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Attorneys for Plaintiff Alissa Whitney

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SAN BERNARDINO**

ALISSA WHITNEY, an individual, on behalf of  
herself, and on behalf of all persons similarly  
situated,

Plaintiff,

vs.

FIVE J'S FAMILY ENTERPRISES L.P., a  
California Limited Partnership; and Does 1  
through 50, Inclusive,

Defendant.

Case No. CIVSB2129063

**DECLARATION OF JEAN-CLAUDE  
LAPUYADE, ESQ. IN SUPPORT OF  
PLAINTIFF'S MOTION FOR FINAL  
APPROVAL OF CLASS ACTION AND PAGA  
SETTLEMENT**

Date: November 1, 2023

Time: 9:00 a.m.

Judge: Hon. David S. Cohn

Dept.: 26

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently  
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner  
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am counsel of record for  
5 Plaintiff ALISSA WHITNEY (hereafter "Plaintiff" or "Class Representative") in this wage and hour  
6 class action filed against Defendant FIVE J'S FAMILY ENTERPRISES L.P. (hereinafter,  
7 "Defendant").

8 2. This declaration is being submitted in support of Plaintiff's Motion for Final Approval of  
9 Class Action and PAGA Action Settlement.

10 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Class,  
11 Collective, and Representative Action Settlement Agreement (hereinafter "Settlement Agreement"  
12 and/or "Agreement"). Attached thereto as **Exhibit A** is a true and correct copy of the Court Approved  
13 Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice").

14 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the conformed June 7, 2023,  
15 Preliminary Approval Order.

16 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the May 15, 2023, proof of  
17 filing the proposed Settlement with the LWDA.

18 6. Attached hereto as **Exhibit "4"** is true and correct copy of the October 9, 2023, proof of  
19 filing this motion seeking final approval of this Settlement with the LWDA.

20 7. Attached hereto as **Exhibit "5"** is a true and correct copy of the JCL Law Firm, APC's  
21 "Firm Resume" detailing the credentials and a summary of cases on which Counsel has been appointed  
22 Class Counsel.

## 23 **I. INTRODUCTION**

24 8. An objective evaluation of the proposed settlement of Nine Hundred and Fifty Thousand  
25 Dollars and Zero Cents (\$950,000.00) ("Gross Settlement Amount") confirms that the relief negotiated  
26 on behalf of the Class Members is fair, reasonable, and valuable. The Settlement is a product of  
27 informed, adversarial, and non-collusive negotiations, between experienced counsel, and presided over  
28 by Hon. Carl West (Ret.). After deducting any Court-approved attorneys' fees and costs, the Class

1 Representative Service Payment, administration costs, and the payments to the Labor & Workforce  
2 Development Agency (“LWDA”), the Net Settlement Amount shall be distributed to Participating Class  
3 Members based on the number of Workweeks they worked for Defendant during the Class Period. ***The***  
4 ***Class greeted news of the Settlement with unanimous approval.*** There are zero objections and zero  
5 opt-outs to the Settlement. The 100% approval by the Class evidences the clear fairness and  
6 reasonableness of the Settlement.

7 9. This Settlement provides substantial recovery for Defendant’s alleged wage and hour  
8 violations. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount  
9 of approximately \$529,483.34. This will result in an average Individual Class Payment of **\$387.90** and  
10 high payment of **\$2,999.58**.

11 10. The relief offered by the Settlement is immediate and is particularly impressive when  
12 viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see*  
13 *infra*). Indeed, by settling now rather than proceeding to trial, the Class will not have to wait (possibly  
14 years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation.

15 11. As discussed below, the proposed Settlement satisfies all criteria for final settlement  
16 approval under California law and falls well within the range of reasonableness. Accordingly, the Class  
17 Representative and Class Counsel respectfully request this Court grant final approval of the Agreement  
18 and, entry of the proposed Final Approval Order and Judgment.

## 19 **II. OVERVIEW OF THE LITIGATION**

20 12. Defendant is a California Limited Partnership that owns and operates numerous  
21 McDonald’s franchise restaurants in California. This action asserts claims on behalf of Defendant’s  
22 non-exempt employees working in California. Plaintiff worked for Defendant as a non-exempt  
23 employee in California during 2020. At all times during her employment, Plaintiff earned an hourly  
24 wage, including overtime, and was entitled to legally compliant meal and/or rest periods. Throughout  
25 her employment, Plaintiff was subject to Defendant’s written policies and procedures.

26 13. Generally, Plaintiff claims that Defendant failed to pay for all hours worked, failed to  
27 provide compliant meal and rest periods, failed to furnish accurate itemized wage statements, failed to  
28 pay all wages when due and failed to reimburse employees for mandatory business expenses. Defendant

1 forcefully denies liability for each of Plaintiff's claims. Further, Defendant asserts that it fully complied  
2 with all applicable employment laws and raised several other significant defenses to Plaintiff's claims,  
3 including but not limited to, facially compliant meal and rest period policies, compliant wage  
4 statements, and timely payment all wages due upon separation of employment.

5 14. On August 3, 2021, Plaintiff filed a Notice of Violations ("PAGA Notice") with the Labor  
6 and Workforce Development Agency ("LWDA") and served the same on Defendant. Plaintiff's PAGA  
7 Notice set forth the facts and theories supporting Defendant's alleged violations of various California  
8 Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of her intent to  
9 pursue claims under the California Labor Code Private Attorneys General Act, Cal. Lab. Code sections  
10 2698, *et seq.* ("PAGA").

11 15. On October 12, 2021, Plaintiff filed a class action complaint in the San Bernardino  
12 Superior Court, Case Number CIVSB2129063 ("Action"). The Action alleged nine causes of action  
13 against Defendant for: (1) Unfair Competition in Violation of California Business and Professions Code  
14 §§ 17200 *et seq.*; (2) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7  
15 and 512 and the Applicable IWC Wage Order; (3) Failure to Provide Required Rest Periods in Violation  
16 of Cal. Lab. Code §§ 226.7 and 512 and the Applicable IWC Wage Order; (4) Failure to Pay Minimum  
17 Wages in Violation of Cal. Lab. Code §§ 1182.12, 1194, 1197 & 1197.1; (5) Failure to Pay Overtime  
18 Wages in Violation of Cal. Lab. Code §§ 510, *et seq.*; (6) Failure to Provide Accurate Itemized Wage  
19 Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Provide Wages When Due in Violation  
20 of Cal. Lab. Code §§ 201, 202 and 203; (8) Violations of California Labor Code § 1198 and California  
21 Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating); and (9) Violation of the  
22 Private Attorneys General Act [Labor Code §§ 2698 *et seq.*].

23 16. Plaintiff and Defendant agreed to mediate the Action with Hon. Carl West (Ret.), an  
24 experienced jurist and mediator of wage and hour actions. In anticipation of mediation, the Parties  
25 agreed to stay formal discovery. To prepare for mediation, Defendant agreed to informally produce  
26 documents and data points subject to the mediation privilege, including but not limited to, a sample of  
27 the Class Members' time and payroll records. As discussed *infra*, Plaintiff's counsel retained the  
28 forensic consultants at Berger Consulting Group ("BCG") to analyze Defendant's time and payroll data.

1           17.     On February 7, 2023, the Parties participated in a full day mediation with Hon. Carl West  
2 (Ret.). After arms-length negotiations and bargaining, the Parties reached an agreement to settle.  
3 Subsequently, the Parties drafted and negotiated a long-form settlement agreement, which is the subject  
4 of the instant motion. The Parties now seek approval of the entire Agreement.

5           18.     The Court preliminarily approved an initial Gross Settlement Amount of Nine Hundred  
6 and Fifty Thousand Dollars and Zero Cents (\$950,000.00) based on a total of an estimated 47,200  
7 workweeks that the Class were employed during the Class Period. The Gross Settlement Amount shall  
8 be used: (1) to satisfy Individual Class Settlement Payments; (2) to satisfy the Class Representative  
9 Service Payment; (3) to satisfy Class Counsel’s Attorneys’ Fees and Costs (collectively hereinafter  
10 “Class Counsel Fees and Costs”); (4) to satisfy the PAGA Penalties; and (5) to satisfy the Claims  
11 Administration Costs incurred in this action.

12           19.     As explained in further detail below, the Settlement is fair, adequate, and reasonable to  
13 the class and should be granted final approval. This is evidenced by the unanimous approval of the  
14 Settlement by the Class, the absence of any objections to the Settlement and the average Individual  
15 Class Payment of \$387.90.

### 16                   **III. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

#### 17           **A. Adequate Investigation**

18           20.     Months before filing the Action, Class Counsel began its pre-filing investigation into  
19 Plaintiff’s complaints. Class Counsel’s investigation started with several lengthy interviews with  
20 Plaintiff. As part of the interview process, Plaintiff produced documents related to her employment,  
21 including time and payroll records. At the conclusion of the interviews, Class Counsel determined that  
22 Plaintiff’s complaints justified further inquiry.

23           21.     Class Counsel subsequently requested Plaintiff’s employee files from Defendant. In  
24 response, Defendant produced tens of pages of documents, including but not limited to, copies of  
25 Plaintiff’s hiring documents, payroll and time records, various policies and personnel documents. Class  
26 Counsel reviewed and analyzed the documents and determined the documents appeared to substantiate  
27 Plaintiff’s claim that Defendant’s failed to, among other things, pay for all time worked and to provide  
28 compliant meal and rest periods.

1           22.     Considering the many anticipated factual disputes, the Parties agreed that it would be in  
2 the best interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel  
3 requested documents and data points to further evaluate Plaintiff's claims and Defendant's liability  
4 exposure to the Class Members. In response to Class Counsel's request, Defendant produced the time  
5 records for the Class Members, aggregate workweek and pay period data for the Class Members,  
6 average hourly rate for the Class Members, and various other class demographic data points. In total,  
7 Defendant produced more than 1 million unique cells of time and payroll data for Class Counsel to  
8 analyze.

9           23.     Class Counsel then retained the statisticians and economists at BCG to evaluate the Class  
10 Members' payroll and time data. BCG provides data analysis and damage modeling consulting services  
11 specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed  
12 and experienced experts in their fields and have provided their expertise on thousands of cases. Stated  
13 differently, the BCG is uniquely qualified to analyze Defendant's time and payroll data.

14           24.     BCG analyzed Defendant's time and payroll data to assist in the development of various  
15 damage models. Among other things, BCG determined the approximate number of work shifts,  
16 workweeks, pay periods, average length of shift and average number of hours worked per week and pay  
17 periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and  
18 rest periods, the amount of paid missed meal period premiums paid during the Class Period, the amount  
19 of unpaid wages due to rounding, and the amount of off-the-clock work performed by the Class  
20 Members during the Class Period.

21           25.     In advance of mediation, Class Counsel created multiple damage models predicated on  
22 the BCG analysis. Class Counsel's models calculated Defendant's potential liability exposure while  
23 accounting for the uncertainties of continued litigation. The damage models informed and guided Class  
24 Counsel during the mediated settlement discussions.

25           26.     Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)  
26 determining Plaintiff's suitability as a putative class representative through interviews, background  
27 investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims;  
28 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,

1 and the type of employer; (4) analyzing the Class' time and payroll records; (5) analyzing Defendant's  
2 labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues  
3 which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendant's  
4 liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the  
5 mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the  
6 claims being settled, as well as the impediments to recovery, such as to make an independent assessment  
7 of the reasonableness of the terms to which the Parties have agreed.

8 27. Class Counsel only agreed to enter the Settlement following this thorough investigation  
9 and evaluation of Plaintiff's claims. Based on her investigation of the facts, applicable law, and  
10 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated  
11 with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this  
12 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,  
13 reasonable, and adequate, the Court should grant final approval of the Settlement.

14 **B. The Parties Settled Following Mediation**

15 28. On February 7, 2023, the Parties conducted a full day mediation with Hon. Carl West  
16 (Ret.), a jurist and an experienced wage and hour mediator. Judge West helped to manage the Parties'  
17 expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties  
18 made substantial progress with Judge West's assistance. Namely, the Parties exchanged information  
19 regarding their respective claims and defenses, including their respective evaluations of the damages.  
20 After more than eight hours of arm's length and adversarial negotiations, the mediation concluded with  
21 a settlement. The amount of the Class Representative Service Payment was not negotiated until after  
22 the parties agreed to the Gross Settlement Amount and many other terms.

23 **C. Class Counsel is Experienced in Similar Litigation**

24 29. Plaintiff is represented by competent and experienced counsel to pursue her claims. I  
25 established the JCL Law Firm, APC ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing  
26 aggrieved employees and consumers throughout California in wage and hour class actions and complex  
27 multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade,  
28 Esq. (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Monnett De La Torre, Esq.

(Associate Attorney), Tesla Stone (Paralegal), Jennifer Heming (Paralegal), Laura Gonzalez Mendez (Paralegal), Sara Christensen (Legal Assistant), and Madelyn Uchiyama (Legal Assistant).

30. I am qualified to represent the Plaintiff, the Class Members, the State of California, and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Additionally, I have extensive complex mass tort litigation experience and complex construction product liability experience. I can, will and have adequately represented the interests of the Plaintiff, the Class Members, the State of California, and the Aggrieved Employees throughout this action.

31. I have represented consumers and employees in California class actions, and complex multi-party product liability actions exclusively for more than 14 years. I have been in practice as a plaintiffs' civil litigation attorney since April 2007.

32. I am qualified to represent the Plaintiff, the State of California, and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. My credentials are reflected in the JCL Law Firm, APC, Firm Resume, a true and correct copy of which is attached hereto as **Exhibit "5."** Some of the major cases the Firm has undertaken are also set forth in **Exhibit "5."**

33. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a favorable verdict for the firm's clients.

34. Finally, I have published appellate experience in *William Blanchette et al., v. The Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

35. Consequently, I have been named to the prestigious Thomson Reuters, Super Lawyers, Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising Star list recognizes the top 2.5% of eligible attorneys. (see [https://www.superlawyers.com/about/selection\\_process.html](https://www.superlawyers.com/about/selection_process.html).)

#### **D. Strength of Plaintiff's Case**

36. Here, the Settlement is clearly within the "ballpark" of reasonableness because the Settlement provides a sizeable recovery to the Participating Class Members and need not necessarily obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*,

91 Cal.App.4th at 250. While the Gross Settlement Amount of Nine Hundred and Fifty Thousand Dollars and Zero Cents (\$950,000.00) represents a discount on Defendant's potential exposure if Plaintiff established liability on all claims and was awarded the full amount of the estimated damages at trial, this compromise is reasonable because (1) the formidable defenses raised by Defendant presented a risk that could award significantly less in damages than Plaintiff's estimate and (2) any theoretical post-trial recovery may require many more years of litigation, resulting in added fees and costs without any guarantee of recovery for the Class.

