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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

EDUARDO YBARRA, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

HELZBERG'S DIAMOND SHOPS, LLC, a
Missouri Limited Liability Company; and
DOES 1-50, Inclusive;

Defendants.

Case No. 21CV003531

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

Date: August 15, 2023

Time: 3:00 p.m.

Judge: Hon. Brad Seligman

Dept.: 23

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 EDUARDO YBARRA (hereafter "Plaintiff" or "Class Representative") in this wage and hour
6 class action filed against Defendant Helzberg's Diamond Shops, LLC ("Defendant").

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

9 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed First
10 Amended Joint Stipulation of Class and Representative Action Settlement Agreement (hereinafter
11 "Settlement Agreement"). Attached thereto as **Exhibit A** is a true and correct copy of the Notice of
12 Settlement of Class and Representative Action ("Class Notice").

13 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the fully executed Joint
14 Stipulation of Class and Representative Action Settlement Agreement.

15 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the conformed October 24,
16 2022, Preliminary Approval Order.

17 6. Attached hereto as **Exhibit "4"** is a true and correct copy of the conformed May 16, 2023,
18 Joint Stipulation and Order to Continue Final Approval Hearing.

19 7. Attached hereto as **Exhibit "5"** is a true and correct copy of the September 8, 2022, proof
20 of filing the proposed Settlement with the LWDA.

21 8. Attached hereto as **Exhibit "6"** is true and correct copy of the July 21, 2023, proof of
22 filing this motion seeking final approval of this Settlement with the LWDA.

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

26
27 ///

1 I. INTRODUCTION

2 10. An objective evaluation of the proposed settlement of Six Hundred Sixty Thousand
3 Dollars and Zero Cents (\$660,000.00) (“Gross Settlement Amount”) confirms that the relief negotiated
4 on behalf of the Participating Class Members is fair, reasonable, and valuable. The Settlement is a
5 product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and
6 presided over by Tripper Ortman, Esq. After deducting any Court-approved attorneys’ fees and costs,
7 class representative incentive payments, administration costs, and the payments to the Labor &
8 Workforce Development Agency (“LWDA”), the net settlement fund shall be distributed to
9 Participating Class Members based on the number of Workweeks they worked while employed by
10 Defendant during the Class Period. *The Class greeted news of the Settlement with unanimous*
11 *approval.¹ There are zero opt-outs and zero objections to the Settlement.* There are zero opt-outs and
12 zero objections to the Settlement. The unanimous approval by the Settlement Class evidences the clear
13 fairness and reasonableness of the Settlement.

14 11. This Settlement provides substantial recovery for Defendant’s alleged wage and hour
15 violations. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount
16 of approximately \$355,000.00. This will result in an average Individual Class Settlement Payment of
17 **\$1,008.52** and high payment of **\$3,544.74**.

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

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

26 ///

27 ¹ Fifteen (15) Notices were deemed undeliverable. ILYM Dec. at ¶¶ 12.

II. OVERVIEW OF THE LITIGATION

14. Defendant is a Missouri limited liability company that owns and operates a chain of diamond and jewelry retail stores in California. This action asserts claims on behalf of Defendant's non-exempt employees working in California. Plaintiff worked for Defendant as a non-exempt employee in California between October of 2020 to July of 2021. At all times during his employment, Plaintiff earned hourly wage, including overtime, and performance-based incentive compensation, and was entitled to legally compliant meal and/or rest periods. Throughout his employment, Plaintiff was subject to Defendant's written policies and procedures.

15. Generally, Plaintiff claims that Defendant failed to pay for all time worked, including, time spent waiting for and undergoing mandatory loss prevention security checks, failed to provide compliant meal and rest periods, failed to pay overtime, meal premiums, and sick pay, at the correct regular rate of pay, failed to furnish accurate itemized wage statements, failed to pay all wages when due and failed to reimburse employees for mandatory business expenses. Defendant forcefully denies liability for each of Plaintiff's claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff's claims, including but not limited to, facially compliant meal and rest period policies, compliant wage statements, and timely payment all wages due upon separation of employment.

16. On September 27, 2021, Plaintiff filed a Notice of Violations ("PAGA Notice") with the Labor and Workforce Development Agency ("LWDA") and served the same on Defendant. Plaintiff's PAGA Notice set forth the facts and theories supporting Defendant's alleged violations of various California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of his intent to pursue claims under the California Labor Code Private Attorneys General Act, Cal. Lab. Code sections 2698, *et seq.* ("PAGA").

17. On December 3, 2021, Plaintiff filed a class action complaint in the Alameda Superior Court, Case Number 21CV003531 ("Action"). The Action alleged nine causes of action against Defendant for: (1) Unfair Competition in Violation of California Business and Professions Code §§ 17200; (2) Failure to Pay Minimum Wages in Violation of California Labor Code §§ 1194, 1197 and

1 1197.1; (3) Failure to Pay Overtime Wages in Violation of California Labor Code §§ 510 *et seq.*; (4)
2 Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (5) Failure
3 to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (6) Failure to
4 Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code §226; (7) Failure to Provide
5 Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; (8) Failure to Reimburse
6 Employees for Required Expenses in Violation of Cal. Lab. Code § 2802; and (9) Violation of the
7 Private Attorneys General Act [Labor Code §§ 2698 *et seq.*]. On February 2, 2022, Defendant removed
8 the Action to the United States District Court, Northern District of California.

9 18. On April 13, 2022, Plaintiff filed a second PAGA Notice with the LWDA alleging several
10 additional wage and hour claims, including a new suitable seating claim, and seeking civil penalties and
11 other relief provided by PAGA.

12 19. Plaintiff and Defendant agreed to mediate the Action with Tripper Ortman, Esq., an
13 experienced wage and hour mediator. In anticipation of mediation, the Parties agreed to stay formal
14 discovery and continue deadlines for class certification in the Action. To prepare for mediation,
15 Defendant agreed to informally produce documents and data points subject to the mediation privilege,
16 including but not limited to, the Class Members' time data and certain payroll data points. As discussed
17 *infra*, Plaintiff's counsel retained the forensic consultants at Berger Consulting Group ("BCG") to
18 analyze Defendant's time and payroll data.

19 20. On April 19, 2022, the Parties participated in a full day mediation with Mr. Ortman. After
20 arms-length negotiations and bargaining, the Parties reached an agreement to settle and signed a
21 Memorandum of Understanding. Subsequently, the Parties drafted and negotiated a long-form
22 settlement agreement, which is the subject of the instant motion. As part of the Agreement, the Parties
23 stipulated to remand the Action back to the Alameda Superior Court and Plaintiff filed a First Amended
24 Complaint adding the claims and causes of action included in both PAGA Notices and in the original
25 Complaint. The Parties now seek approval of the entire Agreement.

26 21. The Court preliminarily approved an initial Gross Settlement Amount of Six Hundred
27 Sixty Thousand Dollars (\$660,000.00) based on a total of an estimated 23,242 Workweeks worked by
28

1 the Class during the Class Period. The Gross Settlement Amount shall be used: (1) to satisfy Individual
2 Class Settlement Payments; (2) to satisfy the Class Representative Service Payment; (3) to satisfy the
3 Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment (collectively
4 hereinafter “Class Counsel Fees and Expenses Payment”); (4) to satisfy the PAGA Civil Penalty
5 Payment; and (5) to satisfy the Administration Expenses incurred in this action.

6 22. As explained in further detail below, the Settlement is fair, adequate, and reasonable to
7 the class and should be granted final approval. This is evidenced by the unanimous approval of the
8 Settlement by the Class, the absence of any objections to the Settlement and the average Individual
9 Class Settlement Payment of \$1,008.52.

10 23. Further supporting final approval, the average Individual Settlement Payment of
11 **\$1,008.52** is comparable to settlement payments in similar wage and hour class actions. This result is
12 particularly favorable considering that liability and certification were far from certain. Given the
13 complexities of this case, the defenses asserted, the uncertainty of class certification, along with the
14 uncertainties of proof at trial and appeal, the proposed settlement is fair, reasonable, and adequate, and
15 should be granted final approval.

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

17 **A. Adequate Investigation**

18 24. 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 his employment,
21 including correspondence with Defendant, and time and payroll records. At the conclusion of the
22 interviews, Class Counsel determined that Plaintiff’s complaints justified further inquiry.

23 25. Class Counsel subsequently requested Plaintiff’s employee files from Defendant. In
24 response, Defendant produced hundreds of pages of documents, including but not limited to, copies of
25 Plaintiff’s hiring documents, payroll and time records, various policies and separation documents. Class
26 Counsel reviewed and analyzed the documents and determined the documents appeared to substantiate
27

1 Plaintiff's claim that Defendant's failed to, among other things, pay for all time worked and to provide
2 compliant meal and rest periods.

3 26. Considering the many anticipated factual disputes, the Parties agreed, relatively early in
4 the litigation, that it would be in the best interest of both Parties to mediate the matter. To prepare for
5 mediation, Class Counsel requested documents and data points to further evaluate Plaintiff's claims and
6 Defendant's liability exposure to the Class Members. In response to Class Counsel's request, Defendant
7 produced the time records for the Class Members, aggregate workweek and pay period data for the
8 Class Members, average hourly rate for the Class Members, and copies of applicable handbooks,
9 policies, and agreements containing, *inter alia*, compensation, timekeeping and meal and rest period
10 policies. In total, Defendant produced nearly 500 pages of pertinent policy documents and more than
11 1.1 million unique cells of time and payroll data for Class Counsel to analyze.

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

17 28. BCG analyzed Defendant's time and payroll data to assist in the development of various
18 damage models. Among other things, BCG determined the approximate number of work shifts,
19 workweeks, pay periods, average length of shift and average number of hours worked per week and pay
20 periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and
21 rest periods, the amount of paid missed meal period premiums paid during the Class Period, the amount
22 of underpayment of overtime, premiums, and sick time resulting from miscalculation of the regular rate
23 of pay, and the amount of off-the-clock work performed by the Class Members during the Class Period.

24 29. In advance of mediation, Class Counsel created a damage model predicated on the BCG
25 analysis. Class Counsel's model calculated Defendant's potential liability exposure while accounting
26 for the uncertainties of continued litigation. This damage model informed and guided Class Counsel
27 during the mediated settlement discussions.

30. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1) determining Plaintiff's suitability as a putative class representative through interviews, background investigations, and analysis of his employment files; (2) evaluating all of Plaintiff's potential claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing Defendant's labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the claims being settled, as well as the impediments to recovery, such as to make an independent assessment of the reasonableness of the terms to which the Parties have agreed.

31. Class Counsel only agreed to enter the Settlement following this thorough investigation and evaluation of Plaintiff's claims. Based on his investigation of the facts, applicable law, and marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

B. The Parties Settled Following Mediation

32. On April 19, 2022, the Parties conducted a full day mediation with Tripper Ortman, Esq., an experienced wage and hour mediator. Mediator Ortman helped to manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties made substantial progress with Mediator Ortman's assistance. Namely, the Parties exchanged information regarding their respective claims and defenses, including their respective evaluations of the damages. After more than eight hours of arm's length and adversarial negotiations, the mediation concluded without a settlement. However, at the conclusion of the mediation, Mediator Ortman's issued a Mediator's proposal which the Parties ultimately accepted. The amount of the service awards was not negotiated until after the parties agreed to the Gross Settlement Amount and many other terms.

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

2 33. Plaintiff is represented by competent and experienced counsel to pursue his claims. I
3 established the JCL Law Firm, APC (“Firm”), in 2010. The Firm is a boutique plaintiff firm representing
4 aggrieved employees and consumers throughout California in wage and hour class actions and complex
5 multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade,
6 Esq. (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Monnett De La Torre, Esq.
7 (Associate Attorney), Tesla Stone (Paralegal), Maria Watters (Paralegal), and Jennifer Heming
8 (Paralegal), Laura Gonzalez Mendez (Paralegal), Sara Christensen (Legal Assistant), and Madelyn
9 Uchiyama (Legal Assistant).

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

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

19 36. I am qualified to represent the Plaintiff, the State of California, and the Aggrieved
20 Employees. I have extensive experience with wage and hour class and representative actions litigation
21 like this matter, and employment matters in general. My credentials are reflected in the JCL Law Firm,
22 APC, Firm Resume, a true and correct copy of which is attached hereto as **Exhibit “7.”** Some of the
23 major cases the Firm has undertaken are also set forth in **Exhibit “7.”**

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

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

39. 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.)

D. Strength of Plaintiff's Case

40. Here, the Settlement is clearly within the “ballpark” of reasonableness because the Settlement provides a sizeable recovery to the Participating Class Member 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 Six Hundred Sixty Thousand Dollars and Zero Cents (\$660,000.00) 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.

41. 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 29% and 40% of Defendant's *class-wide* liability exposure as estimated by Class Counsel at the time of mediation.

42. 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

1 between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final
2 approval.

3 **E. Risks of Continued Litigation**

4 43. With respect to the most immediate challenge, i.e., class certification, the risks attendant
5 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*
6 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded
7 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
8 the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies,*
9 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
10 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
11 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
12 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
13 individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176
14 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
15 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
16 harm); *Campbell v. Best Buy Stores, L.P.,* (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
17 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
18 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
19 certification of driver meal and rest period claims based on the predominance of individual issues).
20 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
21 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
22 settlement.

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

1 45. 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 46. 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. With respect to the
20 most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage
21 and hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d
22 668. There, the Ninth Circuit, vacated reversed and remanded a \$110 million judgement against an
23 employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in
24 favor of the employer. (*See also O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087
25 (decertification of wage and hour misclassification action); *see also Duran v. U.S. Bank National*
26 *Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor plaintiffs in a wage and hour class
27 action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 (“[T]he reason, if any, that

1 employees might not take their breaks were predominantly individualized questions of fact not
2 susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341 (affirming
3 denial of certification because employees’ declarations attesting to having taken meal and rest breaks
4 demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores,*
5 *L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of
6 proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed*
7 *Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest
8 period claims based on the predominance of individual issues.) Collectively, the examples cited above
9 illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification
10 through a contested motion is a significant risk factor favoring settlement.

11 **IV. THE PENALTIES UNDER PAGA ARE REASONABLE**

12 47. Here, Plaintiff and Defendant negotiated a good faith PAGA Civil Penalty Payment in
13 the amount of \$40,000 which is 6% of the Gross Settlement Amount. As illustrated above, this amount
14 falls well within the range of approved PAGA settlements. Seventy-Five percent (75%) of the PAGA
15 Civil Penalty Payment (\$30,000) will be paid to the LWDA (“LWDA Payment”) with the remaining
16 twenty-five percent (25%) of the PAGA Civil Penalty Payment (\$10,000) to be distributed to the
17 Aggrieved Employees (“Individual PAGA Payment”), which is within the range of PAGA penalties
18 approved by courts and should be approved.

19 48. Further on September 8, 2022, Class Counsel gave the LWDA notice of this Settlement
20 and proposed allocation by filing a copy of the Settlement and the Motion for Preliminary Approval
21 with the LWDA. On April 21, 2023, Plaintiff gave the LWDA notice of this motion seeking final
22 approval of this settlement.

23 I declare under the penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct. Executed this 21st day of July 2023, at San Diego, California.

25 **JCL LAW FIRM, APC**

26 By: 
27 Jean-Claude Lapuyade

EXHIBIT 1

FIRST AMENDED JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

This Joint Stipulation of Class and Representative Action Settlement Agreement and Release (“Agreement”) is between Plaintiff Eduardo Ybarra (“Plaintiff”) and Defendant Helzberg’s Diamond Shops, LLC (“Defendant”) (collectively, “the Parties”). This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the “Released Claims” (as defined below) on a class and representative action basis pertaining to the “Released Parties” (as defined below) upon and subject to the terms and conditions contained in this Agreement. This Agreement, which is contingent upon Final Court approval, contains the terms of the Parties’ agreement. Plaintiff and Class Counsel believe that the settlement set forth in this Agreement confers substantial benefits upon the Class Members.

DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1. “Action” means all claims and causes of action alleged in the PAGA Letters and in the First Amended Complaint, as defined herein.
2. “Administrator” or “Settlement Administrator” means ILYM Group, the third-party administrator proposed by the Parties and appointed by the Court to administer the Settlement.
3. “Class” means all persons who are or previously were employed by Defendant in California and classified as non-exempt employees from December 3, 2017 to the earlier of preliminary approval or June 19, 2022 (the “Class Members”).
4. “Class Counsel” means the Zakay Law Group, APLC and the JCL Law Firm, APC.
5. “Class Counsel Fees Payment” means the amounts to be paid to Class Counsel as approved by the Court to compensate them for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures in an amount of up to 1/3 of the Gross Settlement Amount. Class Counsel Fees Payment shall be divided between Class Counsel as follows: 50% to Zakay Law Group, APLC and 50% to JCL Law Firm, APC.
6. “Class Counsel Litigation Expenses Payment” means the amount to reimburse Class Counsel for their litigation expenses of an estimated \$25,000, subject to proof and as approved by the Court.
7. “Class Data List” means information for each Class Member that Defendant will provide to the Settlement Administrator. To the extent available, the Class Data List will contain each Class Member’s full name; last-known mailing address; telephone number; Social Security number; number of workweeks (full or partial) worked by each individual Class Member during the Class

Period; and number of Pay Periods (full or partial) worked as a PAGA Member during the PAGA Period.

8. “Class Member” is a member of the defined putative class.
9. “Class Notice” or “Notice” means the Court-approved Notice of Class Action Settlement in a form substantively similar to Exhibit A, to be mailed to Class Members informing them of the settlement, including their rights to request exclusion or to object to the Settlement, the right to dispute their estimated workweeks/payment, of their estimated payment to be received without the need to return a claim form, and the date set for the Final Approval Hearing.
10. “Class Period” means the period from December 3, 2017 to the earlier of the following dates: (a) the date the Court grants preliminary approval of this Settlement, or (b) June 19, 2022.
11. “Class Representative Service Payment” means the payment approved by the Court to be made to the Plaintiff in his capacity as the Class Representative to compensate him for initiating the Action, performing work in support of the Action, and in undertaking the risk of liability for Defendant’s expenses in the event he failed in the prosecution of the Action.
12. “Complaint” means the Class Action Complaint filed by Plaintiff on December 3, 2021 alleging several wage and hour claims under the California Labor Code, the California Business and Professionals Code, the applicable Wage Order, and the PAGA.
13. “Court” means the Superior Court of the State of California for the County of Alameda.
14. “Defendant’s Counsel” means Michael J. Nader of Ogletree Deakins.
15. “Effective Date” means the date on which all of the following have occurred: (a) the Court grants final approval of this Agreement; and (b) the Judgment becomes Final as defined in this Agreement.
16. “Final” means the last of the following dates, as applicable: (a) after Judgment is entered, the day after the due date to appeal the Judgment when no appeal is filed (61 days after Judgment), or (b) after Judgment is entered and a timely appeal is filed, the date the Judgment is affirmed and is no longer subject to appeal.
17. “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to finally approve the terms of this Agreement and enter the Judgment.
18. “First Amended Complaint” (or the “FAC”) means the First Amended Complaint that Plaintiff filed on July 11, 2022 that is the operative complaint for this Action (Eduardo Ybarra v. Helzberg Diamond Shops, LLC, Case No.

21CV003531). The FAC alleges all of the claims and causes of action asserted in both PAGA Letters and in the original Complaint.

19. “Gross Settlement Amount” or “GSA” means the non-reversionary sum of six hundred and sixty thousand dollars (\$660,000) which shall be inclusive of the Individual Class Settlement Payments to Participating Class Members, the Individual PAGA Payments to PAGA Members, Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payment and the LWDA Payment, but excluding any employer-side payroll taxes due on the portion of the Individual Settlement Payments allocated to wages which Defendant shall pay separately and in addition to the Gross Settlement Amount.
20. “Individual Class Settlement Payment” means the amount paid from the Net Settlement Amount to a Participating Class Member. Any Class Member who submits a request for exclusion pursuant to the procedures set forth herein is not a Participating Class Member and is not eligible to receive an Individual Class Settlement Payment.
21. “Individual PAGA Payment” means the pro rata share of the \$10,000 (25% of the total \$40,000 PAGA Civil Penalty Payment) amount allocated to alleged aggrieved employees out of the PAGA Civil Penalty Payment that each PAGA Member will receive.
22. “Judgment” means the Final Approval Order and Judgment entered by the Court.
23. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payment, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Civil Penalty Payment, and Administration Expenses. The Net Settlement Amount is the total amount that will be paid to Participating Class Members in the form of Individual Class Settlement Payments.
24. “Non-Participating Class Member” means a Class Member who submits a valid and timely request for exclusion from the Settlement in the manner described in the Notice of Class Action Settlement.
25. “Notice Packet” means the Class Notice, the Change of Address Form approved by the Parties and subject to Court approval, and the pre-printed return envelope, all of which the Settlement Administrator will mail to each Class Member.
26. “PAGA refers to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2699, *et seq.*
27. “PAGA Civil Penalty Payment” means the sum of \$40,000 to be paid out of the Gross Settlement Amount, designated by the Parties as PAGA civil penalties of which \$30,000 (75%) shall be paid pursuant to the PAGA to the Labor and Workforce Development Agency (“LWDA”), (“LWDA Payment”),

and the remaining \$10,000 (25%) shall be paid proportionately to all PAGA Members.

28. “PAGA Letters” means the letters, dated September 27, 2021 and April 13, 2022, that Plaintiff filed with the Labor and Workforce Development Agency alleging several wage and hour claims and seeking civil penalties and other relief provided by the PAGA.
29. “PAGA Members” are those Class Members employed during the PAGA Period and who will be paid an Individual PAGA Payment, regardless of whether they exclude themselves from the Class Settlement.¹
30. “PAGA Period” means that period from September 27, 2020 to the earlier of the following dates: (a) the date the Court grants preliminary approval of this Settlement, or (b) June 19, 2022.
31. “Participating Class Member” means a Class Member who does not submit a valid and timely request for exclusion from the Class Settlement.
32. “Preliminary Approval of the Settlement” means the Court’s Order Granting Preliminary Approval of the Settlement.
33. “Released Class Claims” means all claims and causes of action as alleged in, and that could have been alleged based on the facts of, the Action, including, but not limited to, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, arising out of or based upon any provision alleged in the Action, including the California Labor Code, the California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code § 17200, et seq.; including, without limitation, the following categories of allegations, to the fullest extent such claims are fully and forever releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for failure to provide reporting time pay; (d) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (e) all claims for failure to maintain employment records, including timekeeping and payroll records; (f) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (g) all claims for failure to provide compliant rest periods and pay related

¹ In his notice to the LWDA, Plaintiff erroneously defined the PAGA Members as both non-exempt employees and exempt employees. This was a typo, as Plaintiff has never intended to allege claims on behalf of exempt employees. Plaintiff only intended, and the Parties agree, that the PAGA Members (the allegedly aggrieved employees) only include non-exempt employees. Plaintiff agrees to notify the LWDA of this mistake and the limited scope of the definition of the PAGA Members.

premiums at the regular rate; (h) all claims for failure to reimburse business expenses; (i) all claims for failure to pay timely current wages and associated penalties; (j) all claims for failure to pay final wages; (k) all claims for failure to provide accurate wages statements; and (l) all claims for relief under California Business and Professions Code § 17200, et seq. arising from violations of the Labor Code released herein. The Class Members understand and agree that this release includes a good-faith compromise of disputed wage claims.

34. “Released PAGA Claims” means all claims and causes of action for civil penalties under PAGA as alleged in, and that could have been alleged based on the facts of the PAGA Letters and in the Action, and that seek civil penalties pursuant to PAGA and other relief available pursuant to the PAGA against the Released Parties. Regardless of whether any Class Member opts out of the Class Settlement, they will still be bound by the PAGA Release if they are PAGA Members. The period of the PAGA Release is the PAGA Period. The Released PAGA claims include claims for civil penalties pursuant to PAGA as a result of the following categories of allegations, to the fullest extent such claims are fully and forever releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for the failure to provide suitable seating; (d) all claims for failure to provide reporting time pay; (e) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (f) all claims for failure to maintain employment records, including timekeeping and payroll records; (g) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (h) all claims for failure to provide compliant rest periods and pay related premiums at the regular rate; (i) all claims for failure to reimburse business expenses; (j) all claims for failure to pay timely current wages and associated penalties; (k) all claims for failure to pay final wages; and (l) all claims for failure to provide accurate wages statements.
35. “Released Parties” means Helzberg Diamond Shops, LLC and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successors, and assigns.
36. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement.
37. “Qualified Settlement Fund” or “QSF” means the account established by the Administrator for the Gross Settlement Amount and employer-side payroll taxes and distribution as provided by this Agreement and as ordered by the Court.
38. “Workweeks” means any workweek (Sunday through Saturday) in which Settlement Class Members worked at any time at all during that workweek.

RECITALS

39. On September 27, 2021, Plaintiff filed a PAGA letter with the Labor and Workforce Development Agency (the “PAGA Letter”) alleging several wage and hour claims and seeking civil penalties and other relief provided by the PAGA.
40. On December 3, 2021, Plaintiff filed a Class Action Complaint with the Superior Court of the State of California, County of Alameda (Case No. 21CV003531), alleging several wage and hour claims under the California Labor Code, the California Business and Professionals Code, the applicable Wage Order, and the PAGA.
41. On or about February 2, 2022, the Complaint was removed to the Northern District of California, Case No. 3:22-cv-00696.
42. On April 13, 2022, Plaintiff filed a second PAGA letter with the Labor and Workforce Development Agency (the “PAGA Letter 2”) alleging several wage and hour claims, including a new suitable seating claim, and seeking civil penalties and other relief provided by the PAGA.
43. In advance of the mediation on April 19, 2022, Defendant produced a 20% random sample of the timekeeping and payroll data of all putative class members; plaintiff’s personnel, timekeeping, and payroll records and wage statements; hundreds of pages of policies and practices related to the claims in the Action; and relevant aggregate data points for the Action, including the numbers of current and former putative class members, current and former PAGA group members, class period workweeks, PAGA payroll periods, the average hourly rate earned by putative class members during the class period, and additional data points relevant to this Action.
44. On April 19, 2022, the Parties attended a private mediation with Tripper Ortman, Esq., which resulted in a settlement of Plaintiff’s class, representative, and individual claims.
45. On April 22, 2022, the Parties stipulated to remand the Complaint to the Superior Court of the State of California, County of Alameda. On April 25, 2022, the Northern District of California ordered the Complaint remanded back to the Alameda Superior Court.
46. On June 17, 2022, Plaintiff filed a First Amended Complaint in the Superior Court of the State of California, County of Alameda, alleging the claims and causes of action included in the PAGA Letters and in the original Complaint.
47. This Agreement represents a compromise and settlement of highly disputed claims. The Parties agree that nothing in this Agreement is an admission by the Defendant that the claims in the Action have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant’s defenses in the Action have merit. The Parties stipulate to certification of the Class for purposes of this Settlement only.

If for any reason the Settlement does not become effective, the Parties agree that this stipulation regarding class certification will become null and void, and Defendant reserves the right to contest the certification of any class for any reason and reserves all available defenses to the claims in the Action. Defendant also reserves the right to remove the case to federal court.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

SETTLEMENT TERMS AND CONDITIONS

48. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is six hundred sixty thousand dollars (\$660,000), which is inclusive of all payments contemplated in this resolution. All of the Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendant under any circumstances.
49. **Modification of Gross Settlement Amount.** Defendant has extrapolated the amount of 23,242 workweeks in the Class Period from December 3, 2017 to June 19, 2022. If, at the time the Court grants preliminary approval, the actual workweek count is more than a cap of 10% higher than 23,242 (or more than 25,566), then for each additional workweek in the Class Period above that cap, the settlement amount will increase by \$30.12. For example, if the actual workweek count is 25,576, then the GSA increase by \$301.20.
50. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Administrator will make the following payments from the Gross Settlement Amount:
 - a) **To Plaintiff:** Plaintiff will apply to the Court for a Service Payment of not more than \$10,000 in addition to his Individual Class Settlement Payment share. The Administrator will pay the Class Representative Service Payment approved by the Court. No payroll tax withholding and deductions will be taken from this payment. The Administrator shall issue an IRS Form 1099 to Plaintiff for the Class Representative Service Payment.
 - b) **To Class Counsel:** Class Counsel will apply to the Court for an award of up to 1/3 of the GSA as their Class Counsel Fees Payment and no more than \$25,000 for all costs and litigation expenses incurred, subject to proof, as the Class Counsel Litigation Expenses Payment. Defendant will not oppose requests for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. For these payments, the Administrator will issue one or more IRS Forms 1099.
 - c) **To the LWDA.** The Parties will seek approval from the Court for the PAGA Civil Penalty Payment of \$40,000, allocated 75% (\$30,000) for the LWDA Payment as its share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$10,000) to be

distributed to all PAGA Members based on their number of Pay Periods employed during the PAGA Period, in relation to the aggregate number of Pay Periods employed during the PAGA Period. Because there is no right to opt out of a PAGA settlement, all PAGA Members will receive a proportionate share of the 25% portion of the PAGA Civil Penalty Payment, i.e., their Individual PAGA Payment, irrespective of a valid and timely request for exclusion from the Class Settlement.

- d) **To the Administrator.** The Administrator will pay to itself its reasonable fees and expenses documented and approved by the Court in an amount not to exceed \$10,000. (“Administration Expenses”).
- e) If the Court approves any payment described in this section in an amount less than requested, the Parties agree to retain the remainder in the Net Settlement Amount for distribution to Class Members.

46. **Settlement Payments to the Class.** Following the deduction of the Court-approved sums from the Gross Settlement Amount for the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, Administration Expenses, the LWDA Payment, and the collective Individual PAGA Payments, the remaining Net Settlement Amount, estimated at \$355,000 shall be distributed to Participating Class Members based upon the number of Workweeks employed during the Class Period in relation to the number of Workweeks employed by all Participating Class Members during the Class Period. The Net Settlement Amount is determined by deducting the anticipated Court-approved payments as follow:

Gross Settlement Amount: **\$ 660,000**

- Class Representative Service Payment \$10,000
- Class Counsel Fees Payment \$220,000
- Class Counsel Litigation Expenses \$25,000
- LWDA Payment \$30,000
- Individual PAGA Payments \$10,000
- Administration Expenses \$10,000

Net Settlement Amount: **\$ 355,000**

- a) **Individual Class Settlement Payment.** Individual Class Settlement Payments will be paid from the Net Settlement Amount and paid pursuant to the formula as follows: (i) First, using the Class Data List, the Administrator will compute the total number of Workweeks of all Participating Class Members collectively during the Class Period; this sum shall be known as the “Workweek Total;” (ii) Second, the Administrator will divide the Net Settlement Amount by the Workweek Total to determine the settlement value of each eligible Workweek; this shall be known as the “Workweek Value;” (iii) Third, the Administrator will multiply the number of Workweeks of a

Participating Class Member during the Class period by the Workweek Value to determine the Participating Class Member's Individual Class Settlement Payment.

- b) **Allocation of the Settlement Payment, and Tax Forms.** The Administrator shall allocate 20% of each Participating Class Member's Individual Class Settlement Payment to wages and 80% to penalties and interest allegedly due to employees, which shall also include the sum of the Individual PAGA Payments. The Settlement Administrator will be responsible for issuing to claimants a form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated to penalties and interest.
- c) **Effect of Non-Participating Class Members.** Non-Participating Class Members are those who returned a valid and timely request for exclusion, and they will not receive an Individual Class Settlement Payment share of the Net Settlement Amount. Their exclusion from the Class will neither affect the Gross Settlement Amount nor affect the Net Settlement Amount. Their respective Individual Class Settlement Payment shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Workweeks employed during the Class Period. However, since there is no right to opt out of a PAGA settlement, each Non-Participating Class Member who is also a PAGA Member shall receive a pro-rata share of the 25% portion of the PAGA Civil Penalty Payment allocated to them, and they will be bound to the release of all of the claims for civil penalties under the PAGA that are included in the Released Claims.

47. **Appointment of Administrator.** The Parties agree to use the ILYM Group to serve as the Administrator, which, as a condition of appointment, will agree to follow this Agreement with respect to the performance of its duties and its compensation. The Administrator's duties will include formatting, printing, and mailing the Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Notice Packets; re-mailing Notice Packets that are returned to the Class Member's new address as located upon skip-tracing or as provided by Counsel for the Parties; setting up a toll-free telephone number to receive calls from Class Members, and a post office box to receive communications from Class Members which include for instance, disputed claims, change of address forms, requests for exclusion, and objections; providing the Parties with weekly status reports; calculating Individual Class Settlement Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports and filings required under this Settlement and to administrate the Settlement, including, but not limited to, the DE 9, the DE 9C, 1099s, W-2s and W-3s; handling uncashed checks; providing declarations as requested by the Parties, and otherwise administering the Settlement pursuant to this Agreement. The Administrator will have the authority to resolve all disputes concerning the calculation of a

Participating Class Member's Individual Class Settlement Payment and/or Individual PAGA Payment. The Settlement Administration Expenses, including the cost of printing and mailing the Notice Packet, will come from the Gross Settlement Amount. Defendant and their Counsel shall have no responsibility for validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiff, Class Counsel, Defendant and Defendant's Counsel shall not bear any responsibility for errors or omissions in the calculation or distribution of the Individual Settlement Payments or any other distribution of monies contemplated by this Settlement Agreement.

