  - (a) If yes, did the Defendants breach that duty?
5. Did the Defendants have a duty (in contract, tort, or otherwise) to take reasonable steps to prevent Class Members from working, or a duty not to permit or not to encourage Class Members to work, overtime hours for which they were not properly compensated or for which the Defendant would not pay?
  - (a) If yes, did the Defendants breach that duty?
6. Did the Defendants have a duty (in contract, tort, or otherwise) to take reasonable steps to prevent Class Members from working, or a duty not to permit or not to encourage Class Members to work, pre-shift or training time for which they were not properly compensated or for which the Defendant would not pay?
  - (a) If yes, did the Defendants breach that duty?

7. Did the Defendants owe Class Members a duty (in contract, tort, or otherwise) to act in good faith and to deal with them in a manner characterized by candour, reasonableness, honest and/or forthrightness in respect of its obligations to appropriately compensate Class Members?
  - (a) If yes, did the Defendants breach that duty?
  
8. Were the Defendants enriched by failing to pay Class Members appropriately for all their hours worked? If "yes",
  - (a) Did the class suffer a corresponding deprivation?
  - (b) Was there no juristic reason for the enrichment?
  
9. If the answer to any of the common issues 1-8 is "yes", are the Defendants potentially liable on a class-wide basis? If "yes",
  - (a) Can damages for unpaid overtime and unpaid pre-shift time be assessed on an aggregate basis? If "yes",
    - (i) Can aggregate damages be assessed in whole or part on the basis of statistical evidence, including statistical evidence based on random sampling?
    - (ii) What is the quantum of aggregate damages owed to Class Members?
    - (iii) What is the appropriate method or procedure for distributing the aggregate damages award to Class Members?
  - (b) Is the Class entitled to an award of aggravated, exemplary or punitive damages based upon the Defendant's conduct? If "yes",
    - (i) Can these damages award be determined on an aggregate basis?
    - (ii) What is the appropriate method or procedure for distributing any aggregate aggravated, exemplary or punitive damages to Class Members?
  
10. Should the Defendants pay pre-judgment and post-judgment interest, and, if so, at what annual interest rate?

11. Should the Defendants pay the costs of administering and distributing any monetary judgment and/or the costs of determining eligibility and/or individual issues? If yes, who should pay what costs, why, and in what amount?