37. As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Detailed in greater depth during the preliminary approval process, Class Counsel projected a range of Defendant's liability exposure for the claims asserted on behalf of the Class. The Gross Settlement Amount represents between approximately between 15.91% and 32.08% of Defendant's *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

38. In *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at \* 12, the District Court for the Northern District of California granted final approval in a wage and hour misclassification action and found that the Gross Settlement Amount representing 10% of the estimated trial award was within the "range of reasonableness." In *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)* (9<sup>th</sup> Cir. 2000) 213 F.3d 454, 459, the Ninth Circuit approved a settlement representing "roughly one-sixth of the potential recovery." Given the amount of the settlement here as compared to potential value of the claims, particularly the strength of Plaintiff's action, the settlement is clearly fair and reasonable.<sup>1</sup>

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<sup>1</sup> See also *Viceral v. Mistras Grp., Inc.* (N.D. Cal. Oct. 11, 2016, No. 15-CV-02198) 2016 WL 5907869, at \*3, 7 (approving a California wage and hour settlement where the class received 11.6% of the estimated total liability, or approximately \$29 per work week); *Leverage v. Traeger Pellet Grills, LLC* (N.D. Cal. June 28, 2017, No. 16-CV-00784) 2017 WL 2797811, at \*7 (Approving a California wage and hour settlement where the class received 18% of the estimated total liability); see also *In re Newbridge Networks Sec. Litig.* (D.D.C. Oct. 23, 1998) 1998 WL 765724, at \*2 ("Courts have not identified a precise numerical range within which a settlement must fall in order to be deemed reasonable; but an agreement that secures

1           39.     The calculation methodology used to compensate the Participating Class Members for  
2 the alleged damages was negotiated at the time of the Settlement. More importantly, the methodology  
3 is fair, objective, and impartial. The calculation methodology is based on the number of Workweeks  
4 each Participating Class Member worked for Defendant during the Class Period. The number of  
5 Workweeks for the Participating Class Member is established through Defendant's data and  
6 documented compensation records. The Claims Administrator is responsible for calculating the  
7 Individual Class Payments by multiplying the Workweek Value for each Participating Class Member  
8 by the Net Settlement Amount. The Claims Administrator will calculate the payment ratio by dividing  
9 the total number of Workweeks for each Participating Class Member by the total number of Workweeks  
10 for all Participating Class Members. This process establishes an objectively fair and reasonable  
11 procedure to compensate the Class. Agreement, ¶ 3.2.4.

12           40.     The settlement also provides significant relief to the Participating Class Members. After  
13 deductions for the Class Counsel Attorneys' Fees and Costs, Claims Administration Costs, the PAGA  
14 Penalties, and the Class Representative Service Payment, the Net Settlement Amount is currently  
15 estimated to be \$529,483.34. The average settlement payment is approximately \$387.90, and the highest  
16 is approximately \$2,999.58. This average net recovery is on par with many wage and hour class action  
17 settlements approved by California state and federal courts. *See, e.g., Palencia v. 99 Cents Only Stores*,  
18 No. 34-2010-00079619 (Sacramento County Super. Ct) (average net recovery of approximately \$80);  
19 *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct.) (average  
20 net recovery of approximately \$90); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx  
21 (C.D. Cal. May 14, 2007) (average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*,  
22 Case No. 2:06-CV-02674-JAM-DAD (ED. Cal.) (average net recovery of approximately \$60); *Lim v.*  
23 *Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct.) (average net recovery  
24 of approximately \$35); and *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct.)  
25 (average net recovery of approximately \$20). Additionally, Defendant must separately fund its share of  
26 any employer side payroll taxes. Agreement, ¶ 4.3.

27 \_\_\_\_\_  
28 roughly six to twelve percent of a potential trial recovery, while preventing further expenditures and delays and eliminating the risk that no recovery at all will be won, seems to be within the targeted range of reasonableness.”).

41. Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final approval.

**E. Risks of Continued Litigation**

42. With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly individualized questions of fact not susceptible to class treatment."); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341 (affirming denial of certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at \*11-13 (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based on the predominance of individual issues). Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement.

43. Although Plaintiff is confident about the strength of her claims, Plaintiff nevertheless recognizes that Defendant has factual and legal defenses that, if successful, would potentially defeat or impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically affect the value of Plaintiff's claims and, in fact, already has.

1           44.     As demonstrated by the decisions in *Magadia, supra*, 999 F.3d 668, *O’Conner v. Uber*  
2 *Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59  
3 Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt  
4 that if Defendant faced a large adverse judgement, Defendant undoubtedly have the resources to post a  
5 bond and appeal. A post-judgment appeal by Defendant would have required many more years to  
6 resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case  
7 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh  
8 an uncertain result three or more years in the future.

9           45.     Class Representative and Class Counsel recognize the expense and length of a trial  
10 against Defendant through possible appeals which could take another three years. In arriving at their  
11 informed belief that the present settlement is fair and adequate, Class Counsel accounted for the  
12 uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful  
13 of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in  
14 the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have  
15 increased, and recovery would have been delayed if not denied, thereby reducing the benefits of an  
16 ultimate victory. Class Representative and Class Counsel believe that the Settlement confers substantial  
17 monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative  
18 and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest  
19 of the Class, is fair, reasonable, and adequate, and should be granted final approval.

#### 20                   **IV. THE PENALTIES UNDER PAGA ARE REASONABLE**

21           46.     Here, Plaintiff and Defendant negotiated good faith PAGA Penalties in the amount of  
22 \$50,000 which is 5.26% of the Gross Settlement Amount. As illustrated above, this amount falls well  
23 within the range of approved PAGA settlements. Seventy-Five percent (75%) of the PAGA Civil  
24 Penalty Payment (\$37,500) will be paid to the LWDA (“LWDA PAGA Payment”) with the remaining  
25 twenty-five percent (25%) of the PAGA Civil Penalty Payment (\$12,500) to be distributed to the  
26 Aggrieved Employees (“Individual PAGA Payment”), which is within the range of PAGA penalties  
27 approved by courts and should be approved.

47. Further on May 15, 2023, Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval with the LWDA. On October 9, 2023, Plaintiff gave the LWDA notice of this motion seeking final approval of this settlement.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9th day of October 2023, at San Diego, California.

**JCL LAW FIRM, APC**

By: Jean-Claude Lapuyade

# **EXHIBIT 1**

**CLASS, COLLECTIVE, AND REPRESENTATIVE SETTLEMENT**  
**AGREEMENT AND CLASS NOTICE**

This Class, Collective, and Representative Action Settlement Agreement (“Agreement”) is made by and between plaintiff Alissa Whitney, (“Plaintiff”) and defendant Five J’s Family Enterprises L.P. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

**1. DEFINITIONS.**

1.1 “Action.” The case titled *Whitney v. Five J’s Family Enterprises L.P.*, filed on February 22, 2022, in the San Bernardino County Superior Court, and assigned Case No. CIV SB 2129063.

1.2 “Aggrieved Employee.” All individuals who are or previously were employed by Defendant in California during the PAGA Period.

1.3 “Attorneys’ Fees and Costs.” The Attorneys’ Fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated with documenting the Settlement, securing the Court’s approval of the Settlement, any expert expenses, and securing an entry of Judgment on all claims in the Action which are covered by the Released Claims as defined herein. Class Counsel will request Attorneys’ Fees not to exceed one third of the Gross Settlement Amount currently estimated to be Three Hundred Sixteen Thousand, Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$316,666.66). The Costs requested to be reimbursed will not exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). The Attorneys’ Fees and Costs awarded are subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for Attorneys’ Fees and Costs as set forth above. Such Attorneys’ Fees and Costs shall be paid from the Gross Settlement Amount. Class Counsel will be issued an IRS Form 1099 for the Attorneys’ Fees and Costs detailed in this Section and shall be solely and legally responsible for paying all applicable taxes on the payment made pursuant to this Section. A reduction in the Attorneys’ Fees and/or Costs shall not be grounds to nullify this Agreement. The Attorneys’ Fees and Costs will be paid fifteen (15) calendar days following the Effective Date.

1.4 “Claims Administrator.” ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement. The Parties each represent that they do not have any financial interest in the Claims Administrator or otherwise have a relationship with the Claims Administrator that could create a conflict of interest.

1.5 “Claims Administration Costs.” The costs payable from the Gross Settlement Amount to the Claims Administrator for administering this Settlement, including, but not limited to, translating to Spanish, printing, distributing, and tracking documents for this Settlement, calculating estimated amounts per Class Member, tax reporting, distributing the Gross Settlement Amount, and providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement Agreement, and as requested by the Parties, including maintaining a webpage hosted on the Settlement Administrator’s Website at [www.ILYMGroup.com/cases](http://www.ILYMGroup.com/cases) for the Settlement and providing telephone support. The Claims Administration Costs will be paid from the Gross Settlement Amount. The Claims Administration Costs will not exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) (“Administration Expenses”). To the extent actual Claims Administration Costs are greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00), such excess amount will be deducted from the Gross Settlement Amount, subject to the Court’s approval. The Claims Administration Costs will be paid fifteen (15) calendar days following the Effective Date.

1.6 “Class Counsel” means Zakay Law Group, APC and JCL Law Firm, A.P.C. on behalf of Plaintiff and Class Members.

1.7 “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.8 “Class Member(s)” or “Settlement Class.” All of Defendant’s current and former non-exempt employees, employed in California at any time during the Class Period.

1.9 “Class Member Address Search.” The Claims Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Claims Administrator with Class Members.

1.10 “Class Notice” means the “COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL” to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.11 “Class Period” means the period beginning October 12, 2017 up to and including April 7, 2023 or the date of preliminary approval, whichever is earlier, unless modified pursuant to paragraph 4.1 of this Agreement.

1.12 “Class Representative.” The named Plaintiff, Alissa Whitney, in the Action seeking Court approval to serve as Class Representative.

1.13 “Class Representative Enhancement Payment” or “Class Representative Service Payment.” The amount to be paid to Plaintiff in recognition of Plaintiff’s effort and work in prosecuting the Action on behalf of Class Members. Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiff will request Court approval of a Class Representative Enhancement Payment of Ten Thousand Dollars and Zero Cents (\$10,000.00). Plaintiff will be issued an IRS Form 1099 in connection with Plaintiff’s respective Class Representative Enhancement Payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on the Class Representative Enhancement Payment and shall hold Defendant harmless from any claim or liability for taxes, penalties or interest arising as a result of the payment. The Class Representative Enhancement Payment will be paid from the Gross Settlement Amount and will be in addition to Plaintiff’s Individual Class Payment paid pursuant to the Settlement. Defendant made no representations as to the tax treatment or legal effect of the payment called for herein, and Plaintiff is not relying on any statement or representation by Defendant or Defendant’s counsel in this regard.

1.14 “Court” means the Superior Court of California, County of San Bernardino.

1.15 “Defense Counsel” means attorneys Clark Hill LLP on behalf of Defendant.

1.16 “Effective Date.” The date on which the Final Award becomes final. For purposes of this Section, the Final Award “becomes final” only after the Court grants the Motion for Final Approval and upon service of the Notice of Entry of Order and/or Judgment, and upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Order Granting Final Approval and/or Judgment (this time period shall not be less than sixty (60) calendar days after the Court’s Order is entered); (ii) the date of affirmance of an appeal of the Order Granting Final

Approval and/or Judgment becomes final under the California Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final Approval and/or Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Order Granting Final Approval and/or Judgment.

1.17 “Final Approval.” The Court’s order granting final approval of the Settlement.

1.18 “Final Approval Hearing.” The Court’s hearing on the Motion for Final Approval of the Settlement.

1.19 “Gross Settlement Amount.” The sum of Nine Hundred and Fifty Thousand Dollars and Zero Cents (\$950,000.00) to be paid by Defendant in full satisfaction of all claims arising from the Action. The Gross Settlement Amount includes all Individual Class Payments to Class Members, Individual PAGA Settlement Payments to Aggrieved Employees, the Class Representative Enhancement Payment to Plaintiff, Claims Administration Costs to the Claims Administrator, the Labor and Workforce Development Agency (“LWDA”) Payment, and the Attorneys’ Fees and Costs. Defendant will be responsible for any employer payroll taxes required by law, separate and in addition to the Gross Settlement Amount, including the employer FICA, FUTA, and SDI contributions on the wage portion of the Individual Class Payments.

1.20 “Judgment.” The Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.21 “Individual Class Payment.” The Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.22 “Individual PAGA Payment.” The Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of pay periods worked during the PAGA Period.

1.23 “LWDA.” The California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.24 “LWDA PAGA Payment.” The 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.25 “Net Settlement Amount.” The Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Attorneys’ Fees and Costs, and the Administration Expenses. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.26 “Non-Participating Class Member.” Any Class Member who opts out of the Settlement by sending the Claims Administrator a valid and timely Request for Exclusion. Such Class Member shall still be bound by the PAGA Release.

1.27 “PAGA.” The Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.28 “PAGA Pay Period.” Any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.29 “PAGA Period.” The period from August 3, 2020 up to and including April 7, 2023 or the date of preliminary approval, whichever is earlier.

1.30 “PAGA Notice.” Plaintiff’s letter to Defendant and the LWDA, dated August 3, 2021, providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.31 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, in a total amount of \$50,000, allocated 25% to the Aggrieved Employees (Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00)), and the 75% to LWDA (Thirty Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00)), in settlement of PAGA claims.

1.32 “Participating Class Member.” Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.33 “Plaintiff.” Alissa Whitney, the named plaintiff in the Action.

1.34 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.35 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.36 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.37 “Released PAGA Claims” means the claims being released as described in Paragraph 5.1 below.

1.38 “Released Parties” means Defendant and its past, present, and future parents, subsidiaries, affiliated companies, agents, managing agents, exempt-employees, servants, officers, directors, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint employers, temporary staffing agencies, dual employers, potential and/or alleged dual employers, co-employers, potential and/or alleged co-employers, common law employers, contractors, affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to have joint liability, and all of their respective past, present and future employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all persons and/or entities acting under, by, through or in concert with any of them.

1.39 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.40 “Response Deadline” means forty-five (45) calendar days after the Claims Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, or mail Requests for Exclusion from the Settlement, or (b) fax, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Claims Administrator shall have an additional fifteen (15) calendar days beyond the Response Deadline has expired.