48. **Procedure for Approving Settlement.**

a. **Motion for Preliminary Approval of Settlement.**

- i. After execution of this Agreement, Plaintiff will file a Motion for Preliminary Approval seeking preliminary approval of the proposed Settlement, conditional class certification, approval of the Notice, appointment of Class Counsel, designation of Plaintiff as the Class Representative, and ILYM as the Administrator, and setting a date for the Final Approval Hearing. Class Counsel shall be responsible for preparing the Motion for Preliminary Approval, supporting declarations, and its exhibits. Class Counsel agrees to provide Defendant's Counsel with drafts of the Motion for Preliminary Approval and any other documents they intend to submit in support of their Motion for Preliminary Approval at least five (5) business days in advance of the filing of such documents to allow Defendant's Counsel reasonable time to review and comment on such papers. Class Counsel further agrees to reasonably incorporate the comments from Defendant's Counsel.
- ii. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the Motion for Preliminary Approval, and submit an Order Granting Preliminary Approval of the Settlement.
- iii. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of the Released Claims, or the binding effect of the Settlement on Participating Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Agreement for the Court's approval.

49. **Notice to Class Members.** If the Court enters an Order Granting Preliminary Approval of the Settlement, the Notice Packet will be mailed to all members of the Class as follows:

- a. No later than twenty (20) days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will, to the extent possible, provide the Class Data List to the Administrator. The Administrator shall maintain the Class Data List as private and confidential and shall not disclose such data to any persons or entities other than Defendant's Counsel. The Class Data List is being supplied solely to be used for settlement notification and settlement administration purposes, and shall not be used for any other purpose by the Administrator or Class Counsel. The Parties agree that the Class Data List will not be used to solicit Class Members to file any claim, charge or complaint of any kind whatsoever against Defendant or any other Released Parties, and will only be used to administer the Settlement under the terms provided herein. No later than three (3) days after receipt of the Class Data List, the Administrator shall notify counsel for the Parties that the information in the Class Data List has been received.
- b. Upon receipt of the Class Data List, the Administrator will perform a search of the United States Post Office's National Change of Address database to update and correct any known or identifiable changes to Class Member addresses before mailing the Notice Packets. Using best efforts to mail it as soon as possible, and in no event later than twenty-one (21) calendar days following receipt of the Class Data List, the Administrator will mail the Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Administrator obtains in the course of administration of the Settlement. The Administrator shall exercise its best judgment to determine the current mailing address for each Class Member, including performing a skip-trace to identify any updated addresses. The content of the Notice Packet shall include a Notice of Class Action Settlement, a Change of Address form, and a pre-printed return envelope based on the Parties' agreement, and subject to Court approval and modification as necessary to fulfill the Parties' desire to resolve the case.
- c. The exterior of the mailing envelope containing the Notice Packet shall include the following language on the left side of the envelope below the Administrator's mailing address:

**IMPORTANT LEGAL DOCUMENT: You may
get Money from a Class Action Settlement; your
prompt reply to correct a bad address is required.**

- d. If a Notice Packet is returned because of an incorrect address, the Administrator will promptly, and not longer than five (5) days from receipt of the returned Notice Packet, search for a more current address and re-mail the Notice Packet to the Class Member. The Administrator will use the Class Data List and otherwise work with Defendant to find the most current address. The Administrator will be responsible for

taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Notice Packet is re-mailed, the Administrator will note for its own records and notify Counsel for the Parties of the date of each such re-mailing as part of a weekly status report provided to the Parties.

- e. As part of its weekly status report, the Administrator will inform Class Counsel and Defendant's Counsel of the number of requests for exclusions, number of disputed claims, and number of objections received, and will provide all written objections upon receipt to Class Counsel and Defendant's Counsel
- f. No later than ten (10) days before the date that the Plaintiff will file the Motion for Final Approval of the Settlement, the Administrator will provide its declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the requests for exclusions, disputed claims, and objections received. Prior to the Final Approval Hearing, the Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

50. **Objections to Settlement; Disputes as to the Number of Workweeks; and Requests for Exclusion.** Class Members may submit objections as to any term of the Settlement, dispute the number of Workweeks allocated to them, and request exclusion pursuant to the following procedures:

- a. **Object to Settlement.** The Class Notice will provide that only Participating Class Members may object to the Settlement. Participating Class Members may submit a written objection to the Administrator no later than forty-five (45) days after the Administrator mails the Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if an objection was timely received. Written objections must be signed by the Class Member and should set forth: (1) the full name and address of the objecting Class Member; (2) the grounds for each objection made; and (3) whether the Class Member intends to appear at the Final Approval Hearing. Any of the Parties may file a response to any objection before the Final Approval Hearing. Any attorney who will represent an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Court and serve Class Counsel and Defendant's Counsel with this notice no later forty five (45) days after the Administrator mailed the Notice Packets. Class Members may also appear at the Final Approval Hearing to orally object, even if they have not submitted a written objection. Any Class Member who fails to submit a timely written objection or to present an objection at the Final

Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement whether by appeal or otherwise. Class Members who receive a re-mailed Class Notice shall have an additional twenty (20) days from their original deadline to object in writing.

- b. **Dispute the Number of Workweeks.** Class Members may dispute the number of Workweeks the Class Notice allocates to them during the Class Period, and they must do so no later than forty five (45) days after the Administrator mails the Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if a dispute was timely received. If there is a dispute, the Administrator shall consult with the Parties to determine whether an adjustment is warranted, and the Administrator shall resolve the dispute. In the absence of circumstances indicating fraud, manipulation or destruction, Defendant's records will be given a rebuttable presumption of accuracy. If a party further disputes the Administrator's decision, that party may submit the dispute to the Court, which shall have the ultimate authority to decide disputes. Class Members who receive a re-mailed Class Notice shall have an additional twenty (20) days from their original deadline to dispute in writing the number of Workweeks allocated to them during the Class Period.
- c. **Requests for Exclusion.** The Class Notice will provide that Class Members who wish to exclude themselves from the Settlement must postmark and mail to the Administrator a written request for exclusion no later than forty five (45) days after the Administrator's mailing of the Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if a request for exclusion was timely received. Class Members who receive a re-mailed Class Notice shall have an additional twenty (20) days from their original deadline to request in writing an exclusion from the Settlement.
 - i. To be valid, a request for exclusion must be timely and must comply with the instructions detailed in the Class Notice, including providing (1) the name and address of the Class Member requesting exclusion; (2) a statement expressing that the Class Member elects to be excluded from the Settlement; and (3) a signature by the Class Member. If a question is raised about the authenticity of a signed request for exclusion, the Administrator will have the right to demand additional proof of the Class Member's identity.
 - ii. A Non-Participating Class Member will not participate in or be bound by the Released Claims and the Judgment. However, a Non-Participating Class Member who is also a PAGA Member will be bound by the PAGA Release. Defendant will remain free to contest any claim brought by the Class Member that would have been barred by this Agreement, and nothing in this Agreement will

constitute or be construed as a waiver of any defense Defendant has or could assert against such a claim. However, even if a Class Member opts out of the Settlement, the Class Member will still receive a proportionate share of the PAGA Civil Penalty Payment allocated to the PAGA Members. The Administrator will determine the Individual PAGA Payment by comparing the number of Pay Periods the PAGA Member was employed during the PAGA Period to the total number of Pay Periods all PAGA Members were employed during the PAGA Period. In this instance, any Class Member who is also a PAGA Member will only be bound by the PAGA Release.

- iii. A Class Member who does not complete and mail a timely request for exclusion in the manner and by the deadline specified above will automatically become a Participating Class Member, will receive a Settlement Payment, and be bound by all terms and conditions of the Settlement, including the Released Claims if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or he has objected to the Settlement.
 - iv. Persons who submit a request for exclusion shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement because the Settlement no longer concerns them.
 - v. All Participating Class Members who do not submit a valid and timely request for exclusion will receive an Individual Class Settlement Payment without the need to file a claim form, and the terms of the Released Claims and Judgment will bind them.
- d. **Report.** No later than ten (10) days after the deadline for submission of requests for exclusions, the Administrator will provide Class Counsel and Defendant's Counsel with a complete and accurate count of Participating Class Members and Non-Participating Class Members.
51. **Right of Defendant to Reject Settlement.** If more than five percent (5%) of the Class Members return valid and timely requests for exclusion, Defendant will have the right, but not the obligation, to void the Settlement and the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Defendant will pay the Settlement Administration Expenses incurred as of the date that Defendant exercises the right to void the Settlement. Defendant will notify Class Counsel and the Court whether it is exercising this right to void no later than ten (10) days after the Administrator notifies the Parties, for the final time, of the number of valid requests for exclusion received. If Defendant exercises this right, the Settlement will become void and unenforceable in its entirety and the Parties shall be returned to their status as if this Agreement had not been executed.

52. **No Solicitation.** The Parties and their counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
53. **Additional Briefing and Final Approval.**
- a. Upon the expiration of the deadline for submission of requests for exclusions, objections, and disputes, and with the Court's permission, a Final Approval Hearing shall be conducted.
 - b. As directed by the Court after preliminary approval, the Plaintiff will file with the Court a Motion for Final Approval of the Settlement, that shall include Class Counsel's application for the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payments, and the Class Representative Service Payment, as well as the Administration Expenses and PAGA Civil Penalty Payment. Class Counsel shall be responsible for preparing the Motion for Final Approval, and any supporting declarations, and exhibits thereto. Class Counsel agrees to provide Defendant's Counsel with drafts of all documents they intend to submit in support of the Motion for Final Approval at least seven (7) days in advance of the filing to allow Defendant's Counsel reasonable time to review and comment on such papers and further agrees to reasonably incorporate the comments from Defendant's Counsel. The Parties must meet and confer and make all reasonable efforts to agree on any modifications to this Agreement that will result in entry of the Final Approval Order, including a good faith attempt to address and/or cure any issues identified by the Court as necessary for final approval.
 - c. If any opposition is filed, then no later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the Motion for Final Approval of the Settlement.
 - d. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of the Released Claims), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Agreement for the Court's approval. But an award by the Court of lesser amounts than those sought by the Class Counsel for the Class Representative Service Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Agreement within the meaning of this paragraph.
 - e. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, Class Counsel will present for the Court's approval and entry the Judgment. After entry of the Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement

administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

54. **Waiver of Right to Appeal.** Plaintiff and Participating Class Members who did not timely submit an objection to the Settlement to the Administrator waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate the judgment, a motion for a new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If there is an appeal from the Judgment, it suspends the time for consummation of the Settlement (including making payments under the Settlement) until the appeal is finally resolved and the Judgment becomes final.
55. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of the Released Claims), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court no later than 21 days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payment or the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendant's obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.
56. **Funding and Other Payments.** No later than ten (10) calendar days after the Judgment becomes Final as defined herein, the Administrator shall send Defendant's Counsel electronic wiring instructions for paying the Gross Settlement Amount (\$660,000) into the QSF (or additional amounts if applicable under the "Modification of Gross Settlement Amount" section herein). Defendant shall fund the QSF with the Gross Settlement Amount and the amount necessary to pay Defendant's share of payroll taxes no later than thirty (30) calendar days after the Judgment becomes Final. Within fourteen (14) days after Defendant funds the QSF, the Administrator will pay to Participating Class Members their Individual Class Settlement Payments via first-class regular U.S. Mail; to all PAGA Members, their Individual PAGA Payments; to Plaintiff, the Class Representative Service Payment; to Class Counsel, the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment; to the LWDA, their LWDA Payment; and to the Administrator, the Settlement Administration Expenses. The Judgment cannot become Final, and Defendant will not be obligated to fund the QSF,

unless and until there is no possibility of an appeal or further appeal (by anyone who has the right to, or claims to have the ability to, take an appeal) that could potentially prevent this Settlement from becoming final and binding.

57. **Uncashed Settlement Share Checks.** A Class Member must cash their Settlement Payment check within one-hundred and eighty (180) days of the Administrator's mailing of the checks. If the Administrator receives a returned check, it will make all reasonable efforts to re-mail it to the Class Member at their correct address. If a Class Member's Settlement Payment check is not cashed within ninety (90) days after its initial mailing, the Administrator will send a postcard notifying the Class Member that unless the check is cashed by the 180th day, it will expire and become non-negotiable, and the Administrator will offer to replace the check if it was lost or misplaced and not cashed. If the check remains uncashed after one-hundred and eighty (180) days since the Administrator's mailing of the checks, the Administrator will void the checks, and transmit the funds to the Community Law Project pursuant to California Code of Civil Procedure section 384. Class Counsel, Defendant's counsel, Plaintiff, and Defendant do not have any interest, pecuniary or otherwise, in the Community Law Project.
58. **Final Report by Administrator to Court.** Within ten (10) calendar days after final disbursement of all funds from the Gross Settlement Amount, the Administrator will serve on the Parties and file with the Court a declaration as a final report on the disbursements of all funds from the Gross Settlement Amount.
59. **Released Claims.**
 - a. **Participating Class Members.** As of Effective Date and funding by Defendant of the GSA, the Released Parties shall be entitled to a full and final accord, satisfaction, settlement, and release of the Released Class Claims for the Class Period from Participating Class Members, including the Plaintiff.
 - b. **PAGA Members.** As of the Effective Date and funding by Defendant of the GSA, all PAGA Members are bound by the Released PAGA Claims for the PAGA Period.
 - c. **Class Counsel.** As of the Effective Date and funding by Defendant of the GSA, and except as otherwise provided by this Agreement and the Judgment, Class Counsel waives any claim to costs and attorneys' fees and expenses against Defendant arising from or related to the Action.
60. **Limitation on Public Statements About Settlement.** Prior to final approval, the Parties agree not to disclose the terms of this Settlement except in court papers filed to seek approval and any other disclosures agreed to by the Parties that are necessary to effectuate the Settlement. Plaintiff and Class Counsel shall not issue any press releases, or hold any press conferences, or publish

information about the settlement on any website, or otherwise publicize the settlement. However, Plaintiff counsel may (in future declarations submitted in Court) refer to the fact that this matter settled on a class and representative action basis for purposes detailing the experience of counsel. Plaintiff and Plaintiff Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the Court.

61. **Representations.** Plaintiff represents that other than the instant Action, Plaintiff and Class Counsel have no intent to assert any other claims against Defendant in any judicial, arbitral, or administrative forum. Plaintiff's Counsel will further represent that they do not know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendant. The Parties acknowledge, understand, and agree that the representations described in this paragraph are essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.
62. **Additional Mediation.** If this matter is not approved by the Court for any reason, the Parties agree to attend mediation again in an effort to reach a settlement approved by the Court.
63. **Miscellaneous Terms.**
 - a. **No Admission of Liability or Class Certification for Other Purposes.**
 - i. Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement).
 - ii. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to the Plaintiff or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in

evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

- iii. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.
62. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
63. **Plaintiff's Individual Settlement.** Plaintiff is entering into an individual settlement agreement which shall provide for an Individual Settlement Payment, and which shall provide for a broad release, including a waiver of Civil Code Section 1542. This release, waiver and discharge of all claims shall include, but will not be limited to, any and all claims arising out of the Action, as well as additional claims described in the Individual Settlement Agreement for retaliation and wrongful termination.
64. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by the Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effectuate the implementation of the Settlement. In the event the Parties are unable to reach an agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the Court for resolution.
65. **No Prior Assignments:** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
66. **No Tax Advice:** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or

taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

67. **Agreement Binding on Successors.** This Agreement is binding upon, and inures to the benefit of, the successors of each of the Parties. The Parties warrant that they understand and have full authority to enter this Agreement, and intend it to be fully enforceable and binding on all Parties, pursuant to California Code of Civil Procedure section 664.6, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any Settlement Conference confidentiality provisions which might otherwise apply under federal or state law.
68. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
69. **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.
70. **Fair and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations facilitated by an experienced and respected wage and hour class action mediator, taking into account all relevant factors, current and potential.
71. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter 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. Within sixty (60) days after the Judgment becomes Final, Class Counsel will return or destroy all such documents and data, and provide written confirmation to Defendant of the destruction.
72. **Exhibits and Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement. The terms of this Agreement 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 Agreement are an integral part of the Settlement.
73. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

ZAKAY LAW GROUP, APLC

Shani O. Zakay
Jackland K. Hom
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC

Jean-Claude Lapuyade
Eduardo Garcia
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

To Defendant:

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Michael J. Nader, Esq.
Email: Michael.nader@ogletree.com
500 Capitol Mall, Suite 2500
Sacramento, CA 95814
Telephone: (916) 840-3150 / Fax: (916) 840-3159

73. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically, or by email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
74. **Stay of Litigation.** The Parties agree that upon the signing of this Agreement, the Parties agree to jointly request the Court to stay all proceedings with this Action, except for such proceedings needed to secure approval of this settlement, and the time to bring the Action to trial shall be extended pending the outcome of the settlement process.
75. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action to ensure the continuing implementation of this Agreement.