1.41 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.42 “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

## **2. RECITALS.**

2.1 Plaintiff is alleged to be a former employee of Defendant.

2.2 On October 12, 2021, Plaintiff commenced the Action. Plaintiff filed a Complaint purporting to allege causes of action against Defendant for: (1) unfair competition in violation of Cal. Bus. & Prof. Code section 17200, et seq., (2) failure to provide required meal periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (3) failure to provide required rest periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (4) failure to pay minimum wages in violation of Cal. Lab. Code sections 1182.12, 1194, 1197, & 1197.1, (5) failure to pay overtime wages in violation of Cal. Lab. Code section 510, et seq., (6) failure to provide accurate itemized statements in violation of Cal. Lab. Code section 226, (7) failure to provide wages when due in violation of Cal. Lab. Code sections 201, 202, and 203, (8) violation of California Labor Code section 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (failure to provide seating), and (9) violation of the Private Attorneys General Act (Labor Code section 2698, et seq.). Defendant denies the allegations in the Complaint, and denies any failure to comply with the laws identified in the Complaint and denies any and all liability for the causes of action alleged.

2.3 Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave written notice to Defendant and the LWDA by sending the PAGA Notice on or about August 3, 2021. The PAGA Notice is based on California Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 1 1070(14)(failure to provide suitable seating), the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14, the California Code of Regulations, California Business & Professions Code sections 17200, et seq., 17203, 17021, and California Code of Civil Procedure sections 382, 395, 395.5, 410.10, 474.

2.4 On February 7, 2023, the Parties participated in an all-day mediation presided over by the Hon. Carl West (ret.), the mediator, which led to this Agreement to settle the Action.

2.5 Class Counsel has conducted a thorough investigation into the facts of the Action, including extensive informal discovery and exchange of a volume of documents and information, which included and was not limited to, Defendant’s production of a sampling of information/data for the putative class members to allow Plaintiff to perform an analysis and valuation of all claims. Prior to mediation the Parties exchanged information and documents to investigate the veracity, strength, and scope of the claims, and to allow analysis and evaluation of the claims and Defendant’s defenses thereto. The Class Representative has vigorously prosecuted this case, and Defendant has vigorously contested it. The Court has not granted class certification in the Action.

2.6 Without any admission of wrongdoing or liability by Defendant, it is the intention and agreement of the Parties to settle and dispose of, fully and completely, the Released Claims against the Released Parties (defined herein).

2.7 This Agreement is subject to the occurrence of the Effective Date of the Stipulation and Settlement of Class, Collective, and Representative Action.

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

### 3. MONETARY TERMS.

3.1 Gross Settlement Amount. Defendant promises to pay the total gross amount of Nine Hundred and Fifty Thousand Dollars and Zero Cents (\$950,000.00) as the Gross Settlement Amount, not including employer-side payroll taxes, which shall be paid separately by Defendant. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated herein. The Claims Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1 To Plaintiff. Class Representative Service Payment to the Class Representative of not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Attorneys' Fees and Costs, Plaintiff will seek Court approval for any Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Claims Administrator will retain the remainder in the Net Settlement Amount. The Claims Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment. A reduction of the Class Representative Service Payment shall not be grounds to nullify this Agreement.

3.2.2 To Class Counsel. A Class Counsel fees payment of not more than one third, which is currently estimated to Three Hundred Sixteen Thousand, Six Hundred Sixty-Six (\$316,666.66) and a Class Counsel's litigation expenses of not more than Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Defendant will not oppose a request for the payment provided that the request does not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Attorneys' Fees and Costs no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Attorneys' Fees and Costs less than the amounts requested, the Claims Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Attorneys' Fees and Costs. The Claims Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Attorneys' Fees and Costs and hold Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. A reduction of the Attorneys' Fees and Costs shall not be grounds to nullify this Agreement.

3.2.3 To the Claims Administrator. A payment to the Claims Administrator not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than Twenty Thousand Dollars and Zero Cents (\$20,000.00), the Claims Administrator will retain the remainder in the Net Settlement Amount for distribution on a pro rata basis to alleged Aggrieved Employees and Participating Class Members.

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

3.2.4.1 Tax Allocation of Individual Class Payments. Twenty-Five Percent (25%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Seventy-Five Percent (75%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, penalties, and other non-wage damages (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5 To the LWDA and Aggrieved Employees. PAGA Penalties in the amount of Fifty Thousand Dollars and Zero Cents to be paid from the Gross Settlement Amount, with 75% (\$37,500.00), allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Claims Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$12,500.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

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

4.1 Escalator Clause. Defendant estimates the number of work weeks during the Class Period to be 47,200. If the actual number of Workweeks encompassed within the Class Period exceeds 47,200 by more than 10%, then, Defendant at its exclusive discretion shall either (a) increase the Gross Settlement Amount by a pro-rata dollar value for those workweeks in excess of the escalation margin; or (b) Defendant shall have the exclusive option to shorten the applicable Class Period to a date to on which the number of workweeks is not more than 51,920. Under the latter option no additional payment is necessary.

4.2 Class Data. Not later than fifteen (15) business days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Claims Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Claims Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Claims Administrator employees who need access to the Class Data to effect and perform under this Agreement.

4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Claims Administrator no later than ten (10) business days following the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Claims Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses, the Attorneys' Fees and Costs, and the Class Representative Service Payment. Disbursement of the Attorneys' Fees and Costs and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

4.4.3 Uncashed Settlement Checks. Any checks issued by the Claims Administrator to Class Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred eighty (180) calendar days from the date of mailing, the checks shall become null and void. Funds associated with cancelled checks shall be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, et seq., to be held in trust for those Participating Class Members and/or Aggrieved Employees who did not timely cash their checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as all payments to the Participating Class Members and/or Aggrieved Employees will be paid out, whether or not these individuals cash their Settlement checks.

4.4.4 Unaffected Benefits. The Individual Class Payments made to Class Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this

Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

**5. RELEASE.** Plaintiff, the State of California, Class Members, the LWDA and Aggrieved Employees, will release claims against all Released Parties, as follows:

**5.1 Released PAGA Claims.** As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, Plaintiff, the State of California and all Aggrieved Employees, including those who timely and effectively exclude themselves from the class portion of the Settlement, shall nevertheless be bound by the Released PAGA Claims and shall receive a pro rata portion of 25% of the PAGA Settlement Amount. Aggrieved Employees who timely and effectively exclude themselves from the class portion of the Settlement shall have their PAGA claims released only for the PAGA Period. The Released PAGA Claims include any and all claims for PAGA penalties asserted in the Action and arising from or reasonably related to the facts and claims alleged in the Action, or that could have been alleged in the Action based on the facts and claims alleged in the Action, and/or Plaintiff's PAGA Notice identified on the LWDA's website as LWDA-CM-840158-21, including, without limitation, claims for PAGA penalties arising from Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 11070(14)(failure to provide suitable seating), and the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14.

**5.2 Released Class Claims.** As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Class Members who do not validly and timely opt out of the Settlement Agreement (which specifically includes Plaintiff) shall fully and finally release Released Parties of the Released Class Claims. The Released Class Claims include any and all claims, wage and hour claims, rights, demands, liabilities and causes of action of any nature or description alleged/asserted in the Action arising from and/or related to the facts and claims alleged/asserted in the Action, that could have been alleged/asserted in the Action based on the facts and claims alleged in the Action, and the facts and claims asserted in, arising from or related to, or could have been alleged in the PAGA Notice identified on the LWDA's website as LWDA-CM-840158-21.

The Released Class Claims include all claims for (1) unfair competition in violation of Cal. Bus. & Prof. Code section 17200, et seq. arising from violations of the California Labor Code listed below, (2) failure to provide required meal periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (3) failure to provide required rest periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (4) failure to pay minimum wages in violation of Cal. Lab. Code sections 1182.12, 1194, 1197, & 1197.1, (5) failure to pay overtime wages in violation of Cal. Lab. Code section 510, et seq., (6) failure to provide accurate itemized statements in violation of Cal. Lab. Code section 226, (7) failure to provide wages when due in violation of Cal. Lab. Code sections 201, 202, and 203, and (8) violation of California Labor Code section 1198 and California Code of Regulations, Title 8, Section 11070(14) (failure to provide seating), as well as claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; failure to properly calculate the regular rate of pay and associated claims; wages related to alleged illegal time rounding; failure to pay wages at least twice each calendar month; failure to timely pay wages; failure to timely pay final wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal period, rest period, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for

all hours worked, including off-the-clock work; failure to provide accurate itemized wage statements; unlawful deductions; failure to keep accurate records; failure to provide suitable seating; unlawful deductions and/or withholdings from wages; unfair business practices; suitable seating; civil penalties, including, but not limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs related to the Released Class Claims. The Released Class Claims also include but are not limited to all such claims arising under: California Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 11070(14)(failure to provide suitable seating), the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14, the California Code of Regulations; California Code of Regulations tit. 8 section 3395; all claims relating to the Released Class Claims under the California Business and Professions Code sections 17200, et seq., 17201, 17203, 17021; the Release shall also include all claims relating to the Released Claims under the applicable Wage Orders of the California Industrial Welfare Commission (including, but not limited to, IWC Wage Order Nos. 4-2001, 5-2001, 10-2001 and 8 CCR § 11100) for failure to provide accurate itemized wage statements, failure to keep accurate records, for civil and statutory penalties, including wage statement penalties, record keeping penalties, The Released Claims include those under the Fair Labor and Standards Act ("FLSA"), including those related to recordkeeping obligations, 29 U.S.C. §211(c); 29 C.F.R. §§ 516, 778.223, 778.315, et seq.; and all state and federal law equivalents arising from or reasonably related to the facts and claims alleged in the Action and/or PAGA Notice or that could have been alleged in the Action and/or PAGA Notice; and California Civil Code section 474. This release excludes the release of claims not permitted by law, including but not limited to claims brought for workers' compensation benefits.

The following language will be printed on the reverse of each Settlement Payment Check, or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act ("FLSA") portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement."

Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law.

## **6. ADMINISTRATION OF TAXES.**

6.1 Tax Treatment of Individual Class Payments. The Individual PAGA Payments will be allocated as 100% penalties and reported on an IRS-Form 1099. All Individual Class Payments will be allocated as follows: Twenty-Five percent (25%) of each Individual Class Payment will be allocated as wages and Seventy-Five percent (75%) will be allocated as non-wages. The portion allocated to wages will be reported on an IRS Form W-2 and the portion allocated to non-wages will be reported on an IRS Form-1099 by the Claims Administrator. The Individual Class Payments will be reduced by any required legal deductions for each Class Member. All standard employee payroll deductions will be made for state and federal withholding taxes, including any other applicable payroll deductions owed by the Class Members as a result of the wage component, resulting in a net wage component. The Claims Administrator will issue a check and W-2 Form to each Class Member for the wage component. The Claims Administrator will issue a second check and IRS Form-1099 for the remaining non-wages component. No withholding shall be made on the non-wages portion of the Individual Class Payment. The Claims Administrator shall be responsible for issuing the payments and calculating and withholding all required state and federal taxes. The Claims

Administrator shall determine the eligibility for, and the amounts of, any Individual Class Payments under the terms of this Settlement Agreement. Any disputes not resolved by the Claims Administrator concerning the administration of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of involving the Court.

6.2 Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Class Members are not relying on any statement, representation, or calculation by Defendant or by the Claims Administrator in this regard. Plaintiff and Class Members understand and agree they will be solely responsible for the payment of their share of any taxes and penalties assessed on the payments described herein.

6.3 CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS SETTLEMENT AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISOR’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

**7. MOTION FOR PRELIMINARY APPROVAL.** Class Representative and Class Counsel agree to prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”).

7.1 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel for review 1 week prior to filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a signed declaration from the Claims Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (iv) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,

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

7.2 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) calendar days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Claims Administrator.

## **8. SETTLEMENT ADMINISTRATION.**

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

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

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

### **8.4 Notice to Class Members.**

8.4.1 No later than three (3) business days after receipt of the Class Data, the Claims Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

8.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Claims Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA pay periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Claims Administrator shall update Class Member addresses using the National Change of Address database.

8.4.3 Not later than three (3) business days after the Claims Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Claims Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Claims Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Claims Administrator has no obligation to make further

attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fifteen (15) calendar days beyond the forty-five (45) calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Claims Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Claims Administrator, Defendant, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Claims Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

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

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Claims Administrator, by fax, or mail, a signed written Request for Exclusion not later than forty-five (45) calendar days after the Claims Administrator mails the Class Notice (plus an additional fifteen (15) calendar days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and telephone number. To be valid, a Request for Exclusion must be timely faxed, or postmarked by the Response Deadline.

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

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.1 and 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.1 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) calendar days after the Claims Administrator mails the Class Notice (plus an additional fifteen (15) calendar days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA pay periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Claims Administrator via fax, email or mail. The Claims Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Claims Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Claims Administrator's determination of each Class Member's allocation of Workweeks and/or pay periods shall be final and not appealable or otherwise susceptible to challenge. The Claims Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or pay periods to Defense Counsel and Class Counsel and the Claims Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Representative Service Payment, and/or Attorneys' Fees and Costs.

8.7.2 Participating Class Members may send written objections to the Claims Administrator, by fax, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Claims Administrator must do so not later than forty-five (45) calendar days after the Claims Administrator's mailing of the Class Notice (plus an additional fifteen (15) calendar days for Class Members whose Class Notice was re-mailed).

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

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

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

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Claims Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) business days after the expiration of the deadline for submitting Requests for Exclusion, the Claims Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8.8.3 Weekly Reports. The Claims Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class

Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or pay periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Claims Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

8.8.5 Claims Administrator’s Declaration. Not later than fourteen (14) calendar days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Claims Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Claims Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Claims Administrator’s declaration(s) in Court.

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

**9. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% (ten percent) of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than ten (10) business days after the Claims Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

**10. NULLIFICATION OF AGREEMENT.** In the event: (i) the Court does not enter the Preliminary Approval Order and approve the Released Claims specified herein; (ii) the Court does not finally approve the Settlement as provided herein; (iii) Defendant exercises its option to nullify the Settlement Agreement based on an excessive number of opt-outs, as described in the above Section; or (iv) the Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this Settlement Agreement shall be null and void. A reduction of the Attorneys’ Fees and Costs and/or any Class Representative Enhancement Payment shall not be grounds for nullification of this Settlement. If the Settlement is nullified, any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as void from the beginning, and the Stipulations and Recitals contained herein shall be of no force or effect, and shall not be treated as an admission by the Parties or their counsel. In such a case, the Parties and any

funds to be awarded under this Settlement Agreement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already incurred by the Claims Administrator shall be paid equally by both Parties. The Parties agree that they will cooperate and take all steps necessary in order to obtain preliminary and/or final approval in the event that the Court raises issues or questions about this Settlement or anything pertaining to this Settlement (including, but not limited to, the motion for preliminary approval and motion for final approval).

**11. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 1 week prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2 Duty to Cooperate. If the Court does not grant Preliminary or Final Approval or conditions Preliminary or Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Preliminary and/or Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Attorneys’ Fees and Costs and/or Administration Expenses shall not constitute a material modification to the Agreement within the meaning of this Paragraph.

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

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

11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court’s concerns and to obtain Preliminary and/or Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses

reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

**13. ADDITIONAL PROVISIONS.**

13.1 Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically denies, it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

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

13.3 Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall issue any press release or announcement of any kind related in any way to the Settlement. Plaintiff and Plaintiff's Counsel agree that, prior to Preliminary Approval of the Settlement, they will keep the terms of this Settlement confidential except for purposes of communicating with Plaintiff only. Plaintiff shall be informed that the Settlement is confidential and shall be advised to keep the Settlement confidential. From and after Preliminary Approval of the Settlement, the Class Members (including Plaintiff and Class Counsel) may: (1) as required by law; (2) as required under the terms of the Settlement; or (3) as required under counsel's duties and responsibilities as Class Counsel, comment regarding the specific terms of the Settlement. In all other cases, Plaintiff and Class Counsel agree to limit their statements regarding the terms of the Settlement, whether oral, written or electronic (including the world wide web), to say the Action has been resolved and that Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this Section is intended to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but not limited to, communicating with Class Members regarding the Settlement. This Settlement shall not be advertised or mentioned on any source, including Plaintiff's Counsel's personal or firm website(s).

The parties stipulate and agree, pursuant to California Code of Civil Procedure section 583.330(a), to extend the time within which this action must be brought to trial pursuant to Code of Civil Procedure sections 583.310 through 583.360, by that period of time from Preliminary Approval to the date of Final Approval or upon written notice from either party of an intent to resume litigation, and that said period of time shall not be included in the computation of the five-year period specified in Code of Civil Procedure section 583.310.

13.4 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

13.5 Entire Agreement. With the exception of the Individual Settlement Agreement, this Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties have separately entered into a settlement agreement resolving Plaintiff's individual claims as well as waiving any rights and/or protections Plaintiff may have under California Civil Code section 1542 (the "Individual Settlement Agreement"). The Individual Settlement Agreement is confidential, but may be provided to the Court upon request for in camera review. Plaintiff shall not file the Individual Settlement Agreement unless the Individual Settlement Agreement is filed under seal.

13.6 Contractual Terms. Each term of this Agreement is contractual and not merely a recital.

13.7 Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13.8 Modifications. The Parties agree that the provisions of this Agreement may not be modified by any subsequent agreement unless the modifying agreement is: (i) in writing; (ii) specifically references this Agreement; (iii) signed by Plaintiff; and (iv) signed and approved by an authorized representative of Defendant.

13.9 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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

13.11 Exhibits Incorporated by Reference. The terms of this Settlement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

13.12 Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic signatures (e.g., DocuSign), facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument. The Parties expressly agree to the use of authorized electronic signature (e.g., DocuSign).

13.13 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 Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement.

13.14 Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account

all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

13.15 Captions. The captions and section numbers in this Settlement Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Settlement Agreement.

13.16 Waiver. No waiver of any condition or covenant contained in this Settlement 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.

13.17 Enforcement Action. If one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement action.

13.18 Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

13.19 Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement and that this Settlement Agreement has been executed with the consent and advice of counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

13.20 Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class action certification is proper under the standards applied to contested certification motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

13.21 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or legal holiday, such date or deadline shall be on the first business day thereafter.

13.22 Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law. Plaintiff, and not Plaintiff's representative(s), must personally execute this Settlement Agreement.

13.23 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant

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

13.24 Miscellaneous. The Parties have full authority to enter into this Agreement and to be bound by it. The Parties are voluntarily entering into this Agreement free of any duress or coercion. This Agreement may be executed by the Parties in any number of counterparts, which are defined as duplicate originals, all of which taken together shall be construed as one document. A signature by facsimile on this Agreement shall be as legally binding as an original signature. This Agreement shall be construed and governed by the laws of the State of California.

**PLEASE READ CAREFULLY**

*The Settlement Agreement consists of 20 pages with signatures appearing below.*

**PLAINTIFF Alissa Whitney**

Signature: \_\_\_\_\_

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

**DEFENDANT Five J's Family Enterprises L.P.**

Print Name: Jeffery M Martinez

Date: 5/18/2023

Title: owner

Signature: Jeffery M Martinez

AGREED AS TO FORM

JCL LAW FIRM, APC

\_\_\_\_\_  
Jean-Claude Lapuyade, Esq.  
Counsel for Plaintiff and the Class

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

ZAKAY LAW GROUP, APLC

\_\_\_\_\_  
Shani O. Zakay, Esq.

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

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

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**PLEASE READ CAREFULLY**

*The Settlement Agreement consists of 20 pages with signatures appearing below.*

**PLAINTIFF Alissa Whitney**

Signature:   
Alissa Whitney (May 15, 2023 11:52 PDT)

Date: May 15, 2023

**DEFENDANT Five J's Family Enterprises L.P.**

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

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

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

Signature: \_\_\_\_\_

AGREED AS TO FORM

JCL LAW FIRM, APC

  
Jean-Claude Lapuyade, Esq.  
Counsel for Plaintiff and the Class

Date: May 15, 2023

ZAKAY LAW GROUP, APLC

  
Shani O. Zakay, Esq.

Date: May 15, 2023

Counsel for Plaintiff and the Class

# **EXHIBIT A**

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

*Whitney v. Five J's Family Enterprises L.P.*

San Bernardino Superior Court Case No. CIV SB 2129063

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

**You may be eligible to receive money** from a class action lawsuit ("Action") against Five J's Family Enterprises L.P. ("Defendant") for alleged wage and hour violations. The Action was filed by former employee for Defendant, Alissa Whitney ("Plaintiff") and seeks payment of wages and other relief for a class of Defendant's current and former non-exempt employees, employed in California at any time during the period beginning October 12, 2017 up to and including April 7, 2023 ("Class Members"). The Action also seeks penalties under the California Private Attorney General Act ("PAGA") for all individuals who are or previously were employed by Defendant in California during the period from August 3, 2020 up to and including April 7, 2023 ("Aggrieved Employees").

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

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$XX (less withholdings) and your Individual PAGA Payment is estimated to be \$XX.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work during the period from August 3, 2020 up to and including April 7, 2023 ("PAGA Period").)

The above estimates are based on Defendant's records showing that **you worked XX workweeks** during the period beginning October 12, 2017 up to and including April 7, 2023 ("Class Period") and **you worked XX PAGA Pay Periods** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make a settlement payment under the Settlement and requires Class Members and the Aggrieved Employees to give up their rights to assert certain claims against Released Parties (defined below in section 3).

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. In exchange, you will give up your right to assert Released Class Claims (defined below in section 3) against Released Parties.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by

submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment and you will not release Released Class Claims. If you are a member of the Aggrieved Employees, you will remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

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

|                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>You Do Not Have to Do Anything to Participate in the Settlement.</b></p>                                                                                                        | <p>If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will release Released Class Claims against Released Parties.</p>                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>You Can Opt-out of the Class Settlement but not the PAGA Penalties.</b></p> <p><b>The Opt-out Deadline is <u>MONTH XX, 2023.</u></b></p>                                        | <p>You can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Aggrieved Employees will receive Individual PAGA Payments and the Aggrieved Employees will release Released PAGA Claims (defined below in section 3) against Released Parties.</p> |
| <p><b>Participating Class Members Can Object to the Class Settlement but not the PAGA Penalties.</b></p> <p><b>Written Objections Must be Submitted by <u>MONTH XX, 2023.</u></b></p> | <p>All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Class Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel.</p>                                                                                                                                                                                                  |
| <p><b>You Can Participate in the <u>MONTH XX, 2023, Final Approval Hearing.</u></b></p>                                                                                               | <p>The Court’s Final Approval Hearing is scheduled to take place on <u>MONTH XX, 2023.</u> You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing <u>MONTH XX, 2023.</u> See Section 8 of this Notice.</p>                                                                                                                                                  |

|                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods.</b></p> <p><b>Written Challenges Must be Submitted by <u>MONTH XX, 2023.</u></b></p> | <p>The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many workweeks you worked during the Class Period and how many PAGA Pay Periods you worked during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you may challenge it by <u>MONTH XX, 2023.</u> See Section 4 of this Notice.</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## 1. WHAT IS THE ACTION ABOUT?

On October 12, 2021, Plaintiff commenced the Action. Plaintiff filed a Complaint purporting to allege causes of action against Defendant for: (1) unfair competition in violation of Cal. Bus. & Prof. Code section 17200, et seq., (2) failure to provide required meal periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (3) failure to provide required rest periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (4) failure to pay minimum wages in violation of Cal. Lab. Code sections 1182.12, 1194, 1197, & 1197.1, (5) failure to pay overtime wages in violation of Cal. Lab. Code section 510, et seq., (6) failure to provide accurate itemized statements in violation of Cal. Lab. Code section 226, (7) failure to provide wages when due in violation of Cal. Lab. Code sections 201, 202, and 203, (8) violation of California Labor Code section 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (failure to provide seating), and (9) violation of the Private Attorneys General Act (Labor Code section 2698, et seq.). Defendant denies the allegations in the Complaint, and denies any failure to comply with the laws identified in the Complaint and denies any and all liability for the causes of action alleged.

Plaintiff is represented by attorneys in the Action: The JCL Law Firm, APC, and the Zakay Law Group, APLC (collectively "Class Counsel.")

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

So far, the Court has made no determination whether Defendant or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendant hired a retired judge in an effort to resolve the Action by negotiating and to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Defendant Will Pay \$950,000.00 as the Gross Settlement Amount. Defendant has agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement. The

Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA").

2. Court Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$316,666.66 (One-third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to \$25,000 for their litigation costs. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$10,000.00 to Plaintiff as a Class Representative Service Payment for filing the Action, working with Class Counsel, and representing the Class.
  - C. Up to \$20,000.00 to the Administrator for services administering the Settlement.
  - D. Up to \$50,000.00 for PAGA Penalties, allocated 75% to the LWDA Payment and 25% to Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

Participating Class Members have the right to object to any of these deductions, except deductions for PAGA Penalties. The Court will consider all objections.

3. Net Settlement Sum Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement Amount (the "Net Settlement Sum") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages ("Wage Portion") and 75% to interests and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, et seq., to be held in trust for those Participating Class Members and/or Aggrieved Employees who did not timely cash their checks.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than **MONTH XX, 2023**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the **MONTH XX, 2023**, Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's full name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments and will not release Released Class Claims.

You cannot opt-out of the PAGA portion of the Settlement. Aggrieved Employees who exclude themselves from the Class Settlement remain eligible for Individual PAGA Payments. Aggrieved Employees will release Released PAGA Claims against Released Parties.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
9. Release. "Released Parties" means Defendant and its past, present, and future parents, subsidiaries, affiliated companies, agents, managing agents, exempt-employees, servants, officers, directors, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint employers, temporary staffing agencies, dual employers, potential and/or alleged dual employers, co-employers, potential and/or alleged co-employers, common law employers, contractors, affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to have joint liability, and all of their respective past, present and future employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all persons and/or entities acting under, by, through or in concert with any of them.

Plaintiff, the State of California, Class Members, the LWDA and Aggrieved Employees, will release claims against all Released Parties, as follows:

Released PAGA Claims: As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, Plaintiff, the State of California and all Aggrieved Employees, including those who timely and effectively exclude themselves from the class portion of the Settlement, shall nevertheless be bound by the Released PAGA Claims and shall receive a pro rata portion of 25% of the PAGA Settlement Amount. Aggrieved Employees who timely and effectively exclude themselves from the class portion of the Settlement shall have their PAGA claims released only for the PAGA Period. The Released PAGA Claims include any and all claims for PAGA penalties

asserted in the Action and arising from or reasonably related to the facts and claims alleged in the Action, or that could have been alleged in the Action based on the facts and claims alleged in the Action, and/or Plaintiff's PAGA Notice identified on the LWDA's website as LWDA-CM-840158-21, including, without limitation, claims for PAGA penalties arising from Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 1 1070(14)(failure to provide suitable seating), and the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14.

Released Class Claims: As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Class Members who do not validly and timely opt out of the Settlement Agreement (which specifically includes Plaintiff) shall fully and finally release Released Parties of the Released Class Claims. The Released Class Claims include any and all claims, wage and hour claims, rights, demands, liabilities and causes of action of any nature or description alleged/asserted in the Action arising from and/or related to the facts and claims alleged/asserted in the Action, that could have been alleged/asserted in the Action based on the facts and claims alleged in the Action, and the facts and claims asserted in, arising from or related to, or could have been alleged in the PAGA Notice identified on the LWDA's website as LWDA-CM-840158-21.

The Released Class Claims include all claims for (1) unfair competition in violation of Cal. Bus. & Prof. Code section 17200, et seq. arising from violations of the California Labor Code listed below, (2) failure to provide required meal periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (3) failure to provide required rest periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (4) failure to pay minimum wages in violation of Cal. Lab. Code sections 1182.12, 1194, 1197, & 1197.1, (5) failure to pay overtime wages in violation of Cal. Lab. Code section 510, et seq., (6) failure to provide accurate itemized statements in violation of Cal. Lab. Code section 226, (7) failure to provide wages when due in violation of Cal. Lab. Code sections 201, 202, and 203, and (8) violation of California Labor Code section 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (failure to provide seating), as well as claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; failure to properly calculate the regular rate of pay and associated claims; wages related to alleged illegal time rounding; failure to pay wages at least twice each calendar month; failure to timely pay wages; failure to timely pay final wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal period, rest period, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for all hours worked, including off-the-clock work; failure to provide accurate itemized wage statements; unlawful deductions; failure to keep accurate records; failure to provide suitable seating; unlawful deductions and/or withholdings from wages; unfair business practices; suitable seating; civil penalties, including, but not limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs related to the Released Class Claims. The Released Class Claims also include but are not limited to all such claims arising under: California Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 1 1070(14)(failure to provide suitable seating), the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14, the California Code of Regulations; California Code of Regulations tit. 8 section

3395; all claims relating to the Released Class Claims under the California Business and Professions Code sections 17200, et seq., 17201, 17203, 17021; the Release shall also include all claims relating to the Released Claims under the applicable Wage Orders of the California Industrial Welfare Commission (including, but not limited to, IWC Wage Order Nos. 4-2001, 5-2001, 10-2001 and 8 CCR § 11100) for failure to provide accurate itemized wage statements, failure to keep accurate records, for civil and statutory penalties, including wage statement penalties, record keeping penalties, The Released Claims include those under the Fair Labor and Standards Act (“FLSA”), including those related to recordkeeping obligations, 29 U.S.C. §211(c); 29 C.F.R. §§ 516, 778.223, 778.315, et seq.; and all state and federal law equivalents arising from or reasonably related to the facts and claims alleged in the Action and/or PAGA Notice or that could have been alleged in the Action and/or PAGA Notice; and California Civil Code section 474. This release excludes the release of claims not permitted by law, including but not limited to claims brought for workers’ compensation benefits.

The following language will be printed on the reverse of each Settlement Payment Check, or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law.