76. **Court Filings.** The Parties agree not to object to any Court filings consistent with this Settlement Agreement.
77. **Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Oct 24, 2022, 2022

By: 
ed ybarra, Oct 24, 2022 10:14 PDT)
Eduardo Ybarra, Plaintiff

Dated: _____, 2022

By: _____
Authorized Agent
Helzberg's Diamond Shops, LLC

APPROVED AS TO FORM:

Dated: October 24, 2022

By: 

Shani O. Zakay, Plaintiff's Counsel

Dated: _____, 2022

By: _____
Michael J. Nader
Counsel for Defendant
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

76. **Court Filings.** The Parties agree not to object to any Court filings consistent with this Settlement Agreement.
77. **Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

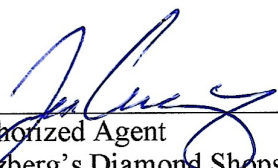
EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____, 2022

By: _____
Eduardo Ybarra, Plaintiff

Dated: October 24, 2022

By: 
Authorized Agent
Helzberg's Diamond Shops, LLC

APPROVED AS TO FORM:

Dated: _____, 2022

By: _____
Shani O. Zakay, Plaintiff's Counsel

Dated: October 24, 2022

By: 
Michael J. Nader
Counsel for Defendant
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

Exhibit A

Superior Court of California, County of Alameda
Eduardo Ybarra v. Helzberg's Diamond Shops, LLC (California Superior Court, County of Alameda,
Case No. 21CV003531).

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don't act.*

NOTICE OF SETTLEMENT OF CLASS AND REPRESENTATIVE ACTION

To: All persons who are or previously were employed by Defendant Helzberg's Diamond Shops, LLC in California and classified as non-exempt employees from December 3, 2017 to June 19, 2022 (the "Class Members").

All persons who are or previously were employed by Defendant Helzberg's Diamond Shops, LLC in California and classified as non-exempt employees from September 27, 2020 to June 19, 2022 (the "PAGA Members").

A putative class action and representative action under the California Private Attorneys General Act of 2004 ("PAGA"), which was brought on behalf of the Class and PAGA Members (defined above) and against Defendant Helzberg's Diamond Shops, LLC has been settled for \$660,000.00. As explained in this Notice, if the Court approves this class and PAGA Settlement then you may receive payments under this Settlement. You are receiving this Notice because based on Defendant's records, you are a Class Member and/or a PAGA Member.

If you are a Class Member and/or a PAGA Member, you are eligible for payment from the Settlement described in this Notice without the need to return a claim form.

PLEASE READ THIS NOTICE CAREFULLY.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you want to participate and receive your share of the money from the class and PAGA settlement, you do <u>not</u> need to do anything. If you do nothing, you will be mailed a settlement payment and you will release certain claims. [You must, however, keep a current address on file with the Settlement Administrator to ensure receipt of your check.]
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT	If you ask to be excluded from the class portion of the settlement and money is later awarded, you will not receive any share from the class settlement money. But if you exclude yourself, you keep any rights as an individual to sue Defendant separately about the same legal claims that are being settled here. You may exclude yourself from the settlement by submitting a written Request for Exclusion according to the instructions contained in this Notice. The deadline to submit a Request for Exclusion is [45 calendar days from date of mailing]. If you are a PAGA Member, even if you exclude yourself from the class action, you will still receive a portion of the PAGA settlement money and be bound by the release of PAGA claims.

OBJECT	Object to the Settlement if you think the Settlement is not fair by sending your written objection to the Settlement Administrator and/or, if you wish, appear at the Final Approval Hearing. If you submit a Request for Exclusion from the Settlement, you cannot also object to it. The deadline to submit an objection is [45 calendar days from date of mailing].
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- **Your rights and options – and the deadlines to exercise them – are explained in this Notice.**
- **Defendant supports the settlement and will not retaliate in any manner against any class member who remains in the class and receives a settlement payment.**

BASIC INFORMATION

1. **Why was this notice issued**

A Court authorized this Notice because you have a right to know about a proposed Settlement of a class and representative PAGA action lawsuit, and about all of your options, before the Court decides whether to approve it. This notice explains the lawsuit, the Settlement, your legal rights, the payments that are available, who is eligible to receive them, and how to get them.

The Court in charge of the case is the Superior Court of the State of California, County of Alameda, and the case is known as Eduardo Ybarra v. Helzberg Diamond Shops, LLC, Case No. 21CV003531 (the “Action” or the “Lawsuit”).

2. **What is the Lawsuit about?**

On December 3, 2021, Plaintiff Eduardo Ybarra filed a Class Action Complaint with the Superior Court of the State of California, County of Alameda (Case No. 21CV003531), alleging several wage and hour claims under the California Labor Code, the California Business and Professionals Code, the applicable Wage Order, and the PAGA (the “Lawsuit”).

Defendant denies all of the claims in the Lawsuit. However, Defendant has agreed to settle the Lawsuit to avoid continued litigation. The Settlement is not an admission of any wrongdoing by Defendant or an indication that any law was violated.

3. **What is a class action?**

In a class action lawsuit, a Class Representatives (in this case, Eduardo Ybarra) sue on behalf of others who may have similar claims, who are called a class or class members.

4. **Why is there a Settlement?**

The Court did not decide in favor of the Plaintiff, nor did the Court decide in favor of Defendant. Instead, both sides agreed to a no-fault settlement of the Lawsuit (“Settlement”). That way, they avoid the cost of further litigation including a trial, and the people affected will get compensation from the Settlement.

5. **Who are the Parties in these Lawsuits?**

Plaintiff Eduardo Ybarra was an employee of the Defendant. The Defendant is Helzberg’s Diamonds, LLC.

6. Who are the Attorneys representing the Plaintiff and the Class?

ZAKAY LAW GROUP, APLC Shani O. Zakay Jackland K. Hom 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 Telephone: (619)255-9047 Facsimile: (858) 404-9203 shani@zakaylaw.com jackland@zakaylaw.com	JCL LAW FIRM, APC Jean-Claude Lapuyade 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 Telephone: (619) 599-8292 Facsimile: (619) 599-8291 jlapuyade@jcl-lawfirm.com
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You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

THE TERMS OF THE SETTLEMENT

7. What is the Settlement Amount?

The proposed Settlement provides for a maximum payment of \$660,000.00 to fully and finally resolve all claims in the Lawsuit (referred to as the “Total Settlement Amount”). Class Counsel will apply to the Court for attorneys’ fees of up to \$220,000; litigation costs estimated at \$25,000; a “Class Representative Service Payment” of up to \$10,000 to the Plaintiff for his work and effort in prosecuting this case, risks taken for the payment of costs in the event of loss, and a general release of all claims; settlement administration expenses to ILYM Group, estimated at \$10,000; and a “PAGA Payment” to the California Labor Workforce and Development Agency (“LWDA”) and PAGA Members in settlement of claims for penalties under PAGA. The exact amount of the attorneys’ fees, litigation costs, Class Representative service payments, and settlement administration expenses will be determined by the Court at the Final Approval hearing if the Settlement is approved.

Following the Court-approved deductions, the remaining portion of the Settlement, the Net Settlement Amount (“NSA”), is estimated to be \$355,000. The NSA will be apportioned and paid out entirely, automatically, to all “Participating Class Members,” who are the Settlement Class Members who do not ask to be excluded from the class action settlement, as “Individual Settlement Payments.”

No portion of the Total Settlement Amount will revert to Defendant under any circumstances.

8. How will the Individual Settlement Payments be calculated and how much will my award be?

Participating Class Members will receive a pro-rata share of the NSA based on the number of weeks they worked for Defendant during the time period of December 3, 2017 to June 19, 2022 (the “Class Settlement Period”).

Here’s how it works – the NSA will be entirely distributed to the Participating Class Members. The NSA allocated to each individual Participating Class Member will be based on the individual’s total number of weeks worked during the Class Settlement Period, in relation to the total number of weeks worked by all Participating Class Members. Weeks will be calculated according to Defendant’ records.

Based on Defendant’s records, you worked _____ work weeks during the Class Settlement Period and your estimated Individual Settlement Payment is \$_____, before applicable tax withholdings, although the actual amount that is paid may be lower or higher than the amount estimated. If you wish to dispute your number of

workweeks during the Class Settlement Period, you must notify the Settlement Administrator in writing, no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Defendant for a different number of weeks during the Class Settlement Period.

Individual Settlement Payments shall be subject to applicable withholding taxes on that portion of the payment allocated to wages. Individual Settlement Payments will be allocated 20% to wages for which an IRS W-2 form will be issued, and 80% to penalties and interest for which an IRS 1099 form will be issued as required. You will be responsible for the tax consequences of your Individual Settlement Payments, for filing your own returns and reporting all income received to state and federal taxing authorities, and for payment of any other applicable taxes due. You should consult with a tax advisor concerning the tax consequences of the Individual Settlement Payment you could receive under the Settlement.

9. How will the PAGA Payment be distributed?

The Parties will seek approval from the Court to designate \$40,000.00 of the Total Settlement Amount as penalties recoverable under the PAGA. 75% of this amount, or \$30,000.00, will be paid to the LWDA, as required by law. The remaining 25% of this amount, or \$10,000.00, will be distributed to the PAGA Members as “Individual PAGA Payments.” The Individual PAGA Payments are paid in addition to any Individual Settlement Payments (the Individual Settlement Payment and the Individual PAGA Payments are the “Settlement Payment”). 100% of the PAGA Payment will be treated as penalties and interest. You should consult with a tax advisor concerning the tax consequences of the Individual PAGA Payment you could receive under the Settlement.

Not all Class Members are PAGA Members entitled to an Individual PAGA Payment. You are only a PAGA Member if you worked for Defendant during the period September 27, 2020 to June 19, 2022 (the “PAGA Settlement Period”). The Individual PAGA Payments will be calculated on a pro-rata basis based on the number of pay periods that you worked during the PAGA Settlement Period. Based on Defendant’s records, your total pay periods during the PAGA Settlement Period is _____. Based on that, your anticipated approximate Individual PAGA Payment is \$ _____. If you wish to dispute your number of pay periods during the PAGA Settlement Period, you must notify the Settlement Administrator in writing, no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Defendant for a different number of pay periods during the PAGA Settlement Period.

HOW TO GET PAYMENT

10. How can I get my Settlement Payment?

If the Settlement is approved, you do not need to do anything to receive a Settlement Payment. If the Court approves the Settlement at a final approval hearing, your Settlement Payment will be mailed to the address on file with the Settlement Administrator. **It is your responsibility to keep the Settlement Administrator informed of any change in your address, as your Settlement Payment will be mailed to the last known address it has on file for you** if the Court approves the settlement.

11. When can I expect to receive my Settlement Payment?

If the Court approves the Settlement, and there are no pending objections, your share of the Settlement will be paid approximately **90 days** after the Court grants final approval of the Settlement. ***Your share of the Settlement will be mailed to the address on file for you.*** Again, if this address is not correct, or if you move after you receive

this Notice, you should notify the Settlement Administrator by mail or by calling the Settlement Administrator at 800-_____.

12. What am I giving up to get a Settlement Payment?

Participating Class Members will be giving up or “releasing” the claims described below:

Release of Class Claims: After the Court grants final approval of the Settlement, each Participating Settlement Class Member will be bound by the approval and judgment and thereby fully and forever release Defendant and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successors, and assigns (“Released Parties”) from all claims and causes of action as alleged in, and that could have been alleged based on the facts of, the Lawsuit, including, but not limited to, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, arising out of or based upon any provision alleged in the Action, including the California Labor Code, the California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code § 17200, et seq.; including, without limitation, the following categories of allegations, to the fullest extent such claims are releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for failure to provide reporting time pay; (d) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (e) all claims for failure to maintain employment records, including timekeeping and payroll records; (f) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (g) all claims for failure to provide compliant rest periods and pay related premiums at the regular rate; (h) all claims for failure to reimburse business expenses; (i) all claims for failure to pay timely current wages and associated penalties; (j) all claims for failure to pay final wages; (k) all claims for failure to provide accurate wages statements; and (l) all claims for relief under California Business and Professions Code § 17200, et seq. arising from violations of the Labor Code released herein. The Class Members understand and agree that this release includes a good-faith compromise of disputed wage claims.

PAGA Members and the State of California will be giving up or “releasing” claims for civil penalties under the PAGA:

Release of PAGA Claims: After the Court grants final approval of the Settlement, then Plaintiff, as a representative of the State of California and on behalf of the LWDA and the PAGA Members, will fully and forever release the Released Parties from all claims and causes of action for civil penalties under PAGA as alleged in, and that could have been alleged based on the facts of the PAGA Letters (that Plaintiff filed on September 27, 2021 and April 13, 2022) and in the Action, and that seek civil penalties pursuant to PAGA and other relief available pursuant to the PAGA against the Released Parties. Regardless of whether any Class Member opts out of the Class Settlement, they will still be bound by the PAGA Release if they are PAGA Members. The period of the PAGA Release is the PAGA Period. The Released PAGA claims include claims for civil penalties pursuant to PAGA as a result of the following categories of allegations, to the fullest extent such claims are releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for the failure to provide suitable seating; (d) all claims for failure to provide reporting time pay; (e) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (f) all claims for failure to maintain employment records, including timekeeping and payroll records; (g) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (h) all claims for failure to provide compliant rest

periods and pay related premiums at the regular rate; (i) all claims for failure to reimburse business expenses; (j) all claims for failure to pay timely current wages and associated penalties; (k) all claims for failure to pay final wages; and (l) all claims for failure to provide accurate wages statements.

EXCLUDING YOURSELF FROM THE CLASS SETTLEMENT

13. Can I exclude myself from the class settlement?

If you do not wish to participate in the class settlement for whatever reason, you can exclude yourself from the class settlement (that is, “opt out” of the Settlement). If you opt out, you keep your right to sue the Defendant for the same claims on an individual basis. However, you cannot opt out of the PAGA portion of the Settlement. To opt out and exclude yourself from the Class and this Settlement so that you do not become a Participating Settlement Class Member, you must provide a signed and dated letter to the Administrator requesting to be excluded from the Class. The letter should state in substance that you have read and understand the Notice of Settlement of the Class and Representative Action and that you wish to exclude yourself from the Settlement described in the Notice.

Your letter requesting to exclude yourself must include the case name, Eduardo Ybarra v. Helzberg Diamond Shops, LLC, your full name, current address and telephone number. It must be addressed to the Administrator at [address], postmarked on or before _____, 2023. *[45 days from mailing of Notice]* Requests for exclusion postmarked after this date may be disregarded.

14. If I don’t exclude myself from the class settlement, can I sue Defendant for the same thing later?

No. Unless you exclude yourself from the class settlement, you give up any right to sue Defendant for the claims that this Settlement resolves. *If you have a separate arbitration or lawsuit already against any of the Defendant, you should speak to your lawyer in that case immediately.* You may need to exclude yourself from this Class and this case by the above deadline in order to continue your separate arbitration or lawsuit.

15. If I exclude myself from the class settlement, can I get money from this settlement?

Not from the Class Settlement. If you request to be excluded from the Settlement, you will not receive an Individual Settlement Payment. You also will not be able to object to the Settlement as explained below. Your Individual Settlement Payment will be redistributed to the Participating Class Members.

However, if you are a PAGA Member, you will receive an Individual PAGA Payment regardless of whether you exclude yourself from the class settlement.

No portion of the Total Settlement Amount will go back to Defendant as a result of any person opting out of the Settlement.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I don’t like the Settlement?

If you don’t think the Settlement is fair, and you don’t request to be excluded from the class settlement, you can object to the Settlement and tell the Court that you don’t agree with the Settlement or some part of it before the Court decides whether to grant final approval of the Settlement. You may object either in writing and/or by appearing at the Final Approval Hearing.

To object in writing, you must submit a timely written objection to the Administrator. Your objection should state that you object to the proposed Settlement of this case entitled Eduardo Ybarra v. Helzberg Diamond Shops, LLC, Case No. 21CV003531. Be sure to include your name, address, telephone number, and signature, and the specific reasons you object to the Settlement. You must mail your written objection to the Administrator at [address], postmarked on or before _____, 2023. *[45 days from mailing of Notice Packet]* Objections postmarked after this date may be disregarded.