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

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Sum by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by you.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$12,500.00 by the total number of PAGA Pay Periods worked by all members of the Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by you.
3. Workweek/PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant’s records, are stated on the first page of this Notice. You have until **MONTH XX, 2023**, to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator’s contact information.

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

## 5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as *Whitney v. Five J's Family Enterprises L.P.* Case No. CIV SB 2129063, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). **The Administrator must be sent your request to be excluded by MONTH XX, 2023, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

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

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 court days before the MONTH XX, 2023 Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees and Litigation Costs and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representatives Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website <https://www.ilymgroup.com/> or the Court's website <https://cap.sb-court.org/search>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees and Litigation Costs, and Service Award may wish to object. **The deadline for sending written objections to the Administrator is MONTH XX, 2023.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action (i.e., *Whitney v. Five J's Family Enterprises L.P.* Case No. CIV SB 2129063) and include your full name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at Participating Class Member's cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See

Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

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

You can, but do not have to, attend the Final Approval Hearing on **MONTH XX**, 2023, at **XX:XX am/pm** in Department S26 of the San Bernardino Superior Court, located at 247 West Third Street, San Bernardino, CA 92415. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via <https://www.sb-court.org/general-information/remote-access>. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website <https://www.ilymgroup.com/> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to ILYM Group, Inc.'s website at <https://www.ilymgroup.com/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <https://cap.sb-court.org/search> and entering the Case Number for the Action, Case No. CIV SB 2129063.

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

### **JCL LAW FIRM, APC**

5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-599-8292  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)

### **ZAKAY LAW GROUP, APLC**

5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-892-7095  
F: 858-404-9203  
[Shani@zakaylaw.com](mailto:Shani@zakaylaw.com)

Settlement Administrator:

### **ILYM GROUP, INC.**

14771 Plaza Drive, Ste. L, Tustin, CA 92780  
T: 1-888-250-6810

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

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

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

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

# **EXHIBIT 2**

# ORIGINAL

## ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)  
Jackland K. Hom (State Bar #327243)  
5440 Morehouse Drive, Suite 3600  
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Telephone: (619) 255-9047  
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## JCL LAW FIRM, APC

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[scastillo@jcl-lawfirm.com](mailto:scastillo@jcl-lawfirm.com)

Attorneys for Plaintiff ALISSA WHITNEY

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

## IN AND FOR THE COUNTY OF SAN BERNARDINO

ALISSA WHITNEY, an individual, on behalf of  
herself, and on behalf of all persons similarly  
situated,

PLAINTIFF,

vs.

FIVE J'S FAMILY ENTERPRISES L.P., a  
California Limited Partnership, and Does 1  
through 50, Inclusive,

DEFENDANT.

Case No. CIVSB2129063

### ~~PROPOSED~~ ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT

Date: June 7, 2023

Time: 10:00 a.m.

Judge: Hon. David Cohn

Dept.: S-26

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

JUN 07 2023

BY   
JESSICA MORALES, DEPUTY

FILED BY FAX

1 This matter having come before the Honorable Judge David Cohn of the Superior Court of the  
2 State of California, in and for the County of San Bernardino, at 10:00 a.m. on June 7, 2023, with Jean-  
3 Claude Lapuyade, Esq., of the JCL Law Firm, APC and Shani O. Zakay, Esq. of the Zakay Law Group,  
4 APLC as counsel for plaintiff ALISSA WHITNEY ("Plaintiff"), and Ryan C. McKim of Clark Hill,  
5 LLP appearing for defendant FIVE J'S FAMILY ENTERPRISES L.P. (hereinafter "Defendant"). The  
6 Court, having carefully considered the briefs, argument of counsel and all the matters presented to the  
7 Court, and good cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of  
8 Class Action Settlement.

9 **IT IS HEREBY ORDERED:**

10 1. The Court preliminarily approves the Class, Collective, and Representative Settlement  
11 Agreement and Class Notice ("Settlement Agreement" or "Agreement"), a true and correct copy of  
12 which is attached hereto as **Exhibit "1"**. This is based on the Court's determination that the Settlement  
13 Agreement is within the range of possible final approval, pursuant to the provisions of Section 382 of  
14 the California Code of Civil Procedure and California Rules of Court, rule 3.769.

15 2. This Order incorporates by reference the definitions in the Agreement, and all terms  
16 defined therein shall have the same meaning in this Order as set forth in the Agreement.

17 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that  
18 Defendant shall pay is Nine Hundred, Fifty Thousand Dollars and Zero Cents (\$950,000.00). It appears  
19 to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and  
20 reasonable as to all Class Members when balanced against the probable outcome of further litigation  
21 relating to certification, liability, and damages issues. It further appears that investigation and research  
22 have been conducted such that counsel for the Parties are able to reasonably evaluate their respective  
23 positions. It further appears to the Court that settlement at this time will avoid substantial additional  
24 costs by all Parties, as well as avoid the delay and risks that would be presented by the further  
25 prosecution of the litigation. It further appears that the Settlement has been reached as the result of  
26 intensive, serious, and non-collusive arms-length negotiations.

27 4. The Court preliminarily finds that the Settlement appears to be within the range of  
28

1 reasonableness of a settlement that could ultimately be given final approval by this Court. The Court  
2 has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily  
3 finds that the monetary settlement awards made available to the Class Members are fair, adequate, and  
4 reasonable when balanced against the probable outcome of further litigation relating to certification,  
5 liability, and damages issues.

6         5. Plaintiff seeks Attorneys' Fees and Costs in the amount of up-to one-third of the Gross  
7 Settlement Amount for attorneys' fees, currently estimated at Three Hundred Sixteen Thousand, Six  
8 Hundred Sixty-Six Dollars and Sixty-Six Cents (\$316,666.66), an award of litigation expenses incurred  
9 not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), and proposed Class  
10 Representative Enhancement Payment to the Class Representative, Alissa Whitney, in an amount not  
11 to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00). While these awards appear to be within  
12 the range of reasonableness, the Court will not approve the Attorneys' Fees and Costs or Class  
13 Representative Enhancement Payment until the Final Approval Hearing.

14         6. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification of  
15 a class for settlement purposes only. This stipulation will not be deemed admissible in this, or any other  
16 proceeding should this Settlement not become final. For settlement purposes only, the Court  
17 conditionally certifies the following Class:

18                 "All of Defendant's current and former non-exempt employees, employed  
19                 in California at any time during the time period beginning October 12, 2017,  
20                 up to and including April 7, 2023."

21         7. The Court concludes that, for settlement purposes only, the Class meets the requirements  
22 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is  
23 ascertainable and so numerous that joinder of all members of the Class Members is impracticable; (b)  
24 common questions of law and fact predominate, and there is a well-defined community of interest  
25 amongst the Class Members with respect to the subject matter of the litigation; (c) the claims of the  
26 Class Representative are typical of the claims of the Class Members; (d) the Class Representative will  
27 fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other  
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1 available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified  
2 to act as counsel for the Class Representative in her individual capacity and as the representative of the  
3 Class Members.

4 8. The Court provisionally appoints plaintiff Alissa Whitney as the representative of the  
5 Class.

6 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm,  
7 A.P.C., and Shani Zakay, of the Zakay Law Group, APLC, as Class Counsel for the Class Members.

8 10. The Court hereby approves, as to form and content, the Proposed Notice of Class Action  
9 Settlement ("Class Notice") attached to the Agreement as Exhibit "A". The Court finds that both  
10 notices appear to fully and accurately inform the Class Members and Aggrieved Employees of all  
11 material elements of the proposed Settlement, including the right of any Class Member to be excluded  
12 from the Class by submitting a written request for exclusion, and of each Class Member's right and  
13 opportunity to object to the Settlement. The Court further finds that the distribution of the notices  
14 substantially in the manner and form set forth in the Agreement and this Order meets the requirements  
15 of due process, is the most reasonable notice under the circumstances, and shall constitute due and  
16 sufficient notice to all persons entitled thereto. The Court orders the mailing of the notices by first class  
17 mail, pursuant to the terms set forth in the Agreement.

18 11. The Court hereby appoints ILYM Group, Inc. as Claims Administrator. Within fifteen  
19 (15) business days of the later of preliminary approval or court approval of Settlement notice to the  
20 class, Defendant shall provide to the Claims Administrator the Class Data, including information  
21 regarding Class Members that Defendant will in good faith compile from its records, including the  
22 Class Member's name, last-known mailing address, Social Security number, and number of Class  
23 Period Workweeks and PAGA Pay Periods. Within fourteen (14) calendar days after receiving the  
24 Class Data from Defendant, the Claims Administrator shall mail the Class Notice to all identified,  
25 potential Class Members via first class U.S. Mail using the most current mailing address information  
26 available.

27 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the  
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1 Settlement. Any Class Member may individually choose to opt out of and be excluded from the  
2 Settlement as provided in the Notice by following the instructions for requesting exclusion from the  
3 Settlement of the Released Class Claims that are set forth in the Notice. All requests for exclusion must  
4 be postmarked or received by the Response Deadline which is forty-five (45) calendar days after the  
5 date the Class Notice is mailed to the Class Members or, in the case of a re-mailed Notice, not more  
6 than fifteen (15) calendar days from the date of re-mailing of the Notices. Any such person who chooses  
7 to opt out of and be excluded from the Settlement will not be entitled to an Individual Settlement  
8 Payment under the Settlement and will not be bound by the Settlement, or have any right to object,  
9 appeal or comment thereon. Class Members who have not requested exclusion shall be bound by all  
10 determinations of the Court, the Agreement and Judgment. A request for exclusion may only opt out  
11 that particular individual, and any attempt to affect an opt-out of a group, class, or subclass of  
12 individuals is not permitted and will be deemed invalid.

13 13. Any Class Member who has not opted out may appear at the final approval hearing and  
14 may object or express the Class Member's views regarding the Settlement and may present evidence  
15 and file briefs or other papers that may be proper and relevant to the issues to be heard and determined  
16 by the Court as provided in the Notice. Class Members will have forty-five (45) calendar days from the  
17 date the Claims Administrator mails the Class Notice to postmark their written objections to the Claims  
18 Administrator.

19 14. A final approval hearing shall be held before this Court on 11.1.23 at  
20 9:00 AM in Department S-26 of the San Bernardino County Superior Court to determine all  
21 necessary matters concerning the Settlement, including: whether the proposed settlement of the Action  
22 on the terms and conditions provided for in the Agreement is fair, adequate and reasonable and should  
23 be finally approved by the Court; whether an Order Granting Final Approval should be entered herein;  
24 whether the plan of allocation contained in the Agreement should be approved as fair, adequate and  
25 reasonable to the Class; and to finally approve the Attorneys' Fees and Costs, Class Representative  
26 Enhancement Payment, and the Claims Administration Costs. All papers in support of the motion for  
27 final approval and the motion for Attorneys' Fee and Costs and Class Representative Enhancement  
28

1 Payment shall be filed with the Court and served on all counsel no later than sixteen (16) court days  
2 before the hearing.

3 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder  
4 shall be construed as a concession or admission by Defendant in any way, and shall not be used as  
5 evidence of, or used against Defendant as an admission or indication in any way, including with respect  
6 to any claim of any liability, wrongdoing, fault, or omission by Defendant or with respect to the truth  
7 of any allegation asserted by any person. Whether or not the Settlement is finally approved, neither the  
8 Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement, nor  
9 any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as  
10 received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not  
11 limited to, evidence of a presumption, concession, indication or admission by Defendant of any  
12 liability, fault, wrongdoing, omission, concession or damage.

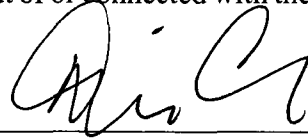
13 16. In the event the Settlement does not become effective in accordance with the terms of the  
14 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become  
15 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties  
16 shall revert to their respective positions as of before entering into the Agreement. In such an event, the  
17 Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used  
18 or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of  
19 the Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

20 17. Pending final determination of whether the Settlement should be approved, Class  
21 Representative and all Class Members are barred and enjoined from filing, commencing, prosecuting,  
22 intervening in, instigating or in any way participating in the commencement or prosecution of any  
23 lawsuit, action or administrative, regulatory, arbitration or other proceeding, in any forum, asserting  
24 any claims that are, or relate in any way to, the Released Claims, unless and until they submit a timely  
25 request for exclusion pursuant to the Agreement.

26  
27 ///

1           18.     The Court reserves the right to adjourn or continue the date of the final approval hearing  
2 and all dates provided for in the Agreement without further notice to Class Members and retains  
3 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

4  
5 Dated: 6/7/23



6 JUDGE OF THE SUPERIOR COURT  
7 DAVID COHN  
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# **EXHIBIT 1**

**CLASS, COLLECTIVE, AND REPRESENTATIVE SETTLEMENT**  
**AGREEMENT AND CLASS NOTICE**

This Class, Collective, and Representative Action Settlement Agreement (“Agreement”) is made by and between plaintiff Alissa Whitney, (“Plaintiff”) and defendant Five J’s Family Enterprises L.P. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

**1. DEFINITIONS.**

1.1 “Action.” The case titled *Whitney v. Five J’s Family Enterprises L.P.*, filed on February 22, 2022, in the San Bernardino County Superior Court, and assigned Case No. CIV SB 2129063.

1.2 “Aggrieved Employee.” All individuals who are or previously were employed by Defendant in California during the PAGA Period.

1.3 “Attorneys’ Fees and Costs.” The Attorneys’ Fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated with documenting the Settlement, securing the Court’s approval of the Settlement, any expert expenses, and securing an entry of Judgment on all claims in the Action which are covered by the Released Claims as defined herein. Class Counsel will request Attorneys’ Fees not to exceed one third of the Gross Settlement Amount currently estimated to be Three Hundred Sixteen Thousand, Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$316,666.66). The Costs requested to be reimbursed will not exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). The Attorneys’ Fees and Costs awarded are subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for Attorneys’ Fees and Costs as set forth above. Such Attorneys’ Fees and Costs shall be paid from the Gross Settlement Amount. Class Counsel will be issued an IRS Form 1099 for the Attorneys’ Fees and Costs detailed in this Section and shall be solely and legally responsible for paying all applicable taxes on the payment made pursuant to this Section. A reduction in the Attorneys’ Fees and/or Costs shall not be grounds to nullify this Agreement. The Attorneys’ Fees and Costs will be paid fifteen (15) calendar days following the Effective Date.

1.4 “Claims Administrator.” ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement. The Parties each represent that they do not have any financial interest in the Claims Administrator or otherwise have a relationship with the Claims Administrator that could create a conflict of interest.