If you have questions regarding this Settlement, you should contact attorneys for Plaintiffs and the Class (see Paragraph 6 above) or the Settlement Administrator. Please **DO NOT** contact attorneys for Defendant or any of the Defendant's managers and supervisors, or owners.

THE COURT'S FINAL FAIRNESS HEARING

17. **When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval hearing in Department __ of the Superior Court of California, County of Alameda located at the _____ on _____, 2023, at ____ a.m. At this hearing the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and litigation costs, the Class Representatives' Enhancement Awards, and the Settlement Administrator's fees and expenses. The Court may reschedule the Final Approval hearing without further notice to Class Members. However, any Class Member who has submitted an objection and indicated an intention to speak at the Final Approval Hearing will be notified by Class Counsel of any rescheduling of the date and time of the Final Fairness hearing.

18. **Do I have to come to the hearing?**

No. Class Counsel will answer any questions from the Judge. But you are welcome to come at your own expense to support or object to the settlement. If you send your timely written objection to the Settlement Administrator, you don't have to come to Court to object but you can if you wish to. As long as you mailed your written objection on time, the Court will consider it. You may also hire and if required pay your own lawyer to attend if you so desire.

19. **May I speak at the hearing?**

You may appear at the Final Approval Hearing and ask the Court for permission to speak, however, to be sure that any objection will be considered by the Court, you should submit a timely written objection, or a notice of intent to appear at the hearing. To do so, please timely submit the objection or notice of intent to appear to the Settlement Administrator listed in section 16 no later than *[45 days after mailing of postcard.]* Any notice of intent to appear should include a description of any arguments you intend to make. Even if you do not submit a written objection or notice of intent to appear, you may still appear and make your objection in person, with the Court's permission.

GETTING MORE INFORMATION

20. **Who may I contact if I have questions about the settlement?**

This Notice is only a summary of the Lawsuit and proposed Settlement. For more information, the pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known

as “eCourt Public Portal,” at <https://eportal.alameda.courts.ca.gov>. After arriving at the website, click the “Search” tab at the top of the page, then select the Document Downloads link, enter the case number and click “Submit.” Images of every document filed in the case may be viewed at minimal charge. You may also view images of every document filed in this case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. You may also contact Class Counsel if you need more information or have questions. You may also contact the Settlement Administrator by calling toll free 1-_____, or you can write to Settlement Administrator, at _____ **[insert address]**.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT OR ANY OF THEIR MANAGERS, SUPERVISORS, OWNERS OR ATTORNEYS FOR INFORMATION.

ADDITIONAL IMPORTANT INFORMATION

A. **It is your responsibility to ensure that the Settlement Administrator** has your current mailing address and telephone number on file, as this will be the address to which your Settlement Payment will be sent if the Settlement is approved.

B. **Settlement Payment checks should be cashed promptly upon receipt.** Proceeds of checks which remain uncashed after 180 days from the date of issuance will be forwarded to the State of California Unclaimed Property Fund in the name of each Settlement Class Member and/or PAGA Member who did not cash his or her Settlement Payment check. If your Settlement Payment check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT

This Joint Stipulation of Class and Representative Action Settlement Agreement and Release (“Agreement”) is between Plaintiff Eduardo Ybarra (“Plaintiff”) and Defendant Helzberg’s Diamond Shops, LLC (“Defendant”) (collectively, “the Parties”). This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the “Released Claims” (as defined below) on a class and representative action basis pertaining to the “Released Parties” (as defined below) upon and subject to the terms and conditions contained in this Agreement. This Agreement, which is contingent upon Final Court approval, contains the terms of the Parties’ agreement. Plaintiff and Class Counsel believe that the settlement set forth in this Agreement confers substantial benefits upon the Class Members.

DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1. “Action” means all claims and causes of action alleged in the PAGA Letters and in the First Amended Complaint, as defined herein.
2. “Administrator” or “Settlement Administrator” means ILYM Group, the third-party administrator proposed by the Parties and appointed by the Court to administer the Settlement.
3. “Class” means all persons who are or previously were employed by Defendant in California and classified as non-exempt employees from December 3, 2017 to the earlier of preliminary approval or June 19, 2022 (the “Class Members”).
4. “Class Counsel” means the Zakay Law Group, APLC and the JCL Law Firm, APC.
5. “Class Counsel Fees Payment” means the amounts to be paid to Class Counsel as approved by the Court to compensate them for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures in an amount of up to 1/3 of the Gross Settlement Amount. Class Counsel Fees Payment shall be divided between Class Counsel as follows: 50% to Zakay Law Group, APLC and 50% to JCL Law Firm, APC.
6. “Class Counsel Litigation Expenses Payment” means the amount to reimburse Class Counsel for their litigation expenses of an estimated \$25,000, subject to proof and as approved by the Court.
7. “Class Data List” means information for each Class Member that Defendant will provide to the Settlement Administrator. To the extent available, the Class Data List will contain each Class Member’s full name; last-known mailing address; telephone number; Social Security number; number of workweeks (full or partial) worked by each individual Class Member during the Class

Period; and number of Pay Periods (full or partial) worked as a PAGA Member during the PAGA Period.

8. “Class Member” is a member of the defined putative class.
9. “Class Notice” or “Notice” means the Court-approved Notice of Class Action Settlement in a form substantively similar to **Exhibit A**, to be mailed to Class Members informing them of the settlement, including their rights to request exclusion or to object to the Settlement, the right to dispute their estimated workweeks/payment, of their estimated payment to be received without the need to return a claim form, and the date set for the Final Approval Hearing.
10. “Class Period” means the period from December 3, 2017 to the earlier of the following dates: (a) the date the Court grants preliminary approval of this Settlement, or (b) June 19, 2022.
11. “Class Representative Service Payment” means the payment approved by the Court to be made to the Plaintiff in his capacity as the Class Representative to compensate him for initiating the Action, performing work in support of the Action, and in undertaking the risk of liability for Defendant’s expenses in the event he failed in the prosecution of the Action.
12. “Complaint” means the Class Action Complaint filed by Plaintiff on December 3, 2021 alleging several wage and hour claims under the California Labor Code, the California Business and Professionals Code, the applicable Wage Order, and the PAGA.
13. “Court” means the Superior Court of the State of California for the County of Alameda.
14. “Defendant’s Counsel” means Michael J. Nader of Ogletree Deakins.
15. “Effective Date” means the date on which all of the following have occurred: (a) the Court grants final approval of this Agreement; and (b) the Judgment becomes Final as defined in this Agreement.
16. “Final” means the last of the following dates, as applicable: (a) after Judgment is entered, the day after the due date to appeal the Judgment when no appeal is filed (61 days after Judgment), or (b) after Judgment is entered and a timely appeal is filed, the date the Judgment is affirmed and is no longer subject to appeal.
17. “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to finally approve the terms of this Agreement and enter the Judgment.
18. “First Amended Complaint” (or the “FAC”) means the First Amended Complaint that Plaintiff filed on July 11, 2022 that is the operative complaint for this Action (Eduardo Ybarra v. Helzberg Diamond Shops, LLC, Case No.

21CV003531). The FAC alleges all of the claims and causes of action asserted in both PAGA Letters and in the original Complaint.

19. “Gross Settlement Amount” or “GSA” means the non-reversionary sum of six hundred and sixty thousand dollars (\$660,000) which shall be inclusive of the Individual Class Settlement Payments to Participating Class Members, the Individual PAGA Payments to PAGA Members, Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payment and the LWDA Payment, but excluding any employer-side payroll taxes due on the portion of the Individual Settlement Payments allocated to wages which Defendant shall pay separately and in addition to the Gross Settlement Amount.
20. “Individual Class Settlement Payment” means the amount paid from the Net Settlement Amount to a Participating Class Member. Any Class Member who submits a request for exclusion pursuant to the procedures set forth herein is not a Participating Class Member and is not eligible to receive an Individual Class Settlement Payment.
21. “Individual PAGA Payment” means the pro rata share of the \$10,000 (25% of the total \$40,000 PAGA Civil Penalty Payment) amount allocated to alleged aggrieved employees out of the PAGA Civil Penalty Payment that each PAGA Member will receive.
22. “Judgment” means the Final Approval Order and Judgment entered by the Court.
23. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payment, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Civil Penalty Payment, and Administration Expenses. The Net Settlement Amount is the total amount that will be paid to Participating Class Members in the form of Individual Class Settlement Payments.
24. “Non-Participating Class Member” means a Class Member who submits a valid and timely request for exclusion from the Settlement in the manner described in the Notice of Class Action Settlement.
25. “Notice Packet” means the Class Notice, the Change of Address Form approved by the Parties and subject to Court approval, and the pre-printed return envelope, all of which the Settlement Administrator will mail to each Class Member.
26. “PAGA refers to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2699, *et seq.*
27. “PAGA Civil Penalty Payment” means the sum of \$40,000 to be paid out of the Gross Settlement Amount, designated by the Parties as PAGA civil penalties of which \$30,000 (75%) shall be paid pursuant to the PAGA to the Labor and Workforce Development Agency (“LWDA”), (“LWDA Payment”),

and the remaining \$10,000 (25%) shall be paid proportionately to all PAGA Members.

28. “PAGA Letters” means the letters, dated September 27, 2021 and April 13, 2022, that Plaintiff filed with the Labor and Workforce Development Agency alleging several wage and hour claims and seeking civil penalties and other relief provided by the PAGA.
29. “PAGA Members” are those Class Members employed during the PAGA Period and who will be paid an Individual PAGA Payment, regardless of whether they exclude themselves from the Class Settlement.¹
30. “PAGA Period” means that period from September 27, 2020 to the earlier of the following dates: (a) the date the Court grants preliminary approval of this Settlement, or (b) June 19, 2022.
31. “Participating Class Member” means a Class Member who does not submit a valid and timely request for exclusion from the Class Settlement.
32. “Preliminary Approval of the Settlement” means the Court’s Order Granting Preliminary Approval of the Settlement.
33. “Released Class Claims” means all claims and causes of action as alleged in, and that could have been alleged based on the facts of, the Action, including, but not limited to, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, arising out of or based upon any provision alleged in the Action, including the California Labor Code, the California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code § 17200, et seq.; including, without limitation, the following categories of allegations, to the fullest extent such claims are fully and forever releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for failure to provide reporting time pay; (d) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (e) all claims for failure to maintain employment records, including timekeeping and payroll records; (f) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (g) all claims for failure to provide compliant rest periods and pay related

¹ In his notice to the LWDA, Plaintiff erroneously defined the PAGA Members as both non-exempt employees and exempt employees. This was a typo, as Plaintiff has never intended to allege claims on behalf of exempt employees. Plaintiff only intended, and the Parties agree, that the PAGA Members (the allegedly aggrieved employees) only include non-exempt employees. Plaintiff agrees to notify the LWDA of this mistake and the limited scope of the definition of the PAGA Members.

premiums at the regular rate; (h) all claims for failure to reimburse business expenses; (i) all claims for failure to pay timely current wages and associated penalties; (j) all claims for failure to pay final wages; (k) all claims for failure to provide accurate wages statements; and (l) all claims for relief under California Business and Professions Code § 17200, et seq. arising from violations of the Labor Code released herein. The Class Members understand and agree that this release includes a good-faith compromise of disputed wage claims.

34. “Released PAGA Claims” means all claims and causes of action for civil penalties under PAGA as alleged in, and that could have been alleged based on the facts of the PAGA Letters and in the Action, and that seek civil penalties pursuant to PAGA and other relief available pursuant to the PAGA against the Released Parties. Regardless of whether any Class Member opts out of the Class Settlement, they will still be bound by the PAGA Release if they are PAGA Members. The period of the PAGA Release is the PAGA Period. The Released PAGA claims include claims for civil penalties pursuant to PAGA as a result of the following categories of allegations, to the fullest extent such claims are fully and forever releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for the failure to provide suitable seating; (d) all claims for failure to provide reporting time pay; (e) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (f) all claims for failure to maintain employment records, including timekeeping and payroll records; (g) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (h) all claims for failure to provide compliant rest periods and pay related premiums at the regular rate; (i) all claims for failure to reimburse business expenses; (j) all claims for failure to pay timely current wages and associated penalties; (k) all claims for failure to pay final wages; and (l) all claims for failure to provide accurate wages statements.
35. “Released Parties” means Helzberg Diamond Shops, LLC and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successors, and assigns.
36. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement.
37. “Qualified Settlement Fund” or “QSF” means the account established by the Administrator for the Gross Settlement Amount and employer-side payroll taxes and distribution as provided by this Agreement and as ordered by the Court.
38. “Workweeks” means any workweek (Sunday through Saturday) in which Settlement Class Members worked at any time at all during that workweek.

RECITALS

39. On September 27, 2021, Plaintiff filed a PAGA letter with the Labor and Workforce Development Agency (the “PAGA Letter”) alleging several wage and hour claims and seeking civil penalties and other relief provided by the PAGA.
40. On December 3, 2021, Plaintiff filed a Class Action Complaint with the Superior Court of the State of California, County of Alameda (Case No. 21CV003531), alleging several wage and hour claims under the California Labor Code, the California Business and Professionals Code, the applicable Wage Order, and the PAGA.
41. On or about February 2, 2022, the Complaint was removed to the Northern District of California, Case No. 3:22-cv-00696.
42. On April 13, 2022, Plaintiff filed a second PAGA letter with the Labor and Workforce Development Agency (the “PAGA Letter 2”) alleging several wage and hour claims, including a new suitable seating claim, and seeking civil penalties and other relief provided by the PAGA.
43. In advance of the mediation on April 19, 2022, Defendant produced a 20% random sample of the timekeeping and payroll data of all putative class members; plaintiff’s personnel, timekeeping, and payroll records and wage statements; hundreds of pages of policies and practices related to the claims in the Action; and relevant aggregate data points for the Action, including the numbers of current and former putative class members, current and former PAGA group members, class period workweeks, PAGA payroll periods, the average hourly rate earned by putative class members during the class period, and additional data points relevant to this Action.
44. On April 19, 2022, the Parties attended a private mediation with Tripper Ortman, Esq., which resulted in a settlement of Plaintiff’s class, representative, and individual claims.
45. On April 22, 2022, the Parties stipulated to remand the Complaint to the Superior Court of the State of California, County of Alameda. On April 25, 2022, the Northern District of California ordered the Complaint remanded back to the Alameda Superior Court.
46. On June 17, 2022, Plaintiff filed a First Amended Complaint in the Superior Court of the State of California, County of Alameda, alleging the claims and causes of action included in the PAGA Letters and in the original Complaint.
47. This Agreement represents a compromise and settlement of highly disputed claims. The Parties agree that nothing in this Agreement is an admission by the Defendant that the claims in the Action have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant’s defenses in the Action have merit. The Parties stipulate to certification of the Class for purposes of this Settlement only.

If for any reason the Settlement does not become effective, the Parties agree that this stipulation regarding class certification will become null and void, and Defendant reserves the right to contest the certification of any class for any reason and reserves all available defenses to the claims in the Action. Defendant also reserves the right to remove the case to federal court.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

SETTLEMENT TERMS AND CONDITIONS

48. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is six hundred sixty thousand dollars (\$660,000), which is inclusive of all payments contemplated in this resolution. All of the Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendant under any circumstances.
49. **Modification of Gross Settlement Amount.** Defendant has extrapolated the amount of 23,242 workweeks in the Class Period from December 3, 2017 to June 19, 2022. If, at the time the Court grants preliminary approval, the actual workweek count is more than a cap of 10% higher than 23,242 (or more than 25,566), then for each additional workweek in the Class Period above that cap, the settlement amount will increase by \$30.12. For example, if the actual workweek count is 25,576, then the GSA increase by \$301.20.
50. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Administrator will make the following payments from the Gross Settlement Amount:
 - a) **To Plaintiff:** Plaintiff will apply to the Court for a Service Payment of not more than \$10,000 in addition to his Individual Class Settlement Payment share. The Administrator will pay the Class Representative Service Payment approved by the Court. No payroll tax withholding and deductions will be taken from this payment. The Administrator shall issue an IRS Form 1099 to Plaintiff for the Class Representative Service Payment.
 - b) **To Class Counsel:** Class Counsel will apply to the Court for an award of up to 1/3 of the GSA as their Class Counsel Fees Payment and no more than \$25,000 for all costs and litigation expenses incurred, subject to proof, as the Class Counsel Litigation Expenses Payment. Defendant will not oppose requests for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. For these payments, the Administrator will issue one or more IRS Forms 1099.
 - c) **To the LWDA.** The Parties will seek approval from the Court for the PAGA Civil Penalty Payment of \$40,000, allocated 75% (\$30,000) for the LWDA Payment as its share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$10,000) to be

d) **To the Administrator.** The Administrator will pay to itself its reasonable fees and expenses documented and approved by the Court in an amount not to exceed \$10,000. (“Administration Expenses”).

e) If the Court approves any payment described in this section in an amount less than requested, the Parties agree to retain the remainder in the Net Settlement Amount for distribution to Class Members.