1.5 “Claims Administration Costs.” The costs payable from the Gross Settlement Amount to the Claims Administrator for administering this Settlement, including, but not limited to, translating to Spanish, printing, distributing, and tracking documents for this Settlement, calculating estimated amounts per Class Member, tax reporting, distributing the Gross Settlement Amount, and providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement Agreement, and as requested by the Parties, including maintaining a webpage hosted on the Settlement Administrator’s Website at [www.ILYMGroup.com/cases](http://www.ILYMGroup.com/cases) for the Settlement and providing telephone support. The Claims Administration Costs will be paid from the Gross Settlement Amount. The Claims Administration Costs will not exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) (“Administration Expenses”). To the extent actual Claims Administration Costs are greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00), such excess amount will be deducted from the Gross Settlement Amount, subject to the Court’s approval. The Claims Administration Costs will be paid fifteen (15) calendar days following the Effective Date.

1.6 “Class Counsel” means Zakay Law Group, APC and JCL Law Firm, A.P.C. on behalf of Plaintiff and Class Members.

1.7 “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.8 “Class Member(s)” or “Settlement Class.” All of Defendant’s current and former non-exempt employees, employed in California at any time during the Class Period.

1.9 “Class Member Address Search.” The Claims Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Claims Administrator with Class Members.

1.10 “Class Notice” means the “COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL” to be mailed to Class Members in English and Spanish in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.11 “Class Period” means the period beginning October 12, 2017 up to and including April 7, 2023 or the date of preliminary approval, whichever is earlier, unless modified pursuant to paragraph 4.1 of this Agreement.

1.12 “Class Representative.” The named Plaintiff, Alissa Whitney, in the Action seeking Court approval to serve as Class Representative.

1.13 “Class Representative Enhancement Payment” or “Class Representative Service Payment.” The amount to be paid to Plaintiff in recognition of Plaintiff’s effort and work in prosecuting the Action on behalf of Class Members. Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiff will request Court approval of a Class Representative Enhancement Payment of Ten Thousand Dollars and Zero Cents (\$10,000.00). Plaintiff will be issued an IRS Form 1099 in connection with Plaintiff’s respective Class Representative Enhancement Payment. Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on the Class Representative Enhancement Payment and shall hold Defendant harmless from any claim or liability for taxes, penalties or interest arising as a result of the payment. The Class Representative Enhancement Payment will be paid from the Gross Settlement Amount and will be in addition to Plaintiff’s Individual Class Payment paid pursuant to the Settlement. Defendant made no representations as to the tax treatment or legal effect of the payment called for herein, and Plaintiff is not relying on any statement or representation by Defendant or Defendant’s counsel in this regard.

1.14 “Court” means the Superior Court of California, County of San Bernardino.

1.15 “Defense Counsel” means attorneys Clark Hill LLP on behalf of Defendant.

1.16 “Effective Date.” The date on which the Final Award becomes final. For purposes of this Section, the Final Award “becomes final” only after the Court grants the Motion for Final Approval and upon service of the Notice of Entry of Order and/or Judgment, and upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Order Granting Final Approval and/or Judgment (this time period shall not be less than sixty (60) calendar days after the Court’s Order is entered); (ii) the date of affirmance of an appeal of the Order Granting Final

Approval and/or Judgment becomes final under the California Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final Approval and/or Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Order Granting Final Approval and/or Judgment.

1.17 “Final Approval.” The Court’s order granting final approval of the Settlement.

1.18 “Final Approval Hearing.” The Court’s hearing on the Motion for Final Approval of the Settlement.

1.19 “Gross Settlement Amount.” The sum of Nine Hundred and Fifty Thousand Dollars and Zero Cents (\$950,000.00) to be paid by Defendant in full satisfaction of all claims arising from the Action. The Gross Settlement Amount includes all Individual Class Payments to Class Members, Individual PAGA Settlement Payments to Aggrieved Employees, the Class Representative Enhancement Payment to Plaintiff, Claims Administration Costs to the Claims Administrator, the Labor and Workforce Development Agency (“LWDA”) Payment, and the Attorneys’ Fees and Costs. Defendant will be responsible for any employer payroll taxes required by law, separate and in addition to the Gross Settlement Amount, including the employer FICA, FUTA, and SDI contributions on the wage portion of the Individual Class Payments.

1.20 “Judgment.” The Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.21 “Individual Class Payment.” The Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.22 “Individual PAGA Payment.” The Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of pay periods worked during the PAGA Period.

1.23 “LWDA.” The California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.24 “LWDA PAGA Payment.” The 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.25 “Net Settlement Amount.” The Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Attorneys’ Fees and Costs, and the Administration Expenses. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.26 “Non-Participating Class Member.” Any Class Member who opts out of the Settlement by sending the Claims Administrator a valid and timely Request for Exclusion. Such Class Member shall still be bound by the PAGA Release.

1.27 “PAGA.” The Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.28 “PAGA Pay Period.” Any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.29 “PAGA Period.” The period from August 3, 2020 up to and including April 7, 2023 or the date of preliminary approval, whichever is earlier.

1.30 "PAGA Notice." Plaintiff's letter to Defendant and the LWDA, dated August 3, 2021, providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.31 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, in a total amount of \$50,000, allocated 25% to the Aggrieved Employees (Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00)), and the 75% to LWDA (Thirty Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00)), in settlement of PAGA claims.

1.32 "Participating Class Member." Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.33 "Plaintiff." Alissa Whitney, the named plaintiff in the Action.

1.34 "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.35 "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.36 "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.37 "Released PAGA Claims" means the claims being released as described in Paragraph 5.1 below.

1.38 "Released Parties" means Defendant and its past, present, and future parents, subsidiaries, affiliated companies, agents, managing agents, exempt-employees, servants, officers, directors, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint employers, temporary staffing agencies, dual employers, potential and/or alleged dual employers, co-employers, potential and/or alleged co-employers, common law employers, contractors, affiliates, service providers, alter-egos, potential and/or alleged alter-egos, vendors, affiliated organizations, any person and/or entity with potential or alleged to have joint liability, and all of their respective past, present and future employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns and any and all persons and/or entities acting under, by, through or in concert with any of them.

1.39 "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.40 "Response Deadline" means forty-five (45) calendar days after the Claims Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, or mail Requests for Exclusion from the Settlement, or (b) fax, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Claims Administrator shall have an additional fifteen (15) calendar days beyond the Response Deadline has expired.

1.41 "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.42 “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

## **2. RECITALS.**

2.1 Plaintiff is alleged to be a former employee of Defendant.

2.2 On October 12, 2021, Plaintiff commenced the Action. Plaintiff filed a Complaint purporting to allege causes of action against Defendant for: (1) unfair competition in violation of Cal. Bus. & Prof. Code section 17200, et seq., (2) failure to provide required meal periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (3) failure to provide required rest periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (4) failure to pay minimum wages in violation of Cal. Lab. Code sections 1182.12, 1194, 1197, & 1197.1, (5) failure to pay overtime wages in violation of Cal. Lab. Code section 510, et seq., (6) failure to provide accurate itemized statements in violation of Cal. Lab. Code section 226, (7) failure to provide wages when due in violation of Cal. Lab. Code sections 201, 202, and 203, (8) violation of California Labor Code section 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (failure to provide seating), and (9) violation of the Private Attorneys General Act (Labor Code section 2698, et seq.). Defendant denies the allegations in the Complaint, and denies any failure to comply with the laws identified in the Complaint and denies any and all liability for the causes of action alleged.

2.3 Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave written notice to Defendant and the LWDA by sending the PAGA Notice on or about August 3, 2021. The PAGA Notice is based on California Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 1 1070(14) (failure to provide suitable seating), the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14, the California Code of Regulations, California Business & Professions Code sections 17200, et seq., 17203, 17021, and California Code of Civil Procedure sections 382, 395, 395.5, 410.10, 474.

2.4 On February 7, 2023, the Parties participated in an all-day mediation presided over by the Hon. Carl West (ret.), the mediator, which led to this Agreement to settle the Action.

2.5 Class Counsel has conducted a thorough investigation into the facts of the Action, including extensive informal discovery and exchange of a volume of documents and information, which included and was not limited to, Defendant’s production of a sampling of information/data for the putative class members to allow Plaintiff to perform an analysis and valuation of all claims. Prior to mediation the Parties exchanged information and documents to investigate the veracity, strength, and scope of the claims, and to allow analysis and evaluation of the claims and Defendant’s defenses thereto. The Class Representative has vigorously prosecuted this case, and Defendant has vigorously contested it. The Court has not granted class certification in the Action.

2.6 Without any admission of wrongdoing or liability by Defendant, it is the intention and agreement of the Parties to settle and dispose of, fully and completely, the Released Claims against the Released Parties (defined herein).

2.7 This Agreement is subject to the occurrence of the Effective Date of the Stipulation and Settlement of Class, Collective, and Representative Action.

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

### **3. MONETARY TERMS.**

3.1 Gross Settlement Amount. Defendant promises to pay the total gross amount of Nine Hundred and Fifty Thousand Dollars and Zero Cents (\$950,000.00) as the Gross Settlement Amount, not including employer-side payroll taxes, which shall be paid separately by Defendant. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated herein. The Claims Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1 To Plaintiff. Class Representative Service Payment to the Class Representative of not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Attorneys' Fees and Costs, Plaintiff will seek Court approval for any Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Claims Administrator will retain the remainder in the Net Settlement Amount. The Claims Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment. A reduction of the Class Representative Service Payment shall not be grounds to nullify this Agreement.

3.2.2 To Class Counsel. A Class Counsel fees payment of not more than one third, which is currently estimated to Three Hundred Sixteen Thousand, Six Hundred Sixty-Six (\$316,666.66) and a Class Counsel's litigation expenses of not more than Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Defendant will not oppose a request for the payment provided that the request does not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Attorneys' Fees and Costs no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Attorneys' Fees and Costs less than the amounts requested, the Claims Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Attorneys' Fees and Costs. The Claims Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Attorneys' Fees and Costs and hold Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. A reduction of the Attorneys' Fees and Costs shall not be grounds to nullify this Agreement.

3.2.3 To the Claims Administrator. A payment to the Claims Administrator not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than Twenty Thousand Dollars and Zero Cents (\$20,000.00), the Claims Administrator will retain the remainder in the Net Settlement Amount for distribution on a pro rata basis to alleged Aggrieved Employees and Participating Class Members.

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

3.2.4.1 Tax Allocation of Individual Class Payments. Twenty-Five Percent (25%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Seventy-Five Percent (75%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, penalties, and other non-wage damages (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5 To the LWDA and Aggrieved Employees. PAGA Penalties in the amount of Fifty Thousand Dollars and Zero Cents to be paid from the Gross Settlement Amount, with 75% (\$37,500.00), allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Claims Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$12,500.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

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

4.1 Escalator Clause. Defendant estimates the number of work weeks during the Class Period to be 47,200. If the actual number of Workweeks encompassed within the Class Period exceeds 47,200 by more than 10%, then, Defendant at its exclusive discretion shall either (a) increase the Gross Settlement Amount by a pro-rata dollar value for those workweeks in excess of the escalation margin; or (b) ending the Class Period on the date on which the number of workweeks is no more than 51,920. Under the latter option no additional payment is necessary.

4.2 Class Data. Not later than fifteen (15) business days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Claims Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Claims Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Claims Administrator employees who need access to the Class Data to effect and perform under this Agreement.

4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Claims Administrator no later than ten (10) business days following the Effective Date.

4.4 Payments from the Gross Settlement Amount. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Claims Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses, the Attorneys' Fees and Costs, and the Class Representative Service Payment. Disbursement of the Attorneys' Fees and Costs and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

4.4.3 Uncashed Settlement Checks. Any checks issued by the Claims Administrator to Class Members will be negotiable for one-hundred eighty (180) calendar days. After one-hundred eighty (180) calendar days from the date of mailing, the checks shall become null and void. Funds associated with cancelled checks shall be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, et seq., to be held in trust for those Participating Class Members and/or Aggrieved Employees who did not timely cash their checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as all payments to the Participating Class Members and/or Aggrieved Employees will be paid out, whether or not these individuals cash their Settlement checks.

4.4.4 Unaffected Benefits. The Individual Class Payments made to Class Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this

Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

**5. RELEASE.** Plaintiff, the State of California, Class Members, the LWDA and Aggrieved Employees, will release claims against all Released Parties, as follows:

**5.1 Released PAGA Claims.** As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, Plaintiff, the State of California and all Aggrieved Employees, including those who timely and effectively exclude themselves from the class portion of the Settlement, shall nevertheless be bound by the Released PAGA Claims and shall receive a pro rata portion of 25% of the PAGA Settlement Amount. Aggrieved Employees who timely and effectively exclude themselves from the class portion of the Settlement shall have their PAGA claims released only for the PAGA Period. The Released PAGA Claims include any and all claims for PAGA penalties asserted in the Action and arising from or reasonably related to the facts and claims alleged in the Action, or that could have been alleged in the Action based on the facts and claims alleged in the Action, and/or Plaintiff's PAGA Notice identified on the LWDA's website as LWDA-CM-840158-21, including, without limitation, claims for PAGA penalties arising from Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 11070(14)(failure to provide suitable seating), and the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14.

**5.2 Released Class Claims.** As of the date of the Order Granting Final Approval, and only after the Settlement has been fully funded by Defendant, all Class Members who do not validly and timely opt out of the Settlement Agreement (which specifically includes Plaintiff) shall fully and finally release Released Parties of the Released Class Claims. The Released Class Claims include any and all claims, wage and hour claims, rights, demands, liabilities and causes of action of any nature or description alleged/asserted in the Action arising from and/or related to the facts and claims alleged/asserted in the Action, that could have been alleged/asserted in the Action based on the facts and claims alleged in the Action, and the facts and claims asserted in, arising from or related to, or could have been alleged in the PAGA Notice identified on the LWDA's website as LWDA-CM-840158-21.