- Gross Settlement Amount:** **\$ 660,000**

- Net Settlement Amount: \$ 355,000**

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Participating Class Member during the Class period by the Workweek Value to determine the Participating Class Member's Individual Class Settlement Payment.

- b) **Allocation of the Settlement Payment, and Tax Forms.** The Administrator shall allocate 20% of each Participating Class Member's Individual Class Settlement Payment to wages and 80% to penalties and interest allegedly due to employees, which shall also include the sum of the Individual PAGA Payments. The Settlement Administrator will be responsible for issuing to claimants a form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated to penalties and interest.
- c) **Effect of Non-Participating Class Members.** Non-Participating Class Members are those who returned a valid and timely request for exclusion, and they will not receive an Individual Class Settlement Payment share of the Net Settlement Amount. Their exclusion from the Class will neither affect the Gross Settlement Amount nor affect the Net Settlement Amount. Their respective Individual Class Settlement Payment shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Workweeks employed during the Class Period. However, since there is no right to opt out of a PAGA settlement, each Non-Participating Class Member who is also a PAGA Member shall receive a pro-rata share of the 25% portion of the PAGA Civil Penalty Payment allocated to them, and they will be bound to the release of all of the claims for civil penalties under the PAGA that are included in the Released Claims.

47. **Appointment of Administrator.** The Parties agree to use the ILYM Group to serve as the Administrator, which, as a condition of appointment, will agree to follow this Agreement with respect to the performance of its duties and its compensation. The Administrator's duties will include formatting, printing, and mailing the Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Notice Packets; re-mailing Notice Packets that are returned to the Class Member's new address as located upon skip-tracing or as provided by Counsel for the Parties; setting up a toll-free telephone number to receive calls from Class Members, and a post office box to receive communications from Class Members which include for instance, disputed claims, change of address forms, requests for exclusion, and objections; providing the Parties with weekly status reports; calculating Individual Class Settlement Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports and filings required under this Settlement and to administrate the Settlement, including, but not limited to, the DE 9, the DE 9C, 1099s, W-2s and W-3s; handling uncashed checks; providing declarations as requested by the Parties, and otherwise administering the Settlement pursuant to this Agreement. The Administrator will have the authority to resolve all disputes concerning the calculation of a

Participating Class Member's Individual Class Settlement Payment and/or Individual PAGA Payment. The Settlement Administration Expenses, including the cost of printing and mailing the Notice Packet, will come from the Gross Settlement Amount. Defendant and their Counsel shall have no responsibility for validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiff, Class Counsel, Defendant and Defendant's Counsel shall not bear any responsibility for errors or omissions in the calculation or distribution of the Individual Settlement Payments or any other distribution of monies contemplated by this Settlement Agreement.

48. **Procedure for Approving Settlement.**

a. **Motion for Preliminary Approval of Settlement.**

- i. After execution of this Agreement, Plaintiff will file a Motion for Preliminary Approval seeking preliminary approval of the proposed Settlement, conditional class certification, approval of the Notice, appointment of Class Counsel, designation of Plaintiff as the Class Representative, and ILYM as the Administrator, and setting a date for the Final Approval Hearing. Class Counsel shall be responsible for preparing the Motion for Preliminary Approval, supporting declarations, and its exhibits. Class Counsel agrees to provide Defendant's Counsel with drafts of the Motion for Preliminary Approval and any other documents they intend to submit in support of their Motion for Preliminary Approval at least five (5) business days in advance of the filing of such documents to allow Defendant's Counsel reasonable time to review and comment on such papers. Class Counsel further agrees to reasonably incorporate the comments from Defendant's Counsel.
- ii. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the Motion for Preliminary Approval, and submit an Order Granting Preliminary Approval of the Settlement.
- iii. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of the Released Claims, or the binding effect of the Settlement on Participating Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Agreement for the Court's approval.

49. **Notice to Class Members.** If the Court enters an Order Granting Preliminary Approval of the Settlement, the Notice Packet will be mailed to all members of the Class as follows:

- a. No later than twenty (20) days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will, to the extent possible, provide the Class Data List to the Administrator. The Administrator shall maintain the Class Data List as private and confidential and shall not disclose such data to any persons or entities other than Defendant's Counsel. The Class Data List is being supplied solely to be used for settlement notification and settlement administration purposes, and shall not be used for any other purpose by the Administrator or Class Counsel. The Parties agree that the Class Data List will not be used to solicit Class Members to file any claim, charge or complaint of any kind whatsoever against Defendant or any other Released Parties, and will only be used to administer the Settlement under the terms provided herein. No later than three (3) days after receipt of the Class Data List, the Administrator shall notify counsel for the Parties that the information in the Class Data List has been received.
- b. Upon receipt of the Class Data List, the Administrator will perform a search of the United States Post Office's National Change of Address database to update and correct any known or identifiable changes to Class Member addresses before mailing the Notice Packets. Using best efforts to mail it as soon as possible, and in no event later than twenty-one (21) calendar days following receipt of the Class Data List, the Administrator will mail the Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Administrator obtains in the course of administration of the Settlement. The Administrator shall exercise its best judgment to determine the current mailing address for each Class Member, including performing a skip-trace to identify any updated addresses. The content of the Notice Packet shall include a Notice of Class Action Settlement, a Change of Address form, and a pre-printed return envelope based on the Parties' agreement, and subject to Court approval and modification as necessary to fulfill the Parties' desire to resolve the case.
- c. The exterior of the mailing envelope containing the Notice Packet shall include the following language on the left side of the envelope below the Administrator's mailing address:

**IMPORTANT LEGAL DOCUMENT: You may
get Money from a Class Action Settlement; your
prompt reply to correct a bad address is required.**

- d. If a Notice Packet is returned because of an incorrect address, the Administrator will promptly, and not longer than five (5) days from receipt of the returned Notice Packet, search for a more current address and re-mail the Notice Packet to the Class Member. The Administrator will use the Class Data List and otherwise work with Defendant to find the most current address. The Administrator will be responsible for

taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Notice Packet is re-mailed, the Administrator will note for its own records and notify Counsel for the Parties of the date of each such re-mailing as part of a weekly status report provided to the Parties.

- e. As part of its weekly status report, the Administrator will inform Class Counsel and Defendant's Counsel of the number of requests for exclusions, number of disputed claims, and number of objections received, and will provide all written objections upon receipt to Class Counsel and Defendant's Counsel
- f. No later than ten (10) days before the date that the Plaintiff will file the Motion for Final Approval of the Settlement, the Administrator will provide its declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the requests for exclusions, disputed claims, and objections received. Prior to the Final Approval Hearing, the Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

50. **Objections to Settlement; Disputes as to the Number of Workweeks; and Requests for Exclusion.** Class Members may submit objections as to any term of the Settlement, dispute the number of Workweeks allocated to them, and request exclusion pursuant to the following procedures:

- a. **Object to Settlement.** The Class Notice will provide that only Participating Class Members may object to the Settlement. Participating Class Members may submit a written objection to the Administrator no later than forty-five (45) days after the Administrator mails the Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if an objection was timely received. Written objections must be signed by the Class Member and should set forth: (1) the full name and address of the objecting Class Member; (2) the grounds for each objection made; and (3) whether the Class Member intends to appear at the Final Approval Hearing. Any of the Parties may file a response to any objection before the Final Approval Hearing. Any attorney who will represent an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Court and serve Class Counsel and Defendant's Counsel with this notice no later forty five (45) days after the Administrator mailed the Notice Packets. Class Members may also appear at the Final Approval Hearing to orally object, even if they have not submitted a written objection. Any Class Member who fails to submit a timely written objection or to present an objection at the Final

Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement whether by appeal or otherwise. Class Members who receive a re-mailed Class Notice shall have an additional twenty (20) days from their original deadline to object in writing.

- b. **Dispute the Number of Workweeks.** Class Members may dispute the number of Workweeks the Class Notice allocates to them during the Class Period, and they must do so no later than forty five (45) days after the Administrator mails the Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if a dispute was timely received. If there is a dispute, the Administrator shall consult with the Parties to determine whether an adjustment is warranted, and the Administrator shall resolve the dispute. In the absence of circumstances indicating fraud, manipulation or destruction, Defendant's records will be given a rebuttable presumption of accuracy. If a party further disputes the Administrator's decision, that party may submit the dispute to the Court, which shall have the ultimate authority to decide disputes. Class Members who receive a re-mailed Class Notice shall have an additional twenty (20) days from their original deadline to dispute in writing the number of Workweeks allocated to them during the Class Period.
- c. **Requests for Exclusion.** The Class Notice will provide that Class Members who wish to exclude themselves from the Settlement must postmark and mail to the Administrator a written request for exclusion no later than forty five (45) days after the Administrator's mailing of the Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if a request for exclusion was timely received. Class Members who receive a re-mailed Class Notice shall have an additional twenty (20) days from their original deadline to request in writing an exclusion from the Settlement.
 - i. To be valid, a request for exclusion must be timely and must comply with the instructions detailed in the Class Notice, including providing (1) the name and address of the Class Member requesting exclusion; (2) a statement expressing that the Class Member elects to be excluded from the Settlement; and (3) a signature by the Class Member. If a question is raised about the authenticity of a signed request for exclusion, the Administrator will have the right to demand additional proof of the Class Member's identity.
 - ii. A Non-Participating Class Member will not participate in or be bound by the Released Claims and the Judgment. However, a Non-Participating Class Member who is also a PAGA Member will be bound by the PAGA Release. Defendant will remain free to contest any claim brought by the Class Member that would have been barred by this Agreement, and nothing in this Agreement will

constitute or be construed as a waiver of any defense Defendant has or could assert against such a claim. However, even if a Class Member opts out of the Settlement, the Class Member will still receive a proportionate share of the PAGA Civil Penalty Payment allocated to the PAGA Members. The Administrator will determine the Individual PAGA Payment by comparing the number of Pay Periods the PAGA Member was employed during the PAGA Period to the total number of Pay Periods all PAGA Members were employed during the PAGA Period. In this instance, any Class Member who is also a PAGA Member will only be bound by the PAGA Release.

- iii. A Class Member who does not complete and mail a timely request for exclusion in the manner and by the deadline specified above will automatically become a Participating Class Member, will receive a Settlement Payment, and be bound by all terms and conditions of the Settlement, including the Released Claims if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or he has objected to the Settlement.
 - iv. Persons who submit a request for exclusion shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement because the Settlement no longer concerns them.
 - v. All Participating Class Members who do not submit a valid and timely request for exclusion will receive an Individual Class Settlement Payment without the need to file a claim form, and the terms of the Released Claims and Judgment will bind them.
- d. **Report.** No later than ten (10) days after the deadline for submission of requests for exclusions, the Administrator will provide Class Counsel and Defendant's Counsel with a complete and accurate count of Participating Class Members and Non-Participating Class Members.

51. **Right of Defendant to Reject Settlement.** If more than five percent (5%) of the Class Members return valid and timely requests for exclusion, Defendant will have the right, but not the obligation, to void the Settlement and the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Defendant will pay the Settlement Administration Expenses incurred as of the date that Defendant exercises the right to void the Settlement. Defendant will notify Class Counsel and the Court whether it is exercising this right to void no later than ten (10) days after the Administrator notifies the Parties, for the final time, of the number of valid requests for exclusion received. If Defendant exercises this right, the Settlement will become void and unenforceable in its entirety and the Parties shall be returned to their status as if this Agreement had not been executed.

52. **No Solicitation.** The Parties and their counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
53. **Additional Briefing and Final Approval.**
- a. Upon the expiration of the deadline for submission of requests for exclusions, objections, and disputes, and with the Court's permission, a Final Approval Hearing shall be conducted.
 - b. As directed by the Court after preliminary approval, the Plaintiff will file with the Court a Motion for Final Approval of the Settlement, that shall include Class Counsel's application for the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payments, and the Class Representative Service Payment, as well as the Administration Expenses and PAGA Civil Penalty Payment. Class Counsel shall be responsible for preparing the Motion for Final Approval, and any supporting declarations, and exhibits thereto. Class Counsel agrees to provide Defendant's Counsel with drafts of all documents they intend to submit in support of the Motion for Final Approval at least seven (7) days in advance of the filing to allow Defendant's Counsel reasonable time to review and comment on such papers and further agrees to reasonably incorporate the comments from Defendant's Counsel. The Parties must meet and confer and make all reasonable efforts to agree on any modifications to this Agreement that will result in entry of the Final Approval Order, including a good faith attempt to address and/or cure any issues identified by the Court as necessary for final approval.
 - c. If any opposition is filed, then no later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the Motion for Final Approval of the Settlement.
 - d. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of the Released Claims), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Agreement for the Court's approval. But an award by the Court of lesser amounts than those sought by the Class Counsel for the Class Representative Service Payment, the Class Counsel Fees Payment, and the Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Agreement within the meaning of this paragraph.
 - e. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, Class Counsel will present for the Court's approval and entry the Judgment. After entry of the Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement

administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

54. **Waiver of Right to Appeal.** Plaintiff and Participating Class Members who did not timely submit an objection to the Settlement to the Administrator waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate the judgment, a motion for a new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If there is an appeal from the Judgment, it suspends the time for consummation of the Settlement (including making payments under the Settlement) until the appeal is finally resolved and the Judgment becomes final.
55. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of the Released Claims), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court no later than 21 days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payment or the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendant's obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.
56. **Funding and Other Payments.** No later than ten (10) calendar days after the Judgment becomes Final as defined herein, the Administrator shall send Defendant's Counsel electronic wiring instructions for paying the Gross Settlement Amount (\$660,000) into the QSF (or additional amounts if applicable under the "Modification of Gross Settlement Amount" section herein). Defendant shall fund the QSF with the Gross Settlement Amount and the amount necessary to pay Defendant's share of payroll taxes no later than thirty (30) calendar days after the Judgment becomes Final. Within fourteen (14) days after Defendant funds the QSF, the Administrator will pay to Participating Class Members their Individual Class Settlement Payments via first-class regular U.S. Mail; to all PAGA Members, their Individual PAGA Payments; to Plaintiff, the Class Representative Service Payment; to Class Counsel, the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment; to the LWDA, their LWDA Payment; and to the Administrator, the Settlement Administration Expenses. The Judgment cannot become Final, and Defendant will not be obligated to fund the QSF,

unless and until there is no possibility of an appeal or further appeal (by anyone who has the right to, or claims to have the ability to, take an appeal) that could potentially prevent this Settlement from becoming final and binding.

57. **Uncashed Settlement Share Checks.** A Class Member must cash their Settlement Payment check within one-hundred and eighty (180) days of the Administrator's mailing of the checks. If the Administrator receives a returned check, it will make all reasonable efforts to re-mail it to the Class Member at their correct address. If a Class Member's Settlement Payment check is not cashed within ninety (90) days after its initial mailing, the Administrator will send a postcard notifying the Class Member that unless the check is cashed by the 180th day, it will expire and become non-negotiable, and the Administrator will offer to replace the check if it was lost or misplaced and not cashed. If the check remains uncashed after one-hundred and eighty (180) days since the Administrator's mailing of the checks, the Administrator will void the checks, and transmit the funds to the State of California's Controller, Unclaimed Property Division for further handling on behalf of the Class Member.
58. **Final Report by Administrator to Court.** Within ten (10) calendar days after final disbursement of all funds from the Gross Settlement Amount, the Administrator will serve on the Parties and file with the Court a declaration as a final report on the disbursements of all funds from the Gross Settlement Amount.
59. **Released Claims.**
- a. **Participating Class Members.** As of Effective Date and funding by Defendant of the GSA, the Released Parties shall be entitled to a full and final accord, satisfaction, settlement, and release of the Released Class Claims for the Class Period from Participating Class Members, including the Plaintiff.
 - b. **PAGA Members.** As of the Effective Date and funding by Defendant of the GSA, all PAGA Members are bound by the Released PAGA Claims for the PAGA Period.
 - c. **Class Counsel.** As of the Effective Date and funding by Defendant of the GSA, and except as otherwise provided by this Agreement and the Judgment, Class Counsel waives any claim to costs and attorneys' fees and expenses against Defendant arising from or related to the Action.
60. **Limitation on Public Statements About Settlement.** Prior to final approval, the Parties agree not to disclose the terms of this Settlement except in court papers filed to seek approval and any other disclosures agreed to by the Parties that are necessary to effectuate the Settlement. Plaintiff and Class Counsel shall not issue any press releases, or hold any press conferences, or publish information about the settlement on any website, or otherwise publicize the settlement. However, Plaintiff counsel may (in future declarations submitted

in Court) refer to the fact that this matter settled on a class and representative action basis for purposes detailing the experience of counsel. Plaintiff and Plaintiff Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the Court.