The Released Class Claims include all claims for (1) unfair competition in violation of Cal. Bus. & Prof. Code section 17200, et seq. arising from violations of the California Labor Code listed below, (2) failure to provide required meal periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (3) failure to provide required rest periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (4) failure to pay minimum wages in violation of Cal. Lab. Code sections 1182.12, 1194, 1197, & 1197.1, (5) failure to pay overtime wages in violation of Cal. Lab. Code section 510, et seq., (6) failure to provide accurate itemized statements in violation of Cal. Lab. Code section 226, (7) failure to provide wages when due in violation of Cal. Lab. Code sections 201, 202, and 203, and (8) violation of California Labor Code section 1198 and California Code of Regulations, Title 8, Section 11070(14) (failure to provide seating), as well as claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; failure to properly calculate the regular rate of pay and associated claims; wages related to alleged illegal time rounding; failure to pay wages at least twice each calendar month; failure to timely pay wages; failure to timely pay final wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal period, rest period, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for

all hours worked, including off-the-clock work; failure to provide accurate itemized wage statements; unlawful deductions; failure to keep accurate records; failure to provide suitable seating; unlawful deductions and/or withholdings from wages; unfair business practices; suitable seating; civil penalties, including, but not limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs related to the Released Class Claims. The Released Class Claims also include but are not limited to all such claims arising under: California Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 11070(14)(failure to provide suitable seating), the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14, the California Code of Regulations; California Code of Regulations tit. 8 section 3395; all claims relating to the Released Class Claims under the California Business and Professions Code sections 17200, et seq., 17201, 17203, 17021; the Release shall also include all claims relating to the Released Claims under the applicable Wage Orders of the California Industrial Welfare Commission (including, but not limited to, IWC Wage Order Nos. 4-2001, 5-2001, 10-2001 and 8 CCR § 11100) for failure to provide accurate itemized wage statements, failure to keep accurate records, for civil and statutory penalties, including wage statement penalties, record keeping penalties, The Released Claims include those under the Fair Labor and Standards Act ("FLSA"), including those related to recordkeeping obligations, 29 U.S.C. §211(c); 29 C.F.R. §§ 516, 778.223, 778.315, et seq.; and all state and federal law equivalents arising from or reasonably related to the facts and claims alleged in the Action and/or PAGA Notice or that could have been alleged in the Action and/or PAGA Notice; and California Civil Code section 474. This release excludes the release of claims not permitted by law, including but not limited to claims brought for workers' compensation benefits.

The following language will be printed on the reverse of each Settlement Payment Check, or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act ("FLSA") portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement."

Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law.

## **6. ADMINISTRATION OF TAXES.**

6.1 Tax Treatment of Individual Class Payments. The Individual PAGA Payments will be allocated as 100% penalties and reported on an IRS-Form 1099. All Individual Class Payments will be allocated as follows: Twenty-Five percent (25%) of each Individual Class Payment will be allocated as wages and Seventy-Five percent (75%) will be allocated as non-wages. The portion allocated to wages will be reported on an IRS Form W-2 and the portion allocated to non-wages will be reported on an IRS Form-1099 by the Claims Administrator. The Individual Class Payments will be reduced by any required legal deductions for each Class Member. All standard employee payroll deductions will be made for state and federal withholding taxes, including any other applicable payroll deductions owed by the Class Members as a result of the wage component, resulting in a net wage component. The Claims Administrator will issue a check and W-2 Form to each Class Member for the wage component. The Claims Administrator will issue a second check and IRS Form-1099 for the remaining non-wages component. No withholding shall be made on the non-wages portion of the Individual Class Payment. The Claims Administrator shall be responsible for issuing the payments and calculating and withholding all required state and federal taxes. The Claims

Administrator shall determine the eligibility for, and the amounts of, any Individual Class Payments under the terms of this Settlement Agreement. Any disputes not resolved by the Claims Administrator concerning the administration of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of involving the Court.

6.2 Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Class Members are not relying on any statement, representation, or calculation by Defendant or by the Claims Administrator in this regard. Plaintiff and Class Members understand and agree they will be solely responsible for the payment of their share of any taxes and penalties assessed on the payments described herein.

6.3 CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS SETTLEMENT AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

**7. MOTION FOR PRELIMINARY APPROVAL.** Class Representative and Class Counsel agree to prepare and file a motion for preliminary approval ("Motion for Preliminary Approval").

7.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel for review 1 week prior to filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a signed declaration from the Claims Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (iv) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,

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

7.2 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) calendar days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Claims Administrator.

## **8. SETTLEMENT ADMINISTRATION.**

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

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

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

### 8.4 Notice to Class Members.

8.4.1 No later than three (3) business days after receipt of the Class Data, the Claims Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

8.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Claims Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA pay periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Claims Administrator shall update Class Member addresses using the National Change of Address database.

8.4.3 Not later than three (3) business days after the Claims Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Claims Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Claims Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Claims Administrator has no obligation to make further

attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fifteen (15) calendar days beyond the forty-five (45) calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Claims Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Claims Administrator, Defendant, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Claims Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

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

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Claims Administrator, by fax, or mail, a signed written Request for Exclusion not later than forty-five (45) calendar days after the Claims Administrator mails the Class Notice (plus an additional fifteen (15) calendar days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and telephone number. To be valid, a Request for Exclusion must be timely faxed, or postmarked by the Response Deadline.

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

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.1 and 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.1 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) calendar days after the Claims Administrator mails the Class Notice (plus an additional fifteen (15) calendar days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA pay periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Claims Administrator via fax, email or mail. The Claims Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Claims Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Claims Administrator's determination of each Class Member's allocation of Workweeks and/or pay periods shall be final and not appealable or otherwise susceptible to challenge. The Claims Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or pay periods to Defense Counsel and Class Counsel and the Claims Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Representative Service Payment, and/or Attorneys' Fees and Costs.

8.7.2 Participating Class Members may send written objections to the Claims Administrator, by fax, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Claims Administrator must do so not later than forty-five (45) calendar days after the Claims Administrator's mailing of the Class Notice (plus an additional fifteen (15) calendar days for Class Members whose Class Notice was re-mailed).

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

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

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

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Claims Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) business days after the expiration of the deadline for submitting Requests for Exclusion, the Claims Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8.8.3 Weekly Reports. The Claims Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class

Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or pay periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include the Claims Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

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

8.8.5 Claims Administrator's Declaration. Not later than fourteen (14) calendar days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Claims Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Claims Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Claims Administrator's declaration(s) in Court.

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

**9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% (ten percent) of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than ten (10) business days after the Claims Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

**10. NULLIFICATION OF AGREEMENT.** In the event: (i) the Court does not enter the Preliminary Approval Order and approve the Released Claims specified herein; (ii) the Court does not finally approve the Settlement as provided herein; (iii) Defendant exercises its option to nullify the Settlement Agreement based on an excessive number of opt-outs, as described in the above Section; or (iv) the Settlement does not become final for any other reason (e.g., an objection by the LWDA), this Settlement Agreement shall be null and void. A reduction of the Attorneys' Fees and Costs and/or any Class Representative Enhancement Payment shall not be grounds for nullification of this Settlement. If the Settlement is nullified, any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as void from the beginning, and the Stipulations and Recitals contained herein shall be of no force or effect, and shall not be treated as an admission by the Parties or their counsel. In such a case, the Parties and any

funds to be awarded under this Settlement Agreement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already incurred by the Claims Administrator shall be paid equally by both Parties. The Parties agree that they will cooperate and take all steps necessary in order to obtain preliminary and/or final approval in the event that the Court raises issues or questions about this Settlement or anything pertaining to this Settlement (including, but not limited to, the motion for preliminary approval and motion for final approval).

**11. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 1 week prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2 Duty to Cooperate. If the Court does not grant Preliminary or Final Approval or conditions Preliminary or Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Preliminary and/or Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Attorneys' Fees and Costs and/or Administration Expenses shall not constitute a material modification to the Agreement within the meaning of this Paragraph.

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

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

11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Preliminary and/or Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses

reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

**13. ADDITIONAL PROVISIONS.**

13.1 Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically denies, it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

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

13.3 Confidentiality. Neither Plaintiff nor Plaintiff's Counsel shall issue any press release or announcement of any kind related in any way to the Settlement. Plaintiff and Plaintiff's Counsel agree that, prior to Preliminary Approval of the Settlement, they will keep the terms of this Settlement confidential except for purposes of communicating with Plaintiff only. Plaintiff shall be informed that the Settlement is confidential and shall be advised to keep the Settlement confidential. From and after Preliminary Approval of the Settlement, the Class Members (including Plaintiff and Class Counsel) may: (1) as required by law; (2) as required under the terms of the Settlement; or (3) as required under counsel's duties and responsibilities as Class Counsel, comment regarding the specific terms of the Settlement. In all other cases, Plaintiff and Class Counsel agree to limit their statements regarding the terms of the Settlement, whether oral, written or electronic (including the world wide web), to say the Action has been resolved and that Plaintiff and Class Counsel are satisfied with the Settlement terms. Nothing in this Section is intended to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel, including but not limited to, communicating with Class Members regarding the Settlement. This Settlement shall not be advertised or mentioned on any source, including Plaintiff's Counsel's personal or firm website(s).

The parties stipulate and agree, pursuant to California Code of Civil Procedure section 583.330(a), to extend the time within which this action must be brought to trial pursuant to Code of Civil Procedure sections 583.310 through 583.360, by that period of time from Preliminary Approval to the date of Final Approval or upon written notice from either party of an intent to resume litigation, and that said period of time shall not be included in the computation of the five-year period specified in Code of Civil Procedure section 583.310.

13.4 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

13.5 Entire Agreement. With the exception of the Individual Settlement Agreement, this Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties have separately entered into a settlement agreement resolving Plaintiff's individual claims as well as waiving any rights and/or protections Plaintiff may have under California Civil Code section 1542 (the "Individual Settlement Agreement"). The Individual Settlement Agreement is confidential, but may be provided to the Court upon request for in camera review. Plaintiff shall not file the Individual Settlement Agreement unless the Individual Settlement Agreement is filed under seal.

13.6 Contractual Terms. Each term of this Agreement is contractual and not merely a recital.

13.7 Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13.8 Modifications. The Parties agree that the provisions of this Agreement may not be modified by any subsequent agreement unless the modifying agreement is: (i) in writing; (ii) specifically references this Agreement; (iii) signed by Plaintiff; and (iv) signed and approved by an authorized representative of Defendant.

13.9 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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

13.11 Exhibits Incorporated by Reference. The terms of this Settlement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

13.12 Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic signatures (e.g., DocuSign), facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument. The Parties expressly agree to the use of authorized electronic signature (e.g., DocuSign).

13.13 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 Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement.

13.14 Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account

all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

13.15 Captions. The captions and section numbers in this Settlement Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Settlement Agreement.

13.16 Waiver. No waiver of any condition or covenant contained in this Settlement 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.

13.17 Enforcement Action. If one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement action.

13.18 Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

13.19 Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement and that this Settlement Agreement has been executed with the consent and advice of counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

13.20 Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class action certification is proper under the standards applied to contested certification motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

13.21 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or legal holiday, such date or deadline shall be on the first business day thereafter.

13.22 Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law. Plaintiff, and not Plaintiff's representative(s), must personally execute this Settlement Agreement.

13.23 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant

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

13.24 Miscellaneous. The Parties have full authority to enter into this Agreement and to be bound by it. The Parties are voluntarily entering into this Agreement free of any duress or coercion. This Agreement may be executed by the Parties in any number of counterparts, which are defined as duplicate originals, all of which taken together shall be construed as one document. A signature by facsimile on this Agreement shall be as legally binding as an original signature. This Agreement shall be construed and governed by the laws of the State of California.

**PLEASE READ CAREFULLY**

*The Settlement Agreement consists of 20 pages with signatures appearing below.*

**PLAINTIFF Alissa Whitney**

Signature:   
Alissa Whitney (May 12, 2023 17:41 PDT)

Date: May 12, 2023

**DEFENDANT Five J's Family Enterprises L.P.**

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

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

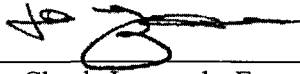
Title: \_\_\_\_\_

Signature: \_\_\_\_\_

[PLAINTIFF COUNSELS' SIGNATURES ON FOLLOWING PAGE]

AGREED AS TO FORM

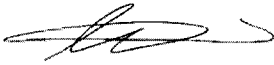
JCL LAW FIRM, APC



\_\_\_\_\_  
Jean-Claude Lapuyade, Esq.  
Counsel for Plaintiff and the Class

Date: May 15, 2023

ZAKAY LAW GROUP, APLC



\_\_\_\_\_  
Shani O. Zakay, Esq.  
Counsel for Plaintiff and the Class

Date: May 15, 2023

# **EXHIBIT A**

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

*Whitney v. Five J's Family Enterprises L.P.*  
San Bernardino Superior Court Case No. CIV SB 2129063

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

**You may be eligible to receive money** from an employee class action lawsuit ("Action") against Five J's Family Enterprises L.P. ("Defendant") for alleged wage and hour violations. The Action was filed by former employee for Defendant, Alissa Whitney ("Plaintiff") and seek payment of (1) back wages and other relief for a class of all persons who are or previously were employed by Defendant in California and classified as non-exempt employees ("Class Members") at any time during the Class Period (October 12, 2017, up to and including April 7, 2023); and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt employees who worked in California during the PAGA Period (August 3, 2020, up to and including April 7, 2023) ("Aggrieved Employees").

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

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

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

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and the Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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

a member of the Aggrieved Employees, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

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

|                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                                                                        | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Penalties</b><br><br><b>The Opt-out Deadline is <u>MONTH XX, 2023</u></b>                                        | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all members of the Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |
| <b>Participating Class Members Can Object to the Class Settlement but not the PAGA Penalties</b><br><br><b>Written Objections Must be Submitted by <u>MONTH XX, 2023</u></b> | All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel.                                                                                                                                                                                                                                                                                          |
| <b>You Can Participate in the <u>MONTH XX, 2023</u>, Final Approval Hearing</b>                                                                                              | The Court's Final Approval Hearing is scheduled to take place on. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing <u>MONTH XX, 2023</u> . See Section 8 of this Notice.                                                                                                                                                                                                                                                          |

|                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b></p> <p><b>Written Challenges Must be Submitted by <u>MONTH XX, 2023</u></b></p> | <p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many PAGA Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <u>MONTH XX, 2023</u>. See Section 4 of this Notice.</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## 1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay minimum wages, including overtime wages; failing to provide legally compliant meal and rest periods; failing to pay wages due upon termination; failure to reimburse for mandatory business expenses; failure to provide accurate itemized wage statements; and failure to provide suitable seating. Based on the same claims, Plaintiff have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff are represented by attorneys in the Action: The JCL Law Firm, APC, and the Zakay Law Group, APLC ("Class Counsel.")

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Defendant or Plaintiff are correct on the merits. In the meantime, Plaintiff and Defendant hired a retired judge in an effort to resolve the Action by negotiating and to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Defendant Will Pay \$950,000.00 as the Gross Settlement Amount. Defendant has agreed to deposit the Maximum Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement Amount not more than ten (10) business days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
- A. Up to \$316,666.66 (One-third of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$10,000.00 to Class Representative as a Class Representative Service Payment for filing the Action, working with Class Counsel, and representing the Class.
  - C. Up to \$20,000.00 to the Administrator for services administering the Settlement.
  - D. Up to \$50,000.00 for PAGA Penalties, allocated 75% to the LWDA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

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

3. Net Settlement Sum Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement Amount (the "Net Settlement Sum") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages ("Wage Portion") and 75% to interests and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholding and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be sent to the State Controller's Unclaimed Property. You should consult the rules of the Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than MONTH XX, 2023, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the MONTH XX, 2023, Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's full name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will

not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendant.

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

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

All Participating Members of the Settlement Class (meaning Class Members who do not opt out), on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, shall be deemed to have fully, finally, and forever release, discharge, compromise, relinquish and discharge Released Parties from the Released Class Claims during the Class Period. The "Released Class Claims" include all claims for (1) unfair competition in violation of Cal. Bus. & Prof. Code section 17200, et seq. arising from violations of the California Labor Code listed below, (2) failure to provide required meal periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (3) failure to provide required rest periods in violation of Cal. Lab. Code sections 226.7 & 512 and the applicable IWC Wage Order, (4) failure to pay minimum wages in violation of Cal. Lab. Code sections 1182.12, 1194, 1197, & 1197.1, (5) failure to pay overtime wages in violation of Cal. Lab. Code section 510, et seq., (6) failure to provide accurate itemized statements in violation of Cal. Lab. Code section 226, (7) failure to provide wages when due in violation of Cal. Lab. Code sections 201, 202, and 203, and (8) violation of California Labor Code section 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (failure to provide seating), as well as claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; failure to properly calculate the regular rate of pay and associated claims; wages related to alleged illegal time rounding; failure to pay wages at least twice each calendar month; failure to timely pay wages; failure to timely pay final wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal period, rest period, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for all hours worked, including off-the-clock work; failure to provide accurate itemized wage statements; unlawful deductions; failure to keep accurate records; failure

to provide suitable seating; unlawful deductions and/or withholdings from wages; unfair business practices; suitable seating; civil penalties, including, but not limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs related to the Released Class Claims. The Released Class Claims also include but are not limited to all such claims arising under: California Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 11070(14)(failure to provide suitable seating), the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14, the California Code of Regulations; California Code of Regulations tit. 8 section 3395; all claims relating to the Released Class Claims under the California Business and Professions Code sections 17200, et seq., 17201, 17203, 17021; the Release shall also include all claims relating to the Released Claims under the applicable Wage Orders of the California Industrial Welfare Commission (including, but not limited to, IWC Wage Order Nos. 4-2001, 5-2001, 10-2001 and 8 CCR § 11100) for failure to provide accurate itemized wage statements, failure to keep accurate records, for civil and statutory penalties, including wage statement penalties, record keeping penalties, The Released Claims include those under the Fair Labor and Standards Act ("FLSA"), including those related to recordkeeping obligations, 29 U.S.C. §211(c); 29 C.F.R. §§ 516, 778.223, 778.315, et seq.; and all state and federal law equivalents arising from or reasonably related to the facts and claims alleged in the Action and/or PAGA Notice or that could have been alleged in the Action and/or PAGA Notice; and California Civil Code section 474. This release excludes the release of claims not permitted by law, including but not limited to claims brought for workers' compensation benefits.

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

The State of California, the LWDA and all Aggrieved Employees members are deemed to release, discharge, compromise, relinquish and discharge on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all Released PAGA Claims during the PAGA Period. The "Released PAGA Claims" include any and all claims for PAGA penalties asserted in the Action and arising from or reasonably related to the facts and claims alleged in the Action, or that could have been alleged in the Action based on the facts and claims alleged in the Action, and/or Plaintiff's PAGA Notice identified on the LWDA's website as LWDA-CM-840158-21, including, without limitation, claims for PAGA penalties arising from Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.14, 1198, et seq., 1198.5, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2802, 2804, Cal. Code of Regulations, Title 8, Section 11070(14), Cal. Code of Regulations, Title 8, Section 11070(14)(failure to provide suitable seating), and the applicable Industrial Welfare Commission Wage Order(s), including Wage Order 4-2001, Section 14.

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

1. **Individual Class Payments.** The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Sum by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating

Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$12,500.00 by the total number of PAGA Pay Periods worked by all members of the Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual member of the Aggrieved Employees.
3. Workweek/PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until MONTH XX, 2023, to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

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

## 5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Whitney v. Five J's Family Enterprises L.P.* Case No. CIV SB 2129063, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by MONTH XX, 2023, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

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

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to

object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least twenty-eight (28) days before the MONTH XX, 2023 Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees and Litigation Costs and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representatives Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website <https://www.ilymgroup.com/> or the Court's website <https://cap.sb-court.org/search>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees and Litigation Costs, and Service Award may wish to object. **The deadline for sending written objections to the Administrator is MONTH XX, 2023.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Whitney v. Five J's Family Enterprises L.P.* Case No. CIV SB 2129063 and include your full name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

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

You can, but don't have to, attend the Final Approval Hearing on MONTH XX, 2023, at XX:XX am/pm in Department S26 of the San Bernardino Superior Court, located at 247 West Third Street, San Bernardino, CA 92415. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via <https://www.sb-court.org/general-information/remote-access>. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website <https://www.ilymgroup.com/> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

#### **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to ILYM Group, Inc.'s website at <https://www.ilymgroup.com/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <https://cap.sb-court.org/search> and entering the Case Number for the Action, Case No. CIV SB 2129063.

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

**JCL LAW FIRM, APC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-599-8292  
jlapuyade@jcl-lawfirm.com

**ZAKAY LAW GROUP, APLC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-892-7095  
F: 858-404-9203  
Shani@zakaylaw.com

Settlement Administrator:

**ILYM GROUP, INC.**  
14771 Plaza Drive, Ste. L, Tustin, CA 92780  
T: 1-888-250-6810

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

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

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

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

# **EXHIBIT 3**

**From:** [DIR PAGA Unit](#)  
**To:** [Maria Watters](#)  
**Subject:** Thank you for your Proposed Settlement Submission  
**Date:** Monday, May 15, 2023 10:30:06 AM

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05/15/2023 10:28:56 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

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

# **EXHIBIT 4**

# **EXHIBIT 5**

**JCL LAW FIRM, APC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
Tel: (619) 599-8292  
Fax: (619) 599-8291

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**FIRM RESUME**

Areas of Practice: Employee Class Actions, Wage and Hour Class Actions, Civil Litigation, and Unlawful Housing Practices.

**ATTORNEY BIOGRAPHIES**

**Jean-Claude Lapuyade, Esq.**  
California Bar Number 248676  
Founding Partner

**Biography:**

Mr. Lapuyade is a San Diego based labor and employment attorney representing aggrieved California employees and the victims of unlawful housing practices throughout the State of California. Mr. Lapuyade's litigation practice focuses on representing California employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, and misclassification, wrongful termination cases and tenants in unlawful housing class actions. Mr. Lapuyade prides himself on providing his clients with aggressive, attentive and result driven representation through the litigation process, trial and arbitration. Since 2007, Mr. Lapuyade successfully recovered in excess of \$200 million in monetary awards for his clients.

Mr. Lapuyade served as co-editor of the Insurance Column for Consumer Attorneys of San Diego from 2011 to 2014. As editor, Mr. Lapuyade was responsible for publishing monthly articles in the Trial Bar News periodical analyzing complex insurance coverage issues. Mr. Lapuyade is a four-time recipient of the Super Lawyers Rising Star by Thomson Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to 5 percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

**Bar Admissions:**

- California
- U.S. District Court Southern District of California
- U.S. District Court Central District of California
- U.S. District Court Eastern District of California
- U.S. District Court Northern District of California

**Professional Associations:**

- California Employment Lawyers Association, 2007 to Present
- Consumer Attorneys of San Diego, 2007 to 2020
- American Bar Association, Section of Litigation, Member, 2007 to 2020
- American Bar Association, Labor & Employment Section, Member, 2007 to 2020
- American Bar Association, Tort, Trial & Insurance Section, Member, 2007 to 2020
- California Bar Association, Labor & Employment Section, Member, 2007 to Present
- California Bar Association, Litigation Section, Member, 2007 to Present

**Education:**

- **California Western School of Law**
  - J.D. - 2006
  - Honors: Deans Merit Scholarship, California Western School of Law 2005 - 2006
- **University of Arizona**
  - B.A. - 2001
  - Major: History

**Honors:**

- Super Lawyers Rising Star, Thomson Reuters, 2015 - 2018
- Distinguished Advocate Award for Outstanding Oral Advocacy, 2005 - 2006

**Sydney Castillo-Johnson, Esq.**  
California Bar Number 343881  
Associate Attorney

**Biography:**

Ms. Castillo-Johnson is a San Diego based labor and employment attorney representing California employees throughout the state of California. Ms. Castillo-Johnson's litigation practice focuses on representing current and former employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, misclassification, and wrongful termination.

Ms. Castillo-Johnson volunteered her time at California Western School of Law first as a student intern and later as a student manager with the Community Law Project which offers legal services to the low-income community of San Diego.

**Education:**

- **California Western School of Law**
  - J.D.- 2022
  - Honors:
    - Dean's Honor List: Spring 2021, Fall 2021
    - Public Service Honor Society Fall 2021
    - 3L Academic Merit Scholarship
    - Dean's Diversity, Service, and Leadership Scholarship
  - Activities: Community Law Project Student Manager
- **Azusa Pacific University**
  - B.A. – 2018
  - Major: Criminal Justice

**Monnett De La Torre, Esq.**  
California Bar Number 272884  
Senior Associate

**Biography:**

Ms. De La Torre is a San Diego and Ventura County based labor and employment attorney representing aggrieved California employees throughout the State of California. Ms. De La Torre's litigation practice focuses on representing California employees in wage and hour class and representative actions for unpaid wages, missed meal and rest breaks, misclassification, penalties, and wrongful termination cases. Ms. De La Torre has extensive experience handling internal workplace investigations. Ms. De La Torre has handled matters before the Department of Fair Employment and Housing, Equal Employment Opportunity Commission and Department of Labor.

Ms. De La Torre is a two-time recipient of the Super Lawyers Rising Star by Thomas Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to five percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

**Bar Admissions:**

- California
- U.S. District Court Southern District of California

**Professional Associations:**

- California Employment Lawyers Association, 2022 to Present
- Consumer Attorneys of San Diego, 2010-2015
- American Bar Association, Labor & Employment Section, Member, 2015 to Present
- California Bar Association, Labor & Employment Section, Member, 2015 to Present
- San Diego La Raza Lawyers Association, 2010-2015
- Ventura County Bar Association, 2015-Present
- Women Lawyers of Ventura County, 2015-Present

**Education:**

- **New England School of Law**
  - J.D.- 2010

- Honors:
  - Dean's List Consecutive years
- **University of California, San Diego**
  - B.A.- 2006
  - Major: Economics
  - Minor: Latin American Studies

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2021 and 2022
- Pacific Cost Business Times, "Top 40 under 40" Award
- Daily Transcripts "Top Young Attorney: nominee, consecutive years"

REPORTED CASES

- *Blanchette et al., v. Superior Court (GHA Homes)*, 8 Cal.App.5th 521, 2017
- *Chmurny v. State*, 392 Md. 159, 2006

EXAMPLES OF THE JCL LAW FIRM'S  
REPRESENTATIVE CLASS ACTION & REPRESENTATIVE CASES

- *Garces, et al. v. DriverDo, LLC*, Los Angeles Superior Court Case No. 19STCV32773 (January 24, 2023) Hon. Carolyn B. Kuhl approved a \$700,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *De Jesus v. Guardian Angel Home Care, Inc.*, San Diego Superior Court Case No. 37-2020-00021049-CU-OE-CTL (July 29, 2022) Hon. Ronald F. Frazier approved a \$300,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Kaur v. Aces 2020 I, LLC, et al.*, Contra Costa Superior Court Case No. MSC20-02482 (December 22, 2022) Hon. Edward G. Weil approved a \$585,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Molina v. Hawaiian Airlines, Inc.*, Los Angeles Superior Court Case No. 20STCV28079 (November 23, 2022) Hon. Maren Nelson approved a \$250,000 class action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the Plaintiff.
- *Lang Jr. v. Pathways Community Services LLC*, San Diego Superior Court Case No. 37-2019-00049969-CU-OE-CTL (September 9, 2022) Hon. James A. Mangione approved a \$160,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Martinello v. Century Wilshire, Inc.*, Los Angeles Superior Court Case No. 20STCV32613 (March 1, 2022) Hon. Carolyn Kuhl approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel.
- *Wilson v. Spreen Inc. (dba Spreen Honda)*, San Bernardino Superior Court Case No. CIVSB2119857 (April 6, 2022) Hon. David Cohn approved a \$300,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Ledesma v. TVJ Sons I, Inc.; Porter and Howard, Inc.* Santa Barbara Superior Court Case No. 20CV03573 (November 10, 2021) Hon. Jed Beebe approved a \$350,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC represented the State of California and the Aggrieved Employees.
- *Jacobs v. Rush Media Company, LLC; XLT Management Services, Inc.*, Los Angeles Superior Court Case No. 20STCV32350 (May 2, 2022) Hon. Daniel J. Buckley appointed the JCL Law Firm, APC as Class Counsel and approved a \$330,000 class action settlement for, *inter alia*, independent contractor misclassification.
- *Chavez v. HTL Conrad Domestic, LLC; HTL Conrad Domestic Employer, LLC*, San Diego Superior Court Case No. 37-2020-00016193-CU-OE-CTL (June 9, 2022) Hon. John S. Meyer approved a \$850,000 PAGA action settlement for, *inter alia*, failure to compensate overtime at the regular rate of pay. The JCL Law Firm, APC acted as representative PAGA counsel for the State of California and the Aggrieved Employees.
- *Renteria v. Love's Country Stores of California*, San Bernardino Superior Court Case No. CIVDS20164481 (June 14, 2022) Hon. David Cohn approved a \$2.2 million dollar class action and PAGA action settlement for, *inter alia*, unpaid overtime and sick pay. The JCL Law Firm, APC acted as Class Counsel and as representative PAGA counsel for the State of California.

- *Lopez v. Adidas America, Inc.*, Ventura Superior Court Case No. 56-2021-005498444-CU-OE-VTA (April 4, 2022) Hon. Mark Borrell approved a \$1.5 million dollar class action and PAGA action settlement for, *inter alia*, inaccurate overtime calculations, and appointed the JCL Law Firm, APC as Class Counsel.
- *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No. 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums and appointed Jean-Claude Lapuyade, Esq. as Class Counsel.)
- *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and appointed Jean-Claude Lapuyade, Esq. as Class Counsel in a wage and hour class action settlement.)
- *Latin v. OneMain General Service Corporation*, Stanislaus County Superior Court Case No. CV-20-002498 (October 22, 2021) Hon. Stacy Speiller approved a PAGA action settlement for \$700,000 wage statement violations. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.
- *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson approved \$550 billing rate in a representative California Labor Code Private Attorney General Act settlement).
- *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)
- *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)
- *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)
- *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
- *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)
- *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)
- *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)
- *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)
- *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL Law Firm, APC, acted as lead counsel.)
- *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)
- *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)

- *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)
- *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No. 37-2018-00043601 (May 31, 2019 – Hon. Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)
- *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)
- *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)
- *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)
- *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);
- *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);
- *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)
- *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)
- *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);
- *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);
- *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
- *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);