61. **Representations.** Plaintiff represents that other than the instant Action, Plaintiff and Class Counsel have no intent to assert any other claims against Defendant in any judicial, arbitral, or administrative forum. Plaintiff's Counsel will further represent that they do not know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendant. The Parties acknowledge, understand, and agree that the representations described in this paragraph are essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.
62. **Additional Mediation.** If this matter is not approved by the Court for any reason, the Parties agree to attend mediation again in an effort to reach a settlement approved by the Court.
63. **Miscellaneous Terms.**
 - a. **No Admission of Liability or Class Certification for Other Purposes.**
 - i. Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement).
 - ii. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to the Plaintiff or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or

administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

- iii. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.
62. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
 63. **Plaintiff's Individual Settlement.** Plaintiff is entering into an individual settlement agreement which shall provide for an Individual Settlement Payment, and which shall provide for a broad release, including a waiver of Civil Code Section 1542. This release, waiver and discharge of all claims shall include, but will not be limited to, any and all claims arising out of the Action, as well as additional claims described in the Individual Settlement Agreement for retaliation and wrongful termination.
 64. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by the Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effectuate the implementation of the Settlement. In the event the Parties are unable to reach an agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the Court for resolution.
 65. **No Prior Assignments:** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
 66. **No Tax Advice:** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within

the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

67. **Agreement Binding on Successors.** This Agreement is binding upon, and inures to the benefit of, the successors of each of the Parties. The Parties warrant that they understand and have full authority to enter this Agreement, and intend it to be fully enforceable and binding on all Parties, pursuant to California Code of Civil Procedure section 664.6, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any Settlement Conference confidentiality provisions which might otherwise apply under federal or state law.
68. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
69. **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.
70. **Fair and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations facilitated by an experienced and respected wage and hour class action mediator, taking into account all relevant factors, current and potential.
71. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter 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. Within sixty (60) days after the Judgment becomes Final, Class Counsel will return or destroy all such documents and data, and provide written confirmation to Defendant of the destruction.
72. **Exhibits and Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement. The terms of this Agreement 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 Agreement are an integral part of the Settlement.
73. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

ZAKAY LAW GROUP, APLC

Shani O. Zakay
Jackland K. Hom
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC

Jean-Claude Lapuyade
Eduardo Garcia
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

To Defendant:

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Michael J. Nader, Esq.
Email: Michael.nader@ogletree.com
500 Capitol Mall, Suite 2500
Sacramento, CA 95814
Telephone: (916) 840-3150 / Fax: (916) 840-3159

73. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically, or by email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
74. **Stay of Litigation.** The Parties agree that upon the signing of this Agreement, the Parties agree to jointly request the Court to stay all proceedings with this Action, except for such proceedings needed to secure approval of this settlement, and the time to bring the Action to trial shall be extended pending the outcome of the settlement process.
75. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action to ensure the continuing implementation of this Agreement.

76. **Court Filings.** The Parties agree not to object to any Court filings consistent with this Settlement Agreement.
77. **Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Jul 19, 2022, 2022

By: 
(Jul 19, 2022 07:34 PDT)
Eduardo Ybarra, Plaintiff

Dated: July 19, 2022

By: 
Authorized Agent
Helzberg's Diamond Shops, LLC

APPROVED AS TO FORM:

Dated: July 19, 2022

By: 
Shani O. Zakay, Plaintiff's Counsel

Dated: July 22, 2022

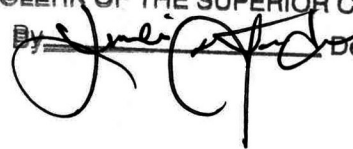
By: 
Michael J. Nader
Counsel for Defendant
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

EXHIBIT 3

FILED
ALAMEDA COUNTY

OCT 24 2022

CLERK OF THE SUPERIOR COURT

By  Deputy

JCL LAW FIRM, APC

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Attorneys for Plaintiff EDUARDO YBARRA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

EDUARDO YBARRA, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

HELZBERG'S DIAMOND SHOPS, LLC, a
Missouri Limited Liability Company; and
DOES 1-50, Inclusive;

Defendants.

Case No. 21CV003531

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

Date: October 4, 2022
Time: 3:00 p.m.
Reservation ID: 978588771577

Judge: Hon. Brad Seligman
Dept.: 23

1 This matter having come before the Honorable Judge Brad Seligman of the Superior Court of
2 the State of California, in and for the County of Alameda, at 3:00 p.m. on October 4, 2022, 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 EDUARDO YBARRA ("Plaintiff"), and Maria Davis, Esq., Allison
5 Fernandez, Esq., and Michael Nader, Esq. of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
6 appearing for defendant HELZBERG'S DIAMOND SHOPS, LLC (hereinafter "Defendant"). The
7 Court, having carefully considered the brief, argument of counsel and all the matters presented to the
8 Court, and good cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of
9 Class Action Settlement.

10 **IT IS HEREBY ORDERED:**

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

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

18 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
19 Defendant shall pay is Six Hundred and Sixty Thousand Dollars (\$660,000). It appears to the Court on
20 a preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to all
21 Class Members when balanced against the probable outcome of further litigation relating to
22 certification, liability, and damages issues. It further appears that investigation and research have been
23 conducted such that counsel for the Parties are able to reasonably evaluate their respective positions. It
24 further appears to the Court that settlement at this time will avoid substantial additional costs by all
25 Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the
26 litigation. It further appears that the Settlement has been reached as the result of intensive, serious, and
27 non-collusive arms-length negotiations.

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

7 5. Plaintiff seeks an award of a Class Counsel Fees Payment the amount of up-to one-third
8 of the Gross Settlement Amount for attorneys' fees, currently estimated at Two Hundred and Twenty
9 Thousand Dollars (\$220,000), an award of a Class Counsel Litigation Expenses Payment not to exceed
10 Twenty-Five Thousand Dollars (\$25,000), and proposed Class Representative Service Payment to the
11 Class Representative, Eduardo Ybarra, in an amount not to exceed Ten Thousand Dollars (\$10,000).
12 The Court will not approve the Class Counsel Fees Payment, Class Counsel Litigation Expenses
13 Payment or Class Representative Service 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 persons who are or previously were employed by defendant
19 HELZBERG'S DIAMOND SHOPS, LLC, in California and classified as
20 non-exempt employees during the period between December 3, 2017 and
21 June 19, 2022."

22 7. The Court concludes that, for settlement purposes only, the Class meets the requirements
23 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is
24 ascertainable and so numerous that joinder of all members of the Class Members is impracticable; (b)
25 common questions of law and fact predominate, and there is a well-defined community of interest
26 amongst the Class Members with respect to the subject matter of the litigation; (c) the claims of the
27 Class Representative are typical of the claims of the Class Members; (d) the Class Representative will

1 fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other
2 available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified
3 to act as counsel for the Class Representative in her individual capacity and as the representative of the
4 Class Members.

5 8. The Court provisionally appoints plaintiff EDUARDO YBARRA as the representative
6 of the Class.

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

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

19 11. The Court hereby appoints ILYM Group, Inc., as Settlement Administrator. No later than
20 twenty (20) days after entry of this order, Defendant shall provide, to the Settlement Administrator the
21 Class Data, including information regarding Class Members that Defendant will in good faith compile
22 from its records, including each Class Member's full name; last known address; telephone number;
23 Social Security Number; the number of Workweeks for each Class Members and the number of PAGA
24 Workweeks. No later than twenty-one (21) calendar days after receiving the Class Data from
25 Defendant, the Settlement Administrator shall mail the Class Notice to all identified, potential Class
26 Members via first class regular U.S. Mail using the most current mailing address information available.

27 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
28

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 Claims that are set forth in the Notice. All requests for exclusion must be
4 postmarked or received by the Response Deadline which is forty-five (45) calendar days after the date
5 the Class Notice is mailed to the Class Members or, in the case of a re-mailed Notice, not more than
6 fifteen (15) calendar days after the original Response Deadline. Any such person who chooses to opt
7 out of and be excluded from the Settlement will not be entitled to an Individual Class 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) days from the date the
17 Settlement Administrator mails the Class Notice to postmark their written objections to the Settlement
18 Administrator.

19 14. A final approval hearing shall be held before this Court on 3/28/23 at
20 3:00 PM in Department 23 of the Alameda County Superior Court to determine all necessary matters
21 concerning the Settlement, including: whether the proposed settlement of the Action on the terms and
22 conditions provided for in the Agreement is fair, adequate and reasonable and should be finally
23 approved by the Court; whether an Order Granting Final Approval should be entered herein; whether
24 the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable
25 to the Class; and to finally approve the Class Counsel Fees Payment, Class Counsel Litigation Expenses
26 Payment, Class Representative Service Payment, and the Administration Expenses. All papers in
27 support of the motion for final approval and the motion for Attorneys' Fees and Costs and Class
28

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

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

3
4 Dated:

10/24/22

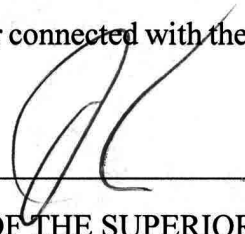

JUDGE OF THE SUPERIOR COURT

EXHIBIT 4

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com

Attorneys for Plaintiff EDUARDO YBARRA
(Additional Counsel on Next Page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

EDUARDO YBARRA, an individual, on behalf
of himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

HELZBERG'S DIAMOND SHOPS, LLC, a
Missouri Limited Liability Company; and
DOES 1-50, Inclusive,

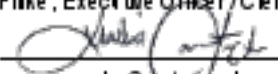
Defendants.

Case No. 21CV003531

[Complaint Filed: December 3, 2021]

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER TO CONTINUE
FINAL APPROVAL HEARING**

Judge: Brad Seligman
Dept. 23

FILED
Superior Court of California
County of Alameda
05/16/2023
Clad Flake, Executive Officer / Clerk of the Court
By:  Deputy
J. Castaneda

1 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

2 Allison Fernandez, Esq.

3 Michael Nader, Esq.

4 500 Capitol Mall, Suite 2500

5 Sacramento, CA 95814

6 T: 916-840-3151

7 michael.nader@ogletree.com

8 allison.fernandez@ogletreedekins.com

9 Attorneys for DEFENDANT

1 Plaintiff EDUARDO YBARRA, an individual, on behalf of himself and on behalf of all
2 persons similarly situated (hereinafter "Plaintiff"), and defendant HELZBERG'S DIAMOND
3 SHOPS, LLC (hereinafter "Defendant") by and through their counsel of record (hereinafter
4 collectively "the Parties") hereby submit this Joint Stipulation to Continue Final Approval
5 Hearing:

6 WHEREAS, a Final Approval Hearing was scheduled for May 16, 2023.

7 WHEREAS, the Parties previously informed the Court that the Notice of Settlement sent
8 to the class members via a third-party administrator on or about February 2, 2023, was found to
9 have contained inaccurate information with respect to the workweek count. Furthermore, the
10 settlement notice was erroneously mailed to some of Defendant's employees who did not work
11 for Defendant during the Class Period and are therefore not Class Members in this case.

12 WHEREAS, the Parties agree to continue the Final Approval Hearing date to August 15,
13 2023, or a date soon thereafter.

14 WHEREAS, copies of the proposed cover letter and Notice of Settlement are attached
15 hereto as Exhibit 1.

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1 THEREFORE, the Parties respectfully request a continuance of Plaintiff's Final
2 Approval Hearing to a date ninety (90) days after this stipulation and order are entered.

3
4 **IT IS SO STIPULATED.**

5
6 Dated: May 15, 2023

ZAKAY LAW FIRM, APLC
JCL LAW FIRM, APC

7
8 By: *Sydney Castillo-Johnson*
9 Shani O. Zakay, Esq.
10 Jean-Claude Lapuyade, Esq.
11 Jackland K. Hom, Esq.
12 Sydney Castillo-Johnson, Esq.

13 Attorneys for Plaintiff

14 Dated: May 15, 2023

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

15
16 By: *A. Fernandez*
17 Allison Fernandez, Esq.
18 Michael Nader, Esq.

19 Attorneys for Defendant

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~~PROPOSED~~ ORDER

Pursuant to the Parties' Stipulation, and good cause appearing, the Final Approval
Hearing is hereby scheduled for August 15, 2023, at 3:00 PM
9:15 a.m.

IT IS SO ORDERED:

DATED: 05/16/2023, ~~2023~~



JUDGE OF THE SUPERIOR COURT

Brad Seligman / Judge

EXHIBIT 1

Eduardo Ybarra v. Helzberg Diamond Shops, LLC
(Alameda Superior Court Case No. 21CV003531)

Important Notice Regarding the Notice of Settlement You Received

On [DATE] the Settlement Administrator mailed to you and other current and former non-exempt employees of Helzberg Diamond Shops, LLC a notice containing information regarding a proposed class settlement, which may affect your rights. The notice included, among other things, information about the number of workweeks/pay-periods you worked for Helzberg Diamond Shops, LLC as a non-exempt employee, your estimated payment from the class settlement, how to dispute those numbers, how to object to the settlement, how to exclude yourself from the settlement, as well as the date, time, and location of the Final Approval Hearing, where the Court will consider whether to finally approve the settlement.

After further investigation, the Parties discovered that the notice you received may have contained inaccurate information. Specifically, the notice may have erroneously accounted for weeks during which you were employed by Helzberg Diamond Shops, LLC, but did not perform any work as a non-exempt employee. For example, if you were on medical leave, or worked as an exempt (salaried) employee, you are not entitled to receive credit for those weeks, but the notice mistakenly counted them. This resulted in a potentially inflated number of workweeks allocated to you and other employees.

To cure this error, the Parties agreed that a new notice will be mailed to you with the correct information. This new notice is attached to this letter. The new notice includes your correct workweek/pay-period count, your correct estimated share of the settlement, and information regarding the rescheduled final approval hearing. In some instances, the updated calculation resulted in *no* workweeks/pay-periods being allocated to you, which means you are not a member of the class and will not participate in the class settlement.

Please review the attached carefully, as it may affect your rights. If you have any questions, please do not hesitate to contact the settlement administrator; ILYM Group, at 888-250-6810.

Superior Court of California, County of Alameda
Eduardo Ybarra v. Helzberg's Diamond Shops, LLC (California Superior Court, County of Alameda,
Case No. 21CV003531).

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don't act.*

NOTICE OF SETTLEMENT OF CLASS AND REPRESENTATIVE ACTION

To: All persons who are or previously were employed by Defendant Helzberg's Diamond Shops, LLC in California and classified as non-exempt employees from December 3, 2017 to June 19, 2022 (the "Class Members").

All persons who are or previously were employed by Defendant Helzberg's Diamond Shops, LLC in California and classified as non-exempt employees from September 27, 2020 to June 19, 2022 (the "PAGA Members").

A putative class action and representative action under the California Private Attorneys General Act of 2004 ("PAGA"), which was brought on behalf of the Class and PAGA Members (defined above) and against Defendant Helzberg's Diamond Shops, LLC has been settled for \$660,000.00. As explained in this Notice, if the Court approves this class and PAGA Settlement then you may receive payments under this Settlement. You are receiving this Notice because based on Defendant' records, you are a Class Member and/or a PAGA Member.

If you are a Class Member and/or a PAGA Member, you are eligible for payment from the Settlement described in this Notice without the need to return a claim form.

PLEASE READ THIS NOTICE CAREFULLY.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you want to participate and receive your share of the money from the class and PAGA settlement, you do <u>not</u> need to do anything. If you do nothing, you will be mailed a settlement payment and you will release certain claims. [You must, however, keep a current address on file with the Settlement Administrator to ensure receipt of your check.]
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT	If you ask to be excluded from the class portion of the settlement and money is later awarded, you will not receive any share from the class settlement money. But if you exclude yourself, you keep any rights as an individual to sue Defendant separately about the same legal claims that are being settled here. You may exclude yourself from the settlement by submitting a written Request for Exclusion according to the instructions contained in this Notice. The deadline to submit a Request for Exclusion is [45 calendar days from date of mailing]. If you are a PAGA Member, even if you exclude yourself from the class action, you will still receive a portion of the PAGA settlement money and be bound by the release of PAGA claims.

OBJECT	Object to the Settlement if you think the Settlement is not fair by sending your written objection to the Settlement Administrator and/or, if you wish, appear at the Final Approval Hearing. If you submit a Request for Exclusion from the Settlement, you cannot also object to it. The deadline to submit an objection is [45 calendar days from date of mailing].
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- **Your rights and options – and the deadlines to exercise them – are explained in this Notice.**
- **Defendant supports the settlement and will not retaliate in any manner against any class member who remains in the class and receives a settlement payment.**

BASIC INFORMATION

1. **Why was this notice issued**

A Court authorized this Notice because you have a right to know about a proposed Settlement of a class and representative PAGA action lawsuit, and about all of your options, before the Court decides whether to approve it. This notice explains the lawsuit, the Settlement, your legal rights, the payments that are available, who is eligible to receive them, and how to get them.

The Court in charge of the case is the Superior Court of the State of California, County of Alameda, and the case is known as Eduardo Ybarra v. Helzberg Diamond Shops, LLC, Case No. 21CV003531 (the “Action” or the “Lawsuit”).

2. **What is the Lawsuit about?**

On December 3, 2021, Plaintiff Eduardo Ybarra filed a Class Action Complaint with the Superior Court of the State of California, County of Alameda (Case No. 21CV003531), alleging several wage and hour claims under the California Labor Code, the California Business and Professionals Code, the applicable Wage Order, and the PAGA (the “Lawsuit”).

Defendant denies all of the claims in the Lawsuit. However, Defendant has agreed to settle the Lawsuit to avoid continued litigation. The Settlement is not an admission of any wrongdoing by Defendant or an indication that any law was violated.

3. **What is a class action?**

In a class action lawsuit, a Class Representatives (in this case, Eduardo Ybarra) sue on behalf of others who may have similar claims, who are called a class or class members.

4. **Why is there a Settlement?**

The Court did not decide in favor of the Plaintiff, nor did the Court decide in favor of Defendant. Instead, both sides agreed to a no-fault settlement of the Lawsuit (“Settlement”). That way, they avoid the cost of further litigation including a trial, and the people affected will get compensation from the Settlement.

5. **Who are the Parties in these Lawsuits?**

Plaintiff Eduardo Ybarra was an employee of the Defendant. The Defendant is Helzberg’s Diamonds, LLC.

6. Who are the Attorneys representing the Plaintiff and the Class?

ZAKAY LAW GROUP, APLC Shani O. Zakay Jackland K. Hom 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 Telephone: (619)255-9047 Facsimile: (858) 404-9203 shani@zakaylaw.com jackland@zakaylaw.com	JCL LAW FIRM, APC Jean-Claude Lapuyade 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 Telephone: (619) 599-8292 Facsimile: (619) 599-8291 jlapuyade@jcl-lawfirm.com
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You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

THE TERMS OF THE SETTLEMENT

7. What is the Settlement Amount?

The proposed Settlement provides for a maximum payment of \$660,000.00 to fully and finally resolve all claims in the Lawsuit (referred to as the “Total Settlement Amount”). Class Counsel will apply to the Court for attorneys’ fees of up to \$220,000; litigation costs estimated at \$25,000; a “Class Representative Service Payment” of up to \$10,000 to the Plaintiff for his work and effort in prosecuting this case, risks taken for the payment of costs in the event of loss, and a general release of all claims; settlement administration expenses to ILYM Group, estimated at \$10,000; and a “PAGA Payment” to the California Labor Workforce and Development Agency (“LWDA”) and PAGA Members in settlement of claims for penalties under PAGA. The exact amount of the attorneys’ fees, litigation costs, Class Representative service payments, and settlement administration expenses will be determined by the Court at the Final Approval hearing if the Settlement is approved.

Following the Court-approved deductions, the remaining portion of the Settlement, the Net Settlement Amount (“NSA”), is estimated to be \$355,000. The NSA will be apportioned and paid out entirely, automatically, to all “Participating Class Members,” who are the Settlement Class Members who do not ask to be excluded from the class action settlement, as “Individual Settlement Payments.”

No portion of the Total Settlement Amount will revert to Defendant under any circumstances.

8. How will the Individual Settlement Payments be calculated and how much will my award be?

Participating Class Members will receive a pro-rata share of the NSA based on the number of weeks they worked for Defendant during the time period of December 3, 2017 to June 19, 2022 (the “Class Settlement Period”).

Here’s how it works – the NSA will be entirely distributed to the Participating Class Members. The NSA allocated to each individual Participating Class Member will be based on the individual’s total number of weeks worked during the Class Settlement Period, in relation to the total number of weeks worked by all Participating Class Members. Weeks will be calculated according to Defendant’ records.

Based on Defendant’s records, you worked _____ work weeks during the Class Settlement Period and your estimated Individual Settlement Payment is \$_____, before applicable tax withholdings, although the actual amount that is paid may be lower or higher than the amount estimated. If you wish to dispute your number of

workweeks during the Class Settlement Period, you must notify the Settlement Administrator in writing, no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Defendant for a different number of weeks during the Class Settlement Period.

Individual Settlement Payments shall be subject to applicable withholding taxes on that portion of the payment allocated to wages. Individual Settlement Payments will be allocated 20% to wages for which an IRS W-2 form will be issued, and 80% to penalties and interest for which an IRS 1099 form will be issued as required. You will be responsible for the tax consequences of your Individual Settlement Payments, for filing your own returns and reporting all income received to state and federal taxing authorities, and for payment of any other applicable taxes due. You should consult with a tax advisor concerning the tax consequences of the Individual Settlement Payment you could receive under the Settlement.

9. How will the PAGA Payment be distributed?

The Parties will seek approval from the Court to designate \$40,000.00 of the Total Settlement Amount as penalties recoverable under the PAGA. 75% of this amount, or \$30,000.00, will be paid to the LWDA, as required by law. The remaining 25% of this amount, or \$10,000.00, will be distributed to the PAGA Members as “Individual PAGA Payments.” The Individual PAGA Payments are paid in addition to any Individual Settlement Payments (the Individual Settlement Payment and the Individual PAGA Payments are the “Settlement Payment”). 100% of the PAGA Payment will be treated as penalties and interest. You should consult with a tax advisor concerning the tax consequences of the Individual PAGA Payment you could receive under the Settlement.

Not all Class Members are PAGA Members entitled to an Individual PAGA Payment. You are only a PAGA Member if you worked for Defendant during the period September 27, 2020 to June 19, 2022 (the “PAGA Settlement Period”). The Individual PAGA Payments will be calculated on a pro-rata basis based on the number of pay periods that you worked during the PAGA Settlement Period. Based on Defendant’s records, your total pay periods during the PAGA Settlement Period is _____. Based on that, your anticipated approximate Individual PAGA Payment is \$ _____. If you wish to dispute your number of pay periods during the PAGA Settlement Period, you must notify the Settlement Administrator in writing, no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Defendant for a different number of pay periods during the PAGA Settlement Period.

HOW TO GET PAYMENT

10. How can I get my Settlement Payment?

If the Settlement is approved, you do not need to do anything to receive a Settlement Payment. If the Court approves the Settlement at a final approval hearing, your Settlement Payment will be mailed to the address on file with the Settlement Administrator. **It is your responsibility to keep the Settlement Administrator informed of any change in your address, as your Settlement Payment will be mailed to the last known address it has on file for you** if the Court approves the settlement.

11. When can I expect to receive my Settlement Payment?

If the Court approves the Settlement, and there are no pending objections, your share of the Settlement will be paid approximately **90 days** after the Court grants final approval of the Settlement. ***Your share of the Settlement will be mailed to the address on file for you.*** Again, if this address is not correct, or if you move after you receive

this Notice, you should notify the Settlement Administrator by mail or by calling the Settlement Administrator at 800-_____.

12. What am I giving up to get a Settlement Payment?

Participating Class Members will be giving up or “releasing” the claims described below:

Release of Class Claims: After the Court grants final approval of the Settlement, each Participating Settlement Class Member will be bound by the approval and judgment and thereby fully and forever release Defendant and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successors, and assigns (“Released Parties”) from all claims and causes of action as alleged in, and that could have been alleged based on the facts of, the Lawsuit, including, but not limited to, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, arising out of or based upon any provision alleged in the Action, including the California Labor Code, the California Industrial Welfare Commission Wage Orders, and the California Business and Professions Code § 17200, et seq.; including, without limitation, the following categories of allegations, to the fullest extent such claims are releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for failure to provide reporting time pay; (d) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (e) all claims for failure to maintain employment records, including timekeeping and payroll records; (f) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (g) all claims for failure to provide compliant rest periods and pay related premiums at the regular rate; (h) all claims for failure to reimburse business expenses; (i) all claims for failure to pay timely current wages and associated penalties; (j) all claims for failure to pay final wages; (k) all claims for failure to provide accurate wages statements; and (l) all claims for relief under California Business and Professions Code § 17200, et seq. arising from violations of the Labor Code released herein. The Class Members understand and agree that this release includes a good-faith compromise of disputed wage claims.

PAGA Members and the State of California will be giving up or “releasing” claims for civil penalties under the PAGA:

Release of PAGA Claims: After the Court grants final approval of the Settlement, then Plaintiff, as a representative of the State of California and on behalf of the LWDA and the PAGA Members, will fully and forever release the Released Parties from all claims and causes of action for civil penalties under PAGA as alleged in, and that could have been alleged based on the facts of the PAGA Letters (that Plaintiff filed on September 27, 2021 and April 13, 2022) and in the Action, and that seek civil penalties pursuant to PAGA and other relief available pursuant to the PAGA against the Released Parties. Regardless of whether any Class Member opts out of the Class Settlement, they will still be bound by the PAGA Release if they are PAGA Members. The period of the PAGA Release is the PAGA Period. The Released PAGA claims include claims for civil penalties pursuant to PAGA as a result of the following categories of allegations, to the fullest extent such claims are releasable by law: (a) all claims for failure to pay minimum wages, including for all alleged off the clock work; (b) all claims for failure to pay overtime wages, including all claims for the alleged omission of any kind of remuneration when calculating an employee’s regular rate of pay, and all alleged claims of off the clock work; (c) all claims for the failure to provide suitable seating; (d) all claims for failure to provide reporting time pay; (e) all claims for failure to pay the regular rate of pay, including for meal and rest break premiums and paid sick leave, as well as all claims for failure to provide paid sick leave; (f) all claims for failure to maintain employment records, including timekeeping and payroll records; (g) all claims for failure to provide compliant meal periods and pay related premiums at the regular rate; (h) all claims for failure to provide compliant rest

periods and pay related premiums at the regular rate; (i) all claims for failure to reimburse business expenses; (j) all claims for failure to pay timely current wages and associated penalties; (k) all claims for failure to pay final wages; and (l) all claims for failure to provide accurate wages statements.

EXCLUDING YOURSELF FROM THE CLASS SETTLEMENT

13. Can I exclude myself from the class settlement?

If you do not wish to participate in the class settlement for whatever reason, you can exclude yourself from the class settlement (that is, “opt out” of the Settlement). If you opt out, you keep your right to sue the Defendant for the same claims on an individual basis. However, you cannot opt out of the PAGA portion of the Settlement. To opt out and exclude yourself from the Class and this Settlement so that you do not become a Participating Settlement Class Member, you must provide a signed and dated letter to the Administrator requesting to be excluded from the Class. The letter should state in substance that you have read and understand the Notice of Settlement of the Class and Representative Action and that you wish to exclude yourself from the Settlement described in the Notice.

Your letter requesting to exclude yourself must include the case name, Eduardo Ybarra v. Helzberg Diamond Shops, LLC, your full name, current address and telephone number. It must be addressed to the Administrator at [address], postmarked on or before _____, 2023. *[45 days from mailing of Notice]* Requests for exclusion postmarked after this date may be disregarded.

14. If I don’t exclude myself from the class settlement, can I sue Defendant for the same thing later?

No. Unless you exclude yourself from the class settlement, you give up any right to sue Defendant for the claims that this Settlement resolves. *If you have a separate arbitration or lawsuit already against any of the Defendant, you should speak to your lawyer in that case immediately.* You may need to exclude yourself from this Class and this case by the above deadline in order to continue your separate arbitration or lawsuit.

15. If I exclude myself from the class settlement, can I get money from this settlement?

Not from the Class Settlement. If you request to be excluded from the Settlement, you will not receive an Individual Settlement Payment. You also will not be able to object to the Settlement as explained below. Your Individual Settlement Payment will be redistributed to the Participating Class Members.

However, if you are a PAGA Member, you will receive an Individual PAGA Payment regardless of whether you exclude yourself from the class settlement.

No portion of the Total Settlement Amount will go back to Defendant as a result of any person opting out of the Settlement.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I don’t like the Settlement?

If you don’t think the Settlement is fair, and you don’t request to be excluded from the class settlement, you can object to the Settlement and tell the Court that you don’t agree with the Settlement or some part of it before the Court decides whether to grant final approval of the Settlement. You may object either in writing and/or by appearing at the Final Approval Hearing.

To object in writing, you must submit a timely written objection to the Administrator. Your objection should state that you object to the proposed Settlement of this case entitled Eduardo Ybarra v. Helzberg Diamond Shops, LLC, Case No. 21CV003531. Be sure to include your name, address, telephone number, and signature, and the specific reasons you object to the Settlement. You must mail your written objection to the Administrator at [address], postmarked on or before _____, 2023. *[45 days from mailing of Notice Packet]* Objections postmarked after this date may be disregarded.

If you have questions regarding this Settlement, you should contact attorneys for Plaintiffs and the Class (see Paragraph 6 above) or the Settlement Administrator. Please **DO NOT** contact attorneys for Defendant or any of the Defendant's managers and supervisors, or owners.

THE COURT'S FINAL FAIRNESS HEARING

17. **When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval hearing in Department __ of the Superior Court of California, County of Alameda located at the _____ on _____, 2023, at ____ a.m. At this hearing the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and litigation costs, the Class Representatives' Enhancement Awards, and the Settlement Administrator's fees and expenses. The Court may reschedule the Final Approval hearing without further notice to Class Members. However, any Class Member who has submitted an objection and indicated an intention to speak at the Final Approval Hearing will be notified by Class Counsel of any rescheduling of the date and time of the Final Fairness hearing.

18. **Do I have to come to the hearing?**

No. Class Counsel will answer any questions from the Judge. But you are welcome to come at your own expense to support or object to the settlement. If you send your timely written objection to the Settlement Administrator, you don't have to come to Court to object but you can if you wish to. As long as you mailed your written objection on time, the Court will consider it. You may also hire and if required pay your own lawyer to attend if you so desire.

19. **May I speak at the hearing?**

You may appear at the Final Approval Hearing and ask the Court for permission to speak, however, to be sure that any objection will be considered by the Court, you should submit a timely written objection, or a notice of intent to appear at the hearing. To do so, please timely submit the objection or notice of intent to appear to the Settlement Administrator listed in section 16 no later than *[45 days after mailing of postcard.]* Any notice of intent to appear should include a description of any arguments you intend to make. Even if you do not submit a written objection or notice of intent to appear, you may still appear and make your objection in person, with the Court's permission.

GETTING MORE INFORMATION

20. **Who may I contact if I have questions about the settlement?**

This Notice is only a summary of the Lawsuit and proposed Settlement. For more information, the pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known

as “eCourt Public Portal,” at <https://eportal.alameda.courts.ca.gov>. After arriving at the website, click the “Search” tab at the top of the page, then select the Document Downloads link, enter the case number and click “Submit.” Images of every document filed in the case may be viewed at minimal charge. You may also view images of every document filed in this case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. You may also contact Class Counsel if you need more information or have questions. You may also contact the Settlement Administrator by calling toll free 1-_____, or you can write to Settlement Administrator, at _____ **[insert address]**.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT OR ANY OF THEIR MANAGERS, SUPERVISORS, OWNERS OR ATTORNEYS FOR INFORMATION.

ADDITIONAL IMPORTANT INFORMATION

A. **It is your responsibility to ensure that the Settlement Administrator** has your current mailing address and telephone number on file, as this will be the address to which your Settlement Payment will be sent if the Settlement is approved.

B. **Settlement Payment checks should be cashed promptly upon receipt.** Proceeds of checks which remain uncashed after 180 days from the date of issuance will be forwarded to the State of California Unclaimed Property Fund in the name of each Settlement Class Member and/or PAGA Member who did not cash his or her Settlement Payment check. If your Settlement Payment check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 5

Natalia Michele

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Thursday, September 8, 2022 5:09 PM
To: Natalia Michele
Subject: Thank you for your Proposed Settlement Submission

09/08/2022 05:08:08 PM

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

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

EXHIBIT 6

EXHIBIT 7

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

